



COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
COMMONWEALTH KEYSTONE BUILDING  
400 NORTH STREET, HARRISBURG, PA 17120

BUREAU OF  
INVESTIGATION  
&  
ENFORCEMENT

November 3, 2022

***Via Electronic Filing***

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

Re: Pennsylvania Public Utility Commission,  
Bureau of Investigation and Enforcement v.  
Duquesne Light Company  
Docket No. M-2022-3032647  
**Joint Petition for Approval of Settlement and Statements in Support**

Dear Secretary Chiavetta:

Enclosed for electronic filing is the **Joint Petition for Approval of Settlement and Statements in Support** in the above-referenced matter.

Copies have been served on the parties of record in accordance with the Certificate of Service. If you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink that reads 'Kayla L. Rost'.

Kayla L. Rost  
Prosecutor  
Bureau of Investigation & Enforcement  
PA Attorney ID No. 322768  
(717) 787-1888  
[karost@pa.gov](mailto:karost@pa.gov)

KLR/jfm  
Enclosures

cc: Per Certificate of Service  
Michael L. Swindler, Deputy Chief Prosecutor (*via email – mswindler@pa.gov*)

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
	:	
v.	:	Docket No. M-2022-3032647
	:	
Duquesne Light Company	:	

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**JOINT PETITION FOR APPROVAL OF SETTLEMENT**

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**TO THE HONORABLE PENNSYLVANIA PUBLIC UTILITY COMMISSION:**

Pursuant to 52 Pa. Code §§ 5.41, 5.232 and 3.113(b)(3), the Pennsylvania Public Utility Commission’s (“Commission”) Bureau of Investigation and Enforcement (“I&E”) and Duquesne Light Company (“Duquesne Light” or “Company”) hereby submit this Joint Petition for Approval of Settlement (“Settlement Agreement” or “Joint Petition”) to resolve all issues related to an informal investigation initiated by I&E. I&E’s investigation was initiated based upon information provided by Duquesne Light to the Commission’s Bureau of Consumer Services relating to the release of certain customer information.

As part of this Settlement Agreement, I&E and Duquesne Light (hereinafter referred to collectively as the “Parties”) respectfully request that the Commission enter a Final Opinion and Order approving the Settlement Agreement, without modification. Statements in Support of the Settlement expressing the individual views of I&E and Duquesne Light are attached hereto as Appendix A and Appendix B, respectively.

## I. INTRODUCTION

1. The Parties to this Settlement Agreement are the Pennsylvania Public Utility Commission's Bureau of Investigation and Enforcement, by its prosecuting attorneys, 400 North Street, Commonwealth Keystone Building, Harrisburg, PA 17120, and Duquesne Light, with a principal business address of 411 Seventh Avenue, Pittsburgh, PA 15219.

2. The Pennsylvania Public Utility Commission is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within this Commonwealth, as well as other entities subject to its jurisdiction, pursuant to the Public Utility Code ("Code"), 66 Pa.C.S. §§ 101, *et seq.*

3. I&E is the entity established to prosecute complaints against public utilities and other entities subject to the Commission's jurisdiction pursuant to 66 Pa.C.S. § 308.2(a)(11); *see also Implementation of Act 129 of 2008; Organization of Bureaus and Offices*, Docket No. M-2008-2071852 (Order entered August 11, 2011) (delegating authority to I&E to initiate proceedings that are prosecutorial in nature).

4. Section 501(a) of the Code, 66 Pa.C.S. § 501(a), authorizes and obligates the Commission to execute and enforce the provisions of the Code.

5. Section 701 of the Code, 66 Pa.C.S. § 701, authorizes the Commission, *inter alia*, to hear and determine complaints alleging a violation of any law, regulation, or order that the Commission has jurisdiction to administer.

6. Section 3301 of the Code, 66 Pa.C.S. § 3301, authorizes the Commission to impose civil penalties on any public utility or on any other person or corporation subject

to the Commission's authority for violations of the Code, the Commission's regulations and orders. Section 3301 allows for the imposition of a fine for each violation and each day's continuance of such violation(s).

7. Duquesne Light is a "public utility" as defined by Section 102, 66 Pa.C.S. § 102, as it is engaged in providing public utility service as an electric distribution company ("EDC"), 66 Pa.C.S. § 2803, in the Commonwealth of Pennsylvania to the public for compensation. *See generally* Docket No. A-110150.

8. Duquesne Light provides electric distribution service to approximately 600,000 customers in all or portions of Allegheny County and Beaver County, and approximately 800 square miles in western Pennsylvania.

9. Duquesne Light, as an EDC, is subject to the power and authority of the Commission pursuant to Section 501(c) of the Code, 66 Pa.C.S. § 501(c), which requires a public utility to comply with Commission regulations and orders.

10. Pursuant to the provisions of applicable Commonwealth statutes and regulations, the Commission has jurisdiction over the subject matter and the actions of Duquesne Light in its capacity as an EDC serving customers in Pennsylvania.

11. This matter involves Duquesne Light's release of certain customer information through the issuance of a letter through the mail.

12. As a result of successful negotiations between I&E and Duquesne Light, the Parties have reached an agreement on an appropriate outcome to the investigation as encouraged by the Commission's policy to promote settlements. *See* 52 Pa. Code § 5.231. The duly authorized parties executing this Settlement Agreement agree to the settlement

terms set forth herein and urge the Commission to approve the Settlement Agreement as submitted as being in the public interest.

## **II. STIPULATED FACTS**

13. The Commission has jurisdiction over the subject matter of and the parties to this proceeding to the extent authorized under applicable law. 66 Pa.C.S. §§ 102, 501.

14. “It is the policy of the Commission to encourage settlements.” 52 Pa. Code § 5.231(a).

15. On or about April 26, 2022, Duquesne Light Company mailed approximately 9,057 letters to its customers providing information on how the customer can access their online account and pay their bill online.

16. Of the 9,057 letters mailed, approximately 3,065 displayed the wrong customer name and account number. Specifically, the envelope was addressed to the correct customer but the letter inside displayed the incorrect customer name and account number.

17. Of the 3,065 letters with the incorrect customer name and account number, approximately 2,966 customers were affected, i.e., their name and account number was on the letter.

18. On April 29, 2022, Duquesne Light voluntarily notified the Bureau of Consumer Services of this information disclosure.

19. On or about April 29, 2022, Duquesne Light issued an email notification to the affected customers.

20. On or about May 20, 2022, Duquesne Light issued a follow-up notification to the affected customers via mail.

21. Duquesne Light does not use customer account numbers for purposes of customer authentication or electric generation supplier switching,<sup>1</sup> and avers that the disclosed customer information cannot be used to enroll a customer with an electric generation supplier or gain unauthorized access to a customer's account.

22. Duquesne Light avers that, upon information and belief, none of the customers whose information was released has been a victim of slamming or other unauthorized account access.

23. Duquesne Light completed a root cause investigation and determined that the incident was the result of unintentional human error. Specifically, the mailing list provided to Duquesne Light's print vendor was reformatted by a Duquesne Light employee to meet the vendor's requirements, which resulted in a misalignment of some customers' names and addresses.

24. Duquesne Light has implemented or will implement various quality and control measures in response to this incident.

25. On or about May 12, 2022, the Commission's Bureau of Consumer Services ("BCS") submitted a memo to I&E outlining its concern with Duquesne Light's alleged inadvertent release of customer information. Specifically, I&E was advised that an

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<sup>1</sup> Duquesne Light uses Supplier Agreement Identification ("SA-ID") numbers, which are distinct from utility account numbers, for purposes of electric generation supplier switching. To enroll a Duquesne Light customer, an electric generation supplier must provide the customer's unique SA-ID number. Customer SA-ID numbers were not disclosed as part of this incident.

employee of Duquesne Light reported to BCS that Duquesne Light disclosed certain customer information in its mailers to approximately 3,000 customers. This information included incorrect/different customer name and account number.

26. By letter dated August 1, 2022, I&E issued a Data Request Letter (“I&E Data Requests-Set I”) informing Duquesne Light of the scope of its investigation and requesting a response to I&E’s twelve (12) data requests. Duquesne Light’s responses were due on August 22, 2022.

27. On August 22, 2022, Duquesne Light provided its responses to I&E Data Requests-Set I.

28. After completely reviewing the information provided, I&E and Duquesne Light began settlement discussions. This Settlement Agreement is the result of the successful discussions held between I&E and Duquesne Light.

29. The results of I&E’s investigation, which included a review of the email correspondence sent by Duquesne Light reporting the release of customer information and Duquesne Light’s responses to the data requests, form the basis for the instant Settlement Agreement.

**A. Disclosure of customer information**

30. Duquesne Light’s Privacy Policy<sup>2</sup> defines Customer Information as “a Customer’s Personally Identifiable Information or Consumer-specific Energy Usage Data” and defines “Personally Identifiable Information (“PII”)” as “information that . . .

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<sup>2</sup> Duquesne Light’s Privacy Policy is publicly available on its website at <https://www.duquesnelight.com/customer-support/policies-forms/privacy-policy>.

can be used to identify, distinguish, trace, or link to a specific customer.” The definition of PII includes a customer’s name, address, and utility account number.

31. The Privacy Policy provides that Duquesne Light will only share a customer’s energy usage data (“CEUD”) or PII with third parties as required or permitted by law or for legitimate business purposes, as the Privacy Policy discusses in further detail, or upon customer request or in accordance with customer choices regarding the use and disclosure of their information. The Privacy Policy otherwise prohibits the sharing or release of covered customer information to other customers.

32. I&E avers that multiple violations of Duquesne Light’s Privacy Policy, 66 Pa.C.S. § 1501, and 52 Pa. Code § 54.8 occurred when Duquesne Light mailed approximately 3,065 mailers which displayed the wrong customer name and account number. Of the 3,065 mailers issued, approximately 2,966 customers were affected, i.e., their name and account number were released.

### **III. ALLEGED VIOLATIONS**

33. Section 1501 of the Public Utility Code provides that utilities shall “furnish and maintain adequate, efficient, safe, and reasonable service,” that such service “shall be in conformity with the regulations and orders of the commission,” and that every public utility “may have reasonable rules and regulations governing the conditions under which it shall be required to render service.” 66 Pa.C.S. § 1501; *see also* 66 Pa.C.S. § 102 (Definition of Public Utility).

34. Section 54.8 of the Commission’s regulations provide that an EDC “may not release private customer information to a third party unless the customer has been notified



of the intent and has been given a convenient method of notifying the entity of the customer's desire to restrict the release of the private information." 52 Pa. Code § 54.8.

35. Had this matter been fully litigated, I&E would have proffered evidence and legal arguments to demonstrate that Duquesne Light committed the following violation:

- a. Duquesne Light released private customer information, i.e., customer name and account number. If proven, I&E alleges that such conduct would have violated Duquesne Light's Privacy Policy, 66 Pa.C.S. § 1501, and 52 Pa. Code § 54.8 (multiple counts).

36. Had this matter been fully litigated, Duquesne Light would have denied each of the alleged violations of the Commission's regulations or the Public Utility Code, would have presented facts refuting each of the allegations, and would have raised defenses to each of these allegations at hearing.

## **II. SETTLEMENT TERMS**

37. Pursuant to the Commission's policy of encouraging settlements that are reasonable and in the public interest, the Parties held a series of discussions that culminated in this Settlement Agreement. I&E and Duquesne Light desire to (1) terminate I&E's informal investigation; and (2) settle this matter completely without litigation. The Parties recognize that this is a disputed matter. Given the inherent unpredictability of the outcome of a contested proceeding, the Parties further recognize the benefits of amicably resolving the disputed issues. The terms and conditions of the Settlement Agreement, for which the Parties seek Commission approval, are set forth below.

38. Duquesne Light shall pay a cumulative civil penalty of Twelve Thousand Five Hundred Dollars (\$12,500.00).

39. The civil penalty shall not be tax deductible or passed-through as an additional charge to Duquesne Light's customers in Pennsylvania.

40. In addition to the civil penalty, Duquesne Light agrees to memorialize its policies and procedures relating to mailing and confidentiality by February 2023. After the policies and procedures are codified, Duquesne Light will provide written confirmation to I&E and will also provide a copy for I&E's review.

#### **V. CONDITIONS OF SETTLEMENT**

41. The benefits and obligations of this Joint Petition for Approval of Settlement shall be binding upon the successors and assigns of the Parties to this Settlement.

42. This Settlement may be signed in counterparts and all signatures attached hereto will be considered as originals.

43. In order to effectuate the Parties' Joint Petition for Approval of Settlement, the undersigned parties request that the Commission issue a Secretarial Letter or Order approving the Joint Petition without modification.

44. The Parties agree that any party may petition the Commission for rehearing or take other recourse allowed under the Commission's rules if the Commission Secretarial Letter or Order substantively modifies the terms of this Joint Petition for Approval of Settlement. In that event, any party may give notice to the other parties that it is withdrawing from this Joint Petition for Approval of Settlement. Such notice must be

in writing and must be given within twenty (20) business days of the issuance of any Commission Order or Secretarial Letter which adopts this Joint Petition for Approval of Settlement with substantive modifications of its terms. The consequence of any party withdrawing from this Joint Petition for Approval of Settlement as set forth above is that all issues associated with the requested relief presented in the proceeding will be fully litigated unless otherwise stipulated between the parties and all obligations of the parties to each other are terminated and of no force and effect. In the event that a Party withdraws from this Joint Petition for Approval of Settlement as set forth in this paragraph, I&E and Duquesne Light jointly agree that nothing in this Settlement shall be construed as an admission against or as prejudice to any position which any party might adopt during litigation of this case.

45. I&E and Duquesne Light jointly acknowledge that approval of this Settlement is in the public interest and is fully consistent with the Commission's Policy Statement for evaluating litigated and settled proceedings involving violations of the Code and Commission regulations, 52 Pa. Code § 69.1201. The Commission will serve the public interest by adopting this Joint Petition for Approval of Settlement.

46. The Joint Petition for Approval of Settlement avoids the time and expense of litigation in this matter before the Commission, which likely would entail preparation for and attendance at hearings and the preparation and filing of briefs, reply briefs, exceptions, reply exceptions. The Parties further recognize that their positions and claims are disputed and, given the inherent unpredictability of the outcome of a contested proceeding, the Parties recognize the benefits of amicably resolving the disputed issues

through settlement. Attached as Appendices A and B are Statements in Support submitted by I&E and Duquesne Light, respectively, setting forth the bases upon which they believe the Settlement Agreement is in the public interest.

47. Since the Parties agree to the terms of the Joint Petition for Approval of Settlement, adopting it will eliminate the possibility of any appeal from the Commission Secretarial Letter or Order, thus avoiding the additional time and expense that they might incur in such an appeal.

48. This Settlement Agreement consists of the entire agreement between I&E and Duquesne Light regarding the matters addressed herein. Moreover, this Settlement represents a complete settlement of I&E's investigation of Duquesne Light's alleged violations of the Public Utility Code and the Commission's regulations as it relates to the release of customer information through the April 26, 2022 letters and fully satisfies I&E's investigation of the matters discussed herein.

49. The Parties expressly acknowledge that this Settlement Agreement represents a compromise of positions and does not necessarily reflect any Party's position with respect to any issues raised in this matter, nor does it in any way constitute a finding, an admission, or a finding of culpability on the part of Duquesne Light concerning the alleged violations of the Public Utility Code, the Commission's regulations, or law.

50. The Settlement Agreement contains a summary of alleged violations of the Public Utility Code and the Commission's regulations. *See*, Section III, Alleged Violations. In addition, the Settlement contains Proposed Settlement Terms. *See*, Section IV, Settlement Terms. This Settlement Agreement is presented without prejudice to any

position that either Party may have advanced, and without prejudice to the position any party may advance, in the future on the merits of the issues in future proceedings, except to the extent necessary to effectuate the terms and conditions of this Settlement Agreement. This Settlement does not preclude the Parties from taking other positions in any other proceeding.

**WHEREFORE**, the Pennsylvania Public Utility Commission’s Bureau of Investigation and Enforcement and Duquesne Light Company respectfully request that the Commission enter an Order approving the terms of the Joint Petition for Approval of Settlement in their entirety as being in the public interest.

IN WITNESS WHEREOF, we have unto set our hands and seals on this 3<sup>RD</sup> day of November 2022.

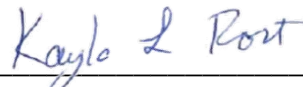
Date: November 3, 2022



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Michael Zimmerman  
*Senior Counsel for Duquesne Light Company*

Date: November 3, 2022



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Kayla L. Rost  
*Counsel for the Commission’s Bureau of Investigation and Enforcement*

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
	:	
v.	:	Docket No. M-2022-3032647
	:	
Duquesne Light Company	:	

**PROPOSED ORDERING PARAGRAPHS**

1. That the Joint Settlement Petition filed on November 3, 2022 between the Commission’s Bureau of Investigation and Enforcement and Duquesne Light Company is approved in its entirety without modifications.

2. That, in accordance with Section 3301 of the Public Utility Code, 66 Pa. C.S. § 3301, within sixty (60) days of the date this Order becomes final, Duquesne Light Company shall pay Twelve Thousand Five Hundred Dollars (\$12,500.00), which consists of the entirety of the civil penalty amount. Said payment shall be made by certified check or money order payable to “Commonwealth of Pennsylvania” and shall be sent to:

Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

3. The civil penalty shall not be tax deductible or passed-through as an additional charge to Duquesne Light Company’s customers in Pennsylvania.

4. In addition to the civil penalty, Duquesne Light Company agrees to memorialize its policies and procedures relating to mailing and confidentiality by

February 2023. After the policies and procedures are codified, Duquesne Light Company will provide written confirmation to I&E and will also provide a copy for I&E's review.

5. The above-captioned matter shall be marked closed upon receipt of the civil penalty and completion of the remedial measure outlined above.





## **I. Background**

On or about April 26, 2022, Duquesne Light Company mailed approximately 9,057 letters to its customers providing information on how the customer can access their online account and pay their bill online. Of the 9,057 letters mailed, approximately 3,065 displayed the wrong customer name and account number. Specifically, the envelope was addressed to the correct customer but the letter inside displayed the incorrect customer name and account number. Of the 3,065 letters with the incorrect customer name and account number, approximately 2,966 customers were affected, i.e., their information was on the letter.

On or about April 29, 2022, Duquesne Light issued an email notification to the affected customers.

Duquesne Light completed a root cause investigation and determined that the incident was the result of unintentional human error. Specifically, the mailing list provided to Duquesne Light's print vendor was reformatted by a Duquesne Light employee to meet the vendor's requirements, which resulted in a misalignment of some of the customers' names and addresses. Duquesne Light has implemented or will implement various quality and control measures in response to this incident.

On or about May 12, 2022, the Commission's Bureau of Consumer Services ("BCS") submitted a memo to I&E outlining its concern with Duquesne Light's alleged inadvertent release of customer information.

By letter dated August 1, 2022, I&E issued a Data Request Letter ("I&E Data Requests-Set I") informing Duquesne Light of the scope of its investigation and requesting a response to I&E's twelve (12) data requests. Duquesne Light's responses were due on August 22, 2022.

On August 22, 2022, Duquesne Light provided its response to I&E Data Requests-Set

I.

Accordingly, I&E and Duquesne Light began discussing settlement to amicably resolve the instant matter. This Statement in Support is submitted in conjunction with the Settlement Agreement.

**II. The Public Interest**

Pursuant to the Commission's policy of encouraging settlements that are reasonable and in the public interest, the Parties held a series of settlement discussions. These discussions culminated in this Settlement Agreement, which, once approved, will resolve all issues related to I&E informal investigation involving allegations that Duquesne Light released certain customer information through its issuance of the April 26, 2022 letter by mail.

I&E intended to prove the factual allegations set forth in its investigation at hearing to which Duquesne Light would have disputed. This Settlement Agreement results from the compromises of the Parties. I&E recognizes that, given the inherent unpredictability of the outcome of a contested proceeding, the benefits to amicably resolving the disputed issues through settlement outweigh the risks and expenditures of litigation. I&E submits that the Settlement Agreement constitutes a reasonable compromise of the issues presented and is in the public interest. As such, I&E respectfully requests that the Commission approve the Settlement Agreement without modification.

### **III. Terms of Settlement**

Under the terms of the Settlement Agreement, I&E and Duquesne Light have agreed to the following:

1. Duquesne Light shall pay a cumulative civil penalty of Twelve Thousand Five Hundred Dollars (\$12,500.00).
2. In addition to the civil penalty, Duquesne Light agrees to memorialize its policies and procedures relating to mailing and confidentiality by February 2023. After the policies and procedures are codified, Duquesne Light will provide written confirmation to I&E and will also provide a copy for I&E's review.

The civil penalty shall not be tax deductible pursuant to Section 162(f) of the Internal Revenue Code, 26 U.S.C.S. § 162(f). Furthermore, the civil penalty shall not be passed through as an additional charge to Duquesne Light's customers in Pennsylvania.

In consideration of Duquesne Light's payment of a monetary civil penalty and the remedial measure outlined above, I&E agrees that its informal investigation relating to Duquesne Light's conduct as described in the Settlement Agreement referenced herein shall be terminated and marked closed upon approval by the Commission of the Settlement Agreement without modification, payment of the civil penalty, and completion of the remedial measure.

Upon Commission approval of the Settlement Agreement in its entirety without modification, I&E will not file any complaints or initiate other action against Duquesne Light at the Commission with respect to the violations that were the subject of I&E's instant investigation and described in more detail in the Joint Petition for Approval of Settlement.

#### IV. Legal Standard for Settlement Agreements

Commission policy promotes settlements. *See* 52 Pa. Code § 5.231. Settlements lessen the time and expense that the parties must expend litigating a case and, at the same time, conserve precious administrative resources. Settlement results are often preferable to those achieved at the conclusion of a fully litigated proceeding. “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, et al. v. City of Lancaster – Bureau of Water*, Docket Nos. R-2010-2179103, *et al.* (Order entered July 14, 2011) at p. 11. Instead, the benchmark for determining the acceptability of a settlement is whether the proposed terms and conditions are in the public interest. *Pa. Pub. Util. Comm’n v. Philadelphia Gas Works*, Docket No. M-00031768 (Order entered January 7, 2004).

I&E submits that approval of the Settlement Agreement in the above-captioned matter is consistent with the Commission’s Policy Statement regarding *Factors and Standards for Evaluating Litigated and Settled Proceedings Involving Violations of the Public Utility Code and Commission Regulations* (“Policy Statement”), 52 Pa. Code § 69.1201; *see also Joseph A. Rosi v. Bell-Atlantic-Pennsylvania, Inc.*, Docket No. C-00992409 (Order entered March 16, 2000). The Commission’s Policy Statement sets forth ten (10) factors that the Commission may consider in evaluating whether a civil penalty for violating a Commission order, regulation, or statute is appropriate, as well as whether a proposed settlement for a violation is reasonable and in the public interest. 52 Pa. Code § 69.1201.

The Commission will not apply the factors as strictly in settled cases as in litigated cases. 52 Pa. Code § 69.1201(b). While many of the same factors may still be considered, in

settled cases, the parties “will be afforded flexibility in reaching amicable resolutions to complaints and other matters as long as the settlement is in the public interest.” *Id.*

The first factor considers whether the conduct at issue was of a serious nature, such as willful fraud or misrepresentation, or if the conduct was less egregious, such as an administrative or technical error. Conduct of a more serious nature may warrant a higher civil penalty while conduct that is less egregious warrants a lower amount. 52 Pa. Code § 69.1201(c)(1). I&E alleges that the conduct in this matter was an administrative or technical error. Consequently, the less egregious nature of the conduct was considered in arriving at the civil penalty amount in the Settlement Agreement.

The second factor considers whether the resulting consequences of Duquesne Light’s alleged conduct were of a serious nature. When consequences of a serious nature are involved, such as personal injury or property damage, the consequences may warrant a higher penalty. 52 Pa. Code § 69.1201(c)(2). I&E submits that no personal injury or property damage occurred as a result of the alleged violations, but that the release of certain customer information is a serious violation and could have a negative impact on the affected customer. I&E acknowledges that Duquesne Light, upon information and belief, reported no evidence of unauthorized account access by the affected customers.

The third factor to be considered under the Policy Statement is whether the alleged conduct was intentional or negligent. 52 Pa. Code § 69.1201(c)(3). “This factor may only be considered in evaluating litigated cases.” *Id.* Whether Duquesne Light’s alleged conduct was intentional or negligent does not apply since this matter is being resolved by settlement of the Parties.

The fourth factor to be considered is whether Duquesne Light has made efforts to change its practices and procedures to prevent similar conduct in the future. 52 Pa. Code § 69.1201(c)(4). Duquesne Light completed a root cause investigation to determine what caused the release of customer information and what steps should be taken to prevent this incident from reoccurring. After completing the investigation, Duquesne Light created a list of recommendations which it implemented/will implement by February 2023. Thus, Duquesne Light made efforts to investigate the cause of the incident and determined the appropriate actions which needed to be taken to prevent similar incidents from occurring in the future.

The fifth factor to be considered relates to the number of customers affected by the DLC's actions and the duration of the violations. 52 Pa. Code § 69.1201(c)(5). Approximately 3,065 letters displayed the incorrect customer name and account number. Of these 3,065 letters, approximately 2,966 customers were affected, i.e., their information was on the letter. These facts were considered when calculating the civil penalty.

The sixth factor to be considered relates to the compliance history of Duquesne Light. 52 Pa. Code § 69.1201(c)(6). An isolated incident from an otherwise compliant company may result in a lower penalty, whereas frequent, recurrent violations by a company may result in a higher penalty. *Id.* To date, I&E is unaware of any formal complaint or proceeding which relates to Duquesne Light's inadvertent release of certain customer information.

The seventh factor to be considered relates to whether the Company cooperated with the Commission's investigation. 52 Pa. Code § 69.1201(c)(7). I&E submits that Duquesne Light fully cooperated in the investigation of this matter, including cooperating in both informal discovery as well as settlement discussions.

The eighth factor to be considered is the appropriate settlement amount necessary to deter future violations. 52 Pa. Code § 69.1201(c)(8). I&E submits that a civil penalty amount of \$12,500.00, which is not tax deductible, is substantial and sufficient to deter Duquesne Light from committing future violations.

The ninth factor to be considered relates to past Commission decisions in similar situations. 52 Pa. Code § 69.1201(c)(9). I&E submits that the instant Settlement Agreement should be viewed on its merits as I&E found no past Commission decisions that are directly on point to this matter.

The tenth factor considers “other relevant factors.” 52 Pa. Code § 69.1201(c)(10). I&E submits that an additional relevant factor – whether the case was settled or litigated – is of pivotal importance to this Settlement Agreement. A settlement avoids the necessity for the governmental agency to prove elements of each allegation. In return, the opposing party in a settlement agrees to a lesser penalty or other remedial action. Both parties negotiate from their initial litigation positions. The penalties and other remedial actions resulting from a fully litigated proceeding are difficult to predict and can differ from those that result from a settlement. Reasonable settlement terms can represent economic and programmatic compromise while allowing the parties to move forward and to focus on implementing the agreed upon remedial actions.

In conclusion, I&E fully supports the terms and conditions of the Settlement Agreement. The terms of the Settlement Agreement reflect a carefully balanced compromise of the interests of the Parties in this proceeding. The Parties believe that approval of this Settlement Agreement is in the public interest. Acceptance of this Settlement Agreement

avoids the necessity of further administrative and potential appellate proceedings at what would have been a substantial cost to the Parties.

WHEREFORE, I&E supports the Settlement Agreement as being in the public interest and respectfully requests that the Commission approve the Settlement in its entirety without modification.

Respectfully submitted,



Kayla L. Rost  
Prosecutor  
PA Attorney ID No. 322768

Pennsylvania Public Utility Commission  
Bureau of Investigation and Enforcement  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120  
(717) 787-1888  
[karost@pa.gov](mailto:karost@pa.gov)

Dated: November 3, 2022



Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
	:	
v.	:	Docket No. M-2022-3032647
	:	
Duquesne Light Company	:	

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**DUQUESNE LIGHT COMPANY'S  
STATEMENT IN SUPPORT OF SETTLEMENT**

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**TO THE HONORABLE PENNSYLVANIA PUBLIC UTILITY COMMISSION:**

**I. INTRODUCTION**

Duquesne Light Company (“Duquesne Light” or the “Company”) hereby submits this Statement in Support of the Joint Petition for Approval of Settlement (“Settlement”) entered into by the Company and the Pennsylvania Public Utility Commission’s (“Commission”) Bureau of Investigation and Enforcement (“I&E”). This Settlement, if approved, resolves all issues in the above-captioned proceeding, which concerns I&E’s informal investigation into the inadvertent release of certain customer information in April 2022.

Duquesne Light provides electric distribution, transmission, and default supply service to approximately 600,000 customers in its certificated service territory, which comprises approximately 817 square miles in Allegheny County and Beaver County, Pennsylvania. Duquesne Light is a “public utility” and “electric distribution company” as those terms are as defined under the Pennsylvania Public Utility Code, 66 Pa.C.S. §§ 102, 2803.

On August 1, 2022, I&E initiated an informal investigation into Duquesne Light's release of certain customer information that occurred on April 26, 2022, as described in further detail herein. The parties exchanged information and engaged in settlement negotiations as part of this informal investigation. As a result of these efforts, the parties reached a Settlement that resolves all issues without the need for litigation. Under this Settlement, Duquesne Light will implement process improvements to help prevent similar customer information disclosures in the future, and will pay a civil penalty of \$12,500. This Settlement also obviates the need for the parties and the Commission to devote resources to a litigated formal complaint proceeding. For these reasons and as set forth below, the Settlement is just and reasonable, and should be approved.

## **II. COMMISSION POLICY FAVORS SETTLEMENT**

Commission policy favors settlements. *See* 52 Pa. Code § 5.231(a). Settlements lessen the time and expense the parties must expend litigating a case and, at the same time, conserve administrative resources. Settlement results are often preferable to those achieved at the conclusion of a fully litigated proceeding. *See* 52 Pa. Code § 69.401. To accept a settlement, the Commission must determine that the proposed terms and conditions are in the public interest. *Pennsylvania Public Utility Commission v. Columbia Gas of Pennsylvania, Inc.*, Docket No. C-2010-2071433 (August 31, 2012). For the reasons set forth in this Statement in Support of Settlement, the Company believes that the Settlement is just and reasonable and is in the public interest. Therefore, it should be approved without modification.

### **III. THE SETTLEMENT IS IN THE PUBLIC INTEREST**

The parties achieved this Settlement following a thorough investigation by I&E, including written data requests, into the customer information release that occurred April 26, 2021. The parties agree that the Settlement constitutes a reasonable compromise of the issues I&E identified through its investigation. The parties further agree that the Settlement “avoids the time and expense of litigation in this matter before the Commission, which likely would entail preparation for and attendance at hearings and the preparation and filing of briefs, reply briefs, exceptions, reply exceptions” (Settlement ¶46), and that “adopting it will eliminate the possibility of any appeal from the Commission Secretarial Letter or Order, thus avoiding the additional time and expense that [the parties] might incur in such an appeal.” (Settlement ¶47.)

As explained in the following sections, the terms of the Settlement are just and reasonable and are in the public interest. In exchange for stipulating to these terms, I&E has agreed to conclude its informal investigation and not institute any Formal Complaint related to these issues. (*See* Settlement ¶37.)

#### **A. CIVIL PENALTY**

Pursuant to Settlement ¶¶38-39, the Company shall pay a civil penalty of \$12,500, which “shall not be tax deductible or passed-through as an additional charge to Duquesne Light’s customers in Pennsylvania.” The Company shall make payment of the civil penalty within 60 days of a Commission Order or Secretarial Letter approving the Settlement without modification. (Settlement, Proposed Ordering Paragraphs ¶2.)

The customer information release affected approximately 2,966 customers, each of whose name and utility account number was displayed on a letter inadvertently mailed to another customer. (*See* Settlement ¶¶16-17.) The Company acknowledges that the released customer information included Personally Identifiable Information (“PII”) as defined in the Company’s privacy policy, and that such release of PII was inconsistent with the privacy policy. (*See* Settlement ¶¶30-31.) The Company further acknowledges the need to implement measures to prevent similar releases in the future. (*See* Settlement ¶24.) The civil penalty provided in the Settlement recognizes the seriousness of these issues, balanced with: (1) the Company’s full cooperation in I&E’s informal investigation; (2) the Company’s prompt, voluntary notification of the affected customers and the Commission of the customer information release; (3) the unintentional nature of the customer information release; (4) the Company’s prompt self-investigation into the customer information release, and implementation of corrective measures, prior to I&E’s informal investigation; (5) the lack of customer harm attributable to the customer information release;<sup>1</sup> and (6) the Company’s commitment to process improvements designed to prevent future customer information releases.

In light of the foregoing, a civil penalty of \$12,500 is appropriate under the specific circumstances of this case, and the Commission should approve this settlement provision without modification.

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<sup>1</sup> The Company does not use customer account numbers to authenticate customers for account access. The Company also does not use customer account numbers for purposes of electric generation supplier switching; instead, the Company uses unique customer Supplier Agreement ID numbers, which are distinct from customers’ utility account numbers and which were not released as part of this incident. The Company does not believe that the release of customer information has led to any instances of slamming or unauthorized account access. *See* Settlement ¶¶ 21-22.

## **B. CORRECTIVE ACTIONS**

The Settlement provides for the Company to take corrective actions in addition to a civil penalty. Specifically, the Company will “memorialize its policies and procedures relating to mailing and confidentiality by February 2023. After the policies and procedures are codified, Duquesne Light will provide written confirmation to I&E and will also provide a copy for I&E’s review.” (Settlement ¶40.)

These corrective actions are appropriate in addressing the root causes of the April 26, 2022, customer information release. This information release was attributable to an inadvertent human error, which occurred during a manual reformatting of a mailing list. (*See* Settlement ¶23.) While the Company promptly implemented informal process improvements upon identifying this root cause (*see* Settlement ¶24), the Company recognizes that memorializing a formal policy will help ensure that similar releases of customer information do not occur in the future.

Therefore, these settlement provisions are just and reasonable and in the public interest, and the Commission should approve them without modification.

**IV. CONCLUSION**

WHEREFORE, for the reasons explained above, and those set forth in the Settlement, the terms of the Settlement are just and reasonable and in the public interest, and the Pennsylvania Public Utility Commission should approve the Settlement without modification.

Respectfully Submitted,



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Michael Zimmerman  
Senior Counsel, Regulatory  
Duquesne Light Company  
411 Seventh Avenue  
MD: 15-7  
Pittsburgh, PA 15219  
Phone: 412-514-3596  
Email: [mzimmerman@duqlight.com](mailto:mzimmerman@duqlight.com)

Dated: November 3, 2022

Attorney for Duquesne Light Company

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**


Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
	:	
v.	:	Docket No. M-2022-3032647
	:	
Duquesne Light Company	:	

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true copy of the foregoing **Joint Petition for Approval of Settlement and Statements in Support** dated November 3, 2022, upon the parties listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

**Service by Electronic Mail:**

Tishekia Williams, Esq.  
Michael Zimmerman, Esq.  
Duquesne Light Company  
411 Seventh Avenue  
Pittsburgh, PA 15219  
[twilliams@duqlight.com](mailto:twilliams@duqlight.com)  
[mzimmerman@duqlight.com](mailto:mzimmerman@duqlight.com)

  
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Kayla L. Rost  
Prosecutor  
Bureau of Investigation & Enforcement  
PA Attorney ID No. 322768  
(717) 787-1888  
[karost@pa.gov](mailto:karost@pa.gov)