

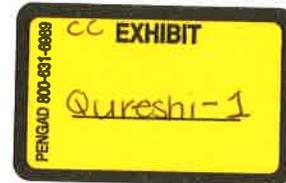
Culbertson Exhibit:

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Statement of Richard Culbertson



Good afternoon.

My name is Catherine Qureshi, and I serve as the President and CEO of the Pittsburgh Parks Conservancy. I am testifying today for Duquesne Light on behalf of the Pittsburgh Parks Conservancy. I would like to submit my written remarks for the record, and highlight a few portions verbally:

The Pittsburgh Parks Conservancy is a nonprofit organization dedicated to restoring Pittsburgh's parks system to excellence in partnership with the City of Pittsburgh and have been around for 27 years. The Pittsburgh Parks Conservancy is also a customer of Duquesne Light Company at three facilities the organization operates: the Frick Environmental Center, Schenley Plaza, and the Schenley Park Visitors Center.

Throughout our history, the Parks Conservancy has made remarkable progress in revitalizing, activating, and enhancing Pittsburgh's public parks. Since the organization's founding, two dozen transformative projects have been completed, more than 10,000 trees have been planted and cared for, thousands of children have been engaged through STEM-focused environmental education, and countless families have enjoyed free public programs in parks across Pittsburgh.

This impact has been made possible through the unwavering support and generosity of our incredible supporters and partners like Duquesne Light Company.

Duquesne Light Company consistently demonstrates a steadfast commitment to the well-being and vibrancy of our community. Their partnership has been instrumental in fueling our efforts to restore and maintain the beauty and accessibility of Pittsburgh's parks, ensuring that they remain cherished spaces for generations to come. Duquesne Light has been supporting the work of the Pittsburgh Parks Conservancy since the earliest days of our history, helping to improve the quality of life for so many people in our region.

Most recently, Duquesne Light Company has played a pivotal role in restoring and maintaining Allegheny Commons Park on Pittsburgh's Northside, one of Pittsburgh's most historic and cherished public spaces. This park is the most accessible greenspace for more than 30,000 residents and welcomes more than 1 million

Qureshi Exhibit 1

visitors annually. Through a \$1 million philanthropic grant, the company has helped to restore the park's North Promenade. This key pedestrian thoroughfare connects residents with large institutional employers like Allegheny General Hospital, the Community College of Allegheny County, and Pittsburgh Public Schools, as well as significant cultural attractions like the Children's Museum and National Aviary.

This area of the park was the number one priority identified by residents for needing improvement during the master planning process. Prior to the contribution from Duquesne Light Company, the pathways were crumbling, pedestrians had to cross two major roads at unmarked locations, and there was no lighting whatsoever along this crucial area of the park. With the restoration of the North Promenade completed, these improvements, and in particular the new park lighting, have improved public safety and accessibility, allowing residents to enjoy the park during evening hours and dramatically improving the experience for thousands of visitors and employees who utilize these pathways daily.

This lighting upgrade is more than a mere aesthetic improvement; it represents a significant enhancement in the quality of life for Northside residents. This investment for the people of Pittsburgh would not have been possible without Duquesne Light Company and it is just one example of their profound commitment to community and sustainability.

Finally, I want to note that Duquesne Light Company has been an important philanthropic partner and an advocate for promoting sustainability, stewardship, and the importance of environmental conservation with the Parks Conservancy. The company has been an educational partner with the Parks Conservancy at various community engagements and meetings on the importance of energy efficiency and conservation. This is a particularly important facet of the relationship the Parks Conservancy has with Duquesne Light Company, as we operate the Frick Environmental Center, the greenest municipally owned building in the world.

Duquesne Light Company's impact on the communities we serve is truly immeasurable. Their philanthropic contributions, commitment to sustainability, and dedication to enriching the lives of so many individuals in our region is commendable.

I appreciate your time this afternoon and the opportunity to share my testimony about such a wonderful partner.

Sincerely,

A handwritten signature in black ink, appearing to read 'Catherine Qureshi', with a long horizontal flourish extending to the right.

Catherine Qureshi
President & CEO, Pittsburgh Parks Conservancy

Pennsylvania Public Utility Commission Public Hearing June 6, 2024, Proposed Rate Increase of Duquesne Light Company

Introduction: Richard C. Culbertson, 1430 Bower Hill Road, Pittsburgh, PA 15243

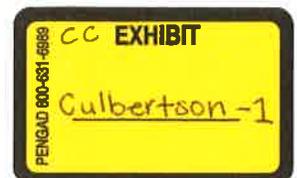
Phone 609-410-0108 and e-mail Richard.C.Culbertson@gmail.com

I am an interested party this proposed rate increase from several perspectives.

- Ownership of residence and rental properties serviced by Duquesne Light Company.
- Public service as an asset management expert¹. (“*See something say something.*”)
 - Over 50 years of asset management responsibility at General Electric, and Lockheed Martin, as well as real estate investments and experience with multiple electric utilities in multiple states.
 - One experience with DLC in the mid-1980s with the decommissioning of the Shippingport Nuclear Power Station, of which I was part of the management team. I observed their high-quality work and professionalism in that environment.
 - Utility management and governance are all about various forms of asset management.
- The quality of life of these renters and our community will be reduced by unreasonable rate increases and when they occur, DLC’s poor operations.
- One of the objectives of these hearings is to arrive at just and reasonable rates for customers, and DLC. I want to be treated fairly and justly and I want the same for DLC.
- I am providing facts and applicable laws and regulations as I know them.

¹ As evaluated and identified in Government Accountability Office Report FEDERAL REAL PROPERTY ASSET MANAGEMENT <https://www.gao.gov/assets/d1957.pdf> See pages 48 and 49). He has been heavily involved in Asset Management Standards since 2001 and is the current Chair to the ASTM E53 Asset Management Committee, e.g., Standard ASTM E2279 ... Guiding Principles of Property Asset Management (versions 02, 09,15,20) (Initially Co-authored and Technical Leader adopted and required in DoD in their DOD Instruction 5000.64 ACCOUNTABILITY AND MANAGEMENT OF DOD EQUIPMENT AND OTHER ACCOUNTABLE PROPERTY <https://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dodi/500064p.pdf>, Leader in U.S. ISO Technical [Standards] Committee 251 Asset Management, which is responsible for international standard ISO 5000 Asset Management. ISO 55000 Asset Management references ASTM 2279 Guiding Principles of Property Asset Management. He is a Board member of Asset Leadership Network. <https://www.assetleadershi79p.net/>. He was Lockheed Martin’s lead subject matter expert in asset management for many years.

Culbertson Exhibit 1



Docket No.: [R-2024-3046523](#)

Press Releases

<https://www.puc.pa.gov/press-release/2024/puc-to-investigate-proposed-rate-increase-by-duquesne-light-04-04-2024>

<https://www.puc.pa.gov/press-release/2024/puc-public-input-hearings-set-for-early-june-for-rate-increase-sought-by-duquesne-light-company-050624#:~:text=Duquesne%20Light%20Rate%20Increase%20Request,rates%20of%20approximately%20%24133%20million.>

PUC's Order to investigate: <https://www.puc.pa.gov/pdocs/1823317.pdf> In part:

“Investigation and analysis of this proposed tariff filing, and the supporting data indicate that the proposed changes in rates, rules, and regulations may be unlawful, unjust, unreasonable, and contrary to the public interest. It also appears that consideration should be given to the reasonableness of Duquesne Light’s existing rates, rules, and regulations; THEREFORE, IT IS ORDERED:

*1. That an investigation on Commission motion be, and hereby is, instituted to determine the lawfulness, justness, and reasonableness of the rates, rules, and regulations contained in the **proposed** Supplement No. 71 to Tariff Electric Pa. P.U.C. No. 25*

*4. That this **investigation shall include** consideration of the lawfulness, justness, and reasonableness of the Duquesne Light Company’s **existing rates, rules, and regulations.***

5. That the case be assigned to the Office of Administrative Law Judge for the prompt scheduling of such hearings as may be necessary culminating in the issuance of a Recommended Decision

Proposed Increase in operating revenue of **\$133,000,000.**

(Pennsylvania Senator Bob Casey has warned the public about “greedflation” <https://www.casey.senate.gov/greedflation> “Even as inflation has slowed, families are still paying higher prices, thanks to corporate **greed, or greedflation.**” (DLC’s proposed increase of 6.52 percent may seem modest compared to some other Pennsylvania Public Utilities. The Fed’s target for inflation is 2 percent.)

The magnitude of the proposed increase is more than Pennsylvania's Low-Income Home Energy Assistance Program (LIHEAP) Federal funding. *During the 2022-2023 LIHEAP season, 312,169 households statewide received \$125,572,518 in LIHEAP Cash benefits,*
https://www.media.pa.gov/pages/dhs_details.aspx?newsid=997

The PA PUC's process to arrive at utility rates from my perspective is troubling.

The process used by the PUC does not reasonably lead to just and reasonable rates. The public will not receive any reasonable assurance from qualified auditors who have free access to DLC's financials and performance of operations. These paid experts and their opinions do not provide the reasonable assurance that the public needs.

I do not believe we know what DLC's revenue should be, as I do not believe the PUC has reliable and effective internal controls² [See the COSO Internal Control-

² Financial and operational performance governance of state utility commissions is largely set by the Federal Government. See *18 CFR Part 101 - PART 101—UNIFORM SYSTEM OF ACCOUNTS PRESCRIBED FOR PUBLIC UTILITIES AND LICENSEES SUBJECT TO THE PROVISIONS OF THE FEDERAL POWER ACT (1920)* and [52 Pa. Code § 61.31 - § 61.31 - Systems of accounts](#). Each public utility shall keep its accounts in conformity with the "Uniform Classification of Accounts" (18 CFR Part [101](#)).

U.S. TITLE 31—MONEY AND FINANCE § 503. Functions of Deputy Director for Management [USCODE-2022-title31-subtitle1-chap5-subchapl-sec503.pdf \(govinfo.gov\)](#) § 503. Functions of Deputy Director for Management

(a) Subject to the direction and approval of the Director, the Deputy Director for Management shall establish governmentwide financial management policies for executive agencies and shall perform the following financial management functions...

Based on this law, the Office of Management issued *2 CFR PART 200—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS*. (Dec.26,2013) The PA PUC receives \$5,538,000 in federal awards, which them subject to 2 CFE 200. These applicable regulations provide for required actions and prohibit other actions

*A prohibition includes 2 CFE § 200.324 (d) The cost plus a percentage of cost and percentage of construction cost methods of contracting **must not be used.** •*

Integrated Framework or the GAO Green Book] to reach just and reasonable rates for customers.

I believe this proceeding should be paused and perhaps temporary rates granted, because the PUC is ill-prepared to fulfill its legal responsibility in determining these utility rates.

\$133,000,000 increase in DLC's rates is too much to be considered carelessly by the Pennsylvania Publicly Utility Commission.

Causes of concern:

- *Pennsylvania Constitution ARTICLE VIII § 10. Audit. The financial affairs of ... all ... commissions, ... of the Commonwealth, shall be subject to audits made in accordance with generally accepted auditing standards. (1968)*

The required audits in the manner required by the Pennsylvania Public Utility Commission did not occur. The applicable auditing standard is the GAO Yellow Book. <https://www.gao.gov/assets/gao-21-368g.pdf> With applicable audits, results could come with recognized assurance of effective internal controls, or weaknesses, deficiencies, and suggested improvements. Pennsylvanians were not provided with these benefits and did not get what they expected.

Traditionally and early on, utilities were to make profits proportionate to the size of their rate bases. This is an incentive for the utility to maintain high-rate bases by replacing assets that are close to being fully depreciated and replacing these assets with new assets. This type of arrangement is similar to the cost-plus-percentage of cost type contract, which is illegal in government procurement. Profit incentives should be primarily based on documented and validated performance rather than the amount of spending on capital projects. Considerations of return on capital investments is a form of a cost-plus percentage of cost arrangement. This type of arrangement is imprudent as the incentive is to spend rather than to spend as necessary and prudent.

OMB issued OMB BULLETIN NO. 24-01 <https://www.whitehouse.gov/wp-content/uploads/2023/10/Bulletin-24-01-Audit-Requirements-for-Federal-Financial-Statements.pdf> This requires Report on Internal Control Over Financial Reporting and Report on Compliance with Laws, Regulations, Contracts, and Grant Agreements

The due diligence to perform financial and performance audits did not occur. (*due diligence: the care that a reasonable person exercises to avoid harm to other persons or their property*) <https://www.merriam-webster.com/dictionary/due%20diligence>

Pennsylvania public utility law Title 66 § 319 (a). requires each Commissioner and administrative law judge and their subordinates to perform all duties diligently.

- Self-assertions by the utility are unreliable as there is no assurance of the accuracy of the utility’s decision-making with asset replacements.
- To comply with the PUC’s Order -- *determine the lawfulness, justness, and reasonableness of the rates, rules, and regulations contained in the proposed...*

I believe the current order is not reasonably doable under the time constraints and other requirements of applicable laws and regulations.

Diligently observing and performing the internal control requirements of compliance with applicable laws, regulations, standards, and orders is difficult, especially if systems have not been designed and installed to meet the objectives.

As an asset management expert, I do not believe the Commission’s pattern of practice is compliant with their legal requirements. The tone at the top matters.

Legal Requirements	PUC’s Performance or Pattern of Practice
<p><i>“66 Pa.C.S. § 1319. (2) ...[T]he commission shall allow the public utility to recover all prudent and reasonable costs ... such prudent and reasonable costs shall be recovered only in accordance with appropriate accounting principles.” (July 1, 1978, P.L.598, No.116.)</i></p>	<p>This requires audit assurance. There is no audit assurance of DLC’s financials from an independent, qualified, and competent auditor that has complied with Generally Accepted Government Audit Standards (GAGAS).</p> <p>PUC Highlights 2023 Accomplishments – only “three management audits” were performed. <u>No Financial audits. The PUC oversees nearly 7000 entities.</u></p>

	<p>https://www.puc.pa.gov/about-the-puc/</p> <p>There was no examination of DLC financials or performance management!</p> <p>Audits, according to the appropriate accounting principles, must occur before recovery. Audits are the only avenue for recovery of cost.</p> <p>Audits are not audits unless performed in conformance with the GAO Yellow Book.</p> <p>The PUC did publish an annual report of audits of the three audits. https://www.puc.pa.gov/pcdocs/1800365.pdf</p> <p>This document shows these audits were not performed up to standard.</p> <p>With this 16-page document, key audit words are missing: assurance, weakness, deficiency, finding, waste, fraud, abuse, mismanagement, compliance, conformance, and controls. There were almost 100 recommendations but no findings.</p> <p><i>PA Title 66§ 308.2. (8) Conduct financial, management, operational and special audits.</i></p> <p>See Appendix I ANNUAL REPORT 66 PA C.S. § 516 AUDITS FISCAL YEAR 2022-2023 MANAGEMENT AUDITS & MANAGEMENT EFFICIENCY INVESTIGATIONS Docket No. D-2023- 3042338</p>
<p><i>Title 66 § 1351. Definitions. "Capitalized cost." Costs permitted to be</i></p>	<p>The Commission has not issued the details as to what are Generally Accepted Accounting Principles and what are actual legitimate</p>

<p><i>capitalized pursuant to the Uniform System of Accounts</i></p> <p>THE NATURAL GAS ACT <i>Title 15 §717e. Ascertainment of cost of property (a) Cost of property</i> <i>The Commission may investigate and ascertain the actual legitimate cost of the property of every natural-gas company...</i> <i>(June 21, 1938, ch. 556, §6, 52 Stat. 824.)</i></p>	<p>costs.</p> <p>It appears every utility is on its own to make these determinations.</p> <p>In Federal government contracting, this is covered by requiring contractors to submit a Cost Accounting Disclosure Statement. The Commission should have required something similar.</p> <p>The three audits that were performed do not address issues expected in audits</p>
<p><i>“66 Pa.C.S. § 1701. Mandatory systems of accounts. ... Every public utility shall establish such systems of accounting, and shall keep such accounts in the manner and form required by the commission. The accounting system of any public utility [is] also subject to the jurisdiction of a <u>Federal regulatory body</u> [and] shall correspond, as far as practicable, to the system prescribed by such Federal regulatory body.”</i> (July 1, 1978, P.L.598, No.116.) e.g., FERC, OMB, GAO, Accounting standards bodies....</p>	<p>The PUC seems to have recognized the FERC system identified in 18 CFR 101 — PART 101—UNIFORM SYSTEM OF ACCOUNTS PRESCRIBED FOR PUBLIC UTILITIES AND LICENSEES SUBJECT TO THE PROVISIONS OF THE FEDERAL POWER ACT³ but not requirements from other Federal Regulatory bodies, e.g., OMB regarding reasonable and allowable cost. 2 CFR 200 Uniform Administrative Requirements, Subpart E – Cost Principles § 200.400. and FAR Part 31 Cost Principles.</p> <p>PUC compliance with this long-standing law appears to be lacking.</p> <p>The federal requirements may appear to be ambiguous to the uninformed, but the law is generally clear to the well-informed.</p> <p>This appears to be an internal control weakness of the PUC and perhaps utilities.</p>

³ <https://www.ecfr.gov/current/title-18/chapter-I/subchapter-C/part-101> This Act requires actual legitimate cost to be in the rate base.

	<p>This weakness may be the root cause of the PUC not performing financial audits. Auditors compare performance with identified standards.</p> <p>No identified standard = no audits.</p> <p>Decisions to increase rates based on unaudited data are not in the public interest! Awarding billions of dollars of rate increases to public utilities without appropriate audits is a lack of diligence, and dereliction of duty and is reckless.</p>
<p>Other audit requirements: <i>Title 66 § 308.2(a) Functions (6) -- (8) <u>Conduct financial, management, operational and special audits.</u></i></p> <p><i>(11) Take appropriate enforcement actions, including rate proceedings, service proceedings and application proceedings, necessary to insure compliance with this title [66], commission regulations and orders.</i></p> <p>Title 66 § 516. Audits of certain utilities. Requires audits.</p> <p>2 CFR 200 § 200.504 Frequency of audits. - Annually, Effective Dec.2013. This replaced <i>OMB Circular A-133, "Audits of States, Local</i></p>	<p>Again -- PUC Highlights 2023 Accomplishments⁴ – only “three management audits” were performed. No Financial audits.</p> <p>The PUC representatives come to rate cases empty-handed, with no facts or assurance of DLC’s financials or performance.</p> <p>It is unknown when the last time the PUC performed an audit consistently with the applicable Federal Yellow Book standards. Alarming!</p> <p>Recipients of Federal Grants – such as the PUC are subject to 2 CFR 200 UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS</p> <p>Instead of the PUC complying with their legal requirements to enforce and conduct audits,</p>

⁴ <https://www.puc.pa.gov/press-release/2023/puc-highlights-2023-accomplishments#:~:text=Since%20the%20start%20of%202023,them%20available%20for%20public%20review>

<p><i>Governments and Non-Profit Organizations ” 2003.</i></p>	<p>they approve settlements that do not comply with the PUC’s initial order, particularly part (4) which requires a review and consideration of existing rates.</p>
<p><i>Title 66 Pa.C.S.A. Public Utilities § 501. General powers (b) The commission may make such regulations, not inconsistent with law, as may be necessary or proper in the exercise of its powers or for the performance of its duties.</i></p>	<p>Knowingly using a PUC regulation improperly or not enforcing a PUC regulation can also be unlawful.</p>
<p>PA Title 66 § 523. Performance factor consideration. (a) Considerations. -- <i>The commission shall consider, in addition to all other relevant evidence of record, the efficiency, effectiveness and adequacy of service of each utility when determining just and reasonable rates under this title. On the basis of the commission's consideration of such evidence, it shall give effect to this section by making such adjustments to specific components of the utility's claimed cost of service as it may determine to be proper and appropriate. Any adjustment made under this section shall be made on the basis of specific findings upon evidence of record, which findings shall be set forth explicitly, together with their underlying rationale, in the final order of the</i></p>	<p>From observations and participation in the two rate cases, settlement talks impede evidence from getting into the record. Settlement talks interfere with what should be entered into the record. Relevant and material facts and admissions, in settlement talks cannot be entered into the record.</p> <p>The commission shall consider the efficiency, effectiveness and adequacy of service of each utility when determining just and reasonable rates.</p> <p>The requirement implies that whatever is considered, must be current, accurate, and complete, which is the generally accepted standard. For example, see the requirement used in FAR 15.406-2 Certificate of Current Cost or Pricing Data. https://www.acquisition.gov/far/15.406-2</p> <p>Efficiency and effectiveness of service are the same requirements as the requirement of assessing the internal controls under effective and efficient operations as part of the requirements of the COSO Internal Control-Integrated Framework and the GAO Green Book – internal controls. These identified</p>

commission. (July 10, 1986, P.L.1238, No.114)	considerations should independently be audited annually as part of performance audits or management audits.

The extent of financial compliance by DLC is unknown to the PUC and DLC’s customers. What is known is my personal experience with DLC’s operations.

- On November 11, 2021, DLC replaced an electric pole on my property on Bower Hill Road. This area has historical significance – Bower Hill was General John Neville’s Mansion that was burned down to the ground in July 1794 at the start of the Whisky Rebellion General.**

I live on almost an acre and have two driveways, one leading to the parking area and garage, the other unpaved leading to the backyard. The backyard is largely undeveloped there are “manhole” covers and I or another in the future may want free access with larger or heavier vehicles. When DLC’s contractor planner came to the property I requested the pole be placed away from the driveway. He said he would record that in his assessment document.

When DLC’s crew came to replace their pole, they said they were going to place the pole in my grass driveway. Their foreman came and I reminded him of my request to place the pole away from the driveway He responded our approved plans are to place it in the driveway. Those plans were approved by the Mt. Lebanon municipality. I responded – Mt. Lebanon does not own this property I do. I was treated with arrogance – not as a good customer.

I then report my complaint to the DLC third-party complaint recording contractor. Nothing came from my complaint. I was not treated in good faith but with arrogance.⁵ DLC should have learned in a case decided in

⁵ In 1933, in the case of *Kirke La Shelle Company v. The Paul Armstrong Company et al.* 263 N.Y. 79; 188 N.E. 163; 1933 N.Y., the New York Court of Appeals said: In every contract there is an implied covenant that neither party shall do anything, which will have the effect of destroying or injuring the right of the other party, to receive the fruits of the contract. In other words, every contract has an implied covenant of good faith and fair dealing.

the Pennsylvania Supreme Court in Alderwoods (Pennsylvania), Inc. v. Duquesne

Light Co.⁶ DLC caused the burning down of a funeral home. DLC must not ignore the property rights of others.

Additional care in their records and operations is needed.

- **On December 15, 2020, a power surge destroyed the motherboard on my HVAC, the same as the dishwasher, coffee pot, and some other items. At a neighbor's home, this caused a fire, the fire department was called, and the fire was extinguished. I believe this was caused by poor workmanship in installing the new pool.**



**Kelso Road, Mt. Lebanon
December 15, 2020. A power surge from this new pole destroyed the motherboard on my HVAC, the same for the dishwasher, coffee pot, and some other items. At a neighbor's home, this caused a fire, the fire department extinguished the fire. I believe this was caused by poor workmanship in installing the new pool.**

⁶ Alderwoods (Pennsylvania), Inc. v. Duquesne Light Co. where DLC cause a funeral to burn down. *SEE generally* Restatement (Second) of Torts § cmt. a (1965) ("In general, anyone who does an affirmative act is under a duty to others to exercise the care of a reasonable man to protect them against an unreasonable risk of harm to them arising out of the act.").



November 11, 2021, my driveways at 1430 Bower Hill Road, Mt Lebanon. The location of DLC's new pole impedes my free access to my backyard.

When DLC's contractor planner came to the property several months earlier, I requested the pole be placed away from the driveway as I needed free access to my backyard without harming the blacktop driveway. He said he would record that in his assessment document.

When DLC's crew came to replace their pole, they said they were going to place the pole in my grass driveway. Their foreman came and I reminded him of my request to place the pole away from the driveway. He responded our approved plans are to place it in the driveway. Those plans were approved by the Mt. Lebanon municipality. I responded – Mt. Lebanon does not own this property I do. I was treated with arrogance – not as a good customer.

I then report my complaint to the DLC third-party complaint recording contractor. Nothing came from my complaint. I was not treated in good faith but with

arrogance.⁷ DLC should have learned from the Pennsylvania Supreme Court in Alderwoods (Pennsylvania), Inc. v. Duquesne Light Co.⁸ DLC's lack of care caused the burning down of a funeral home. DLC must not ignore the property rights of others.

The PUC should do a better job in protecting customers' property. have reviewed these complaint records and required DLC to recognize property ownership rights.

Additional care in DLC's records and operations is needed.

⁷ In 1933, in the case of *Kirke La Shelle Company v. The Paul Armstrong Company et al.* 263 N.Y. 79; 188 N.E. 163; 1933 N.Y., the New York Court of Appeals said:

In every contract there is an implied covenant that neither party shall do anything, which will have the effect of destroying or injuring the right of the other party, to receive the fruits of the contract. In other words, every contract has an implied covenant of good faith and fair dealing.

⁸ *Alderwoods (Pennsylvania), Inc. v. Duquesne Light Co.* where DLC cause a funeral to burn down. See Restatement (Second) of Torts § 302 cmt. a (1965) ("*In general, anyone who does an affirmative act is under a duty to others to exercise the care of a reasonable man to protect them against an unreasonable risk of harm to them arising out of the act.*").



In conclusion, I recommend that the PUC pause this rate case until a proper order is established per the Pennsylvania Public Utility Code. This includes independent and reliable audits being conducted by competent third-party auditors to ensure DLC has effective internal controls over their operations in areas of effective and efficient operation, reliable reporting - financial and non-financial, and compliance with applicable laws, regulations, standards, and orders. In addition, assurances the rate base is free of waste, fraud, abuse, and mismanagement.

The PUC and DLC should not use settlements to circumvent legal requirements. Comply with the rule of law.

This concludes my testimony.



Richard C. Culbertson
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Pittsburgh, PA 15243
Richard.c.culbertson@gmail.com
609-410-0108

Appendix I

ANNUAL REPORT

66 PA C.S. § 516

AUDITS

FISCAL YEAR 2022-2023

**MANAGEMENT AUDITS &
MANAGEMENT EFFICIENCY
INVESTIGATIONS**

Pennsylvania Public Utility Commission

Bureau of Audits

Issued September 2023

Docket No. D-2023- 3042338

<https://www.puc.pa.gov/pcdocs/1800365.pdf>

II. STATISTICAL TABLES

TABLE A

FY 2022-2023 Management Audits Number and Categorization of Recommendations

<u>Company</u>	<u>Total</u>	<u>Accepted</u>	<u>Partially Accepted*</u>	<u>Rejected</u>	<u>Accepted or Partially Accepted</u>
PECO Energy	22	19	3	0	100%
PGW	32	26	3	3	91%
PWSA	41	34	7	0	100%
Total	95	79	13	3	91%

* Per implementation plans submitted by the companies.

I. *INTRODUCTION*

Management Audits (MAs) and Management Efficiency Investigations (MEIs) examine the management effectiveness and operating efficiency of Pennsylvania jurisdictional fixed utilities. Specifically, MAs determine the extent to which a utility has contained costs, developed reasonable short and long-term plans for the company's continued operations, provided adequate service to the customers it serves, and provided proper management and organizational structure. MEIs, in part, review utility efforts in implementing prior management audit recommendations, as well as other areas considered critical to a utility's operations.

MAs and MEIs are required of any electric, gas, telephone, or water utility whose plant-in-service is valued at not less than \$10 million (Public Utility Code, 66 Pa. C.S. § 516). MAs are to be conducted at least once every eight years. MEIs or investigations of implementation progress are usually conducted two to three years after completion of the MAs.

As of the date of this report, MAs and MEIs are performed for 27 large and medium-sized electric, gas, and water companies. Although telecommunications

companies with plant-in-service of \$10 million or more are technically covered by the mandate, audits and investigations of these companies have been suspended consistent with approved alternative regulatory plans.

Required audits and investigations are conducted by Bureau staff or by outside consulting firms with the oversight of Bureau personnel. Other special operational and/or financial projects are also performed from time to time by Bureau employees or by outside consultants with the oversight of Bureau staff.

Culbertson Comments and Observations

- **PA law requires audits beyond Management Audits (MAs) and Management Efficiency Investigations (MEIs). Where are those financial audits?**
- *Although telecommunications companies with plant-in-service of \$10 million or more are technically covered by the mandate, audits and investigations of these companies **have been suspended consistent with approved alternative regulatory plans.***
 - *And what are those alternative regulatory plans – that supersede law?*
- Only three audits for the year appear insufficient and underperforming.

Duquesne Light Rate Increase Hearing – June 5th, 2024 1:00pm

Good afternoon,

My name is Dan Gladis and I serve as Chief of Staff to State Representative Jessica Benham. While the Representative could not be here today, I am here on her behalf to deliver brief remarks about a potential rate increase for Duquesne Light.

In a word, “no.” In two words, “please don’t.” In more words: our district office works every day to help seniors, veterans, working families, and people of all backgrounds access state services. As part of this job, we hear stories of the significant hardship people face every day. People who are making difficult choices between medicine, paying bills, and the quality of food they buy. Folks are still dealing with the tail-end effects of high inflation in nearly every aspect of life.

While we understand that Duquesne Light is working hard to modernize infrastructure and improve network safety and resilience, a rate increase at this time has the potential to hurt far too many Pittsburghers. Please, on behalf of all residents in House District 36 and folks in our region, do not permit a rate increase at this time. Thank you.

June 5, 2024

To Whom It May Concern,

Food is a basic human need, yet everyday thousands of our neighbors struggle to have enough food on their plates. At Greater Pittsburgh Community Food Bank, we work to ensure that anyone who needs a healthy meal can get one. A growing number of families across 11 counties of southwestern Pennsylvania struggle to make ends meet.

The Food Bank is a proud member of Feeding America. Map the Meal Gap is Feeding America's annual study that provides data and insights on local food insecurity and food prices across the United States. Recently, sobering statistics were released regarding our service area.

- 1 in 8 people are currently experiencing food insecurity, an increase from 1 in 10 previously. That includes:
- *1 in 10 White neighbors are facing food insecurity, up from 1 in 13*
- *1 in 3 Black neighbors, up from 1 in 4*
- *1 in 5 Hispanic neighbors, up from 1 in 6*
- *and 1 in 6 children, up from 1 in 8*

The Food Bank is not able to meet the needs of our community without outstanding partners like Duquesne Light Company (DLC). In our 23 years of partnering, DLC has donated more than \$700,000 of direct below-the-line donations to help provide food to individuals, children, seniors, families and veterans in our community.

When the Food Bank recognized a need to expand to allow for greater distribution of produce, to add an onsite food pantry, The Market, and to develop the Community Connections team, DLC once again stepped up by donating \$250,000 to the Grow, Share Thrive Capital Campaign. In recognition of this support, they received the naming opportunity for the Market Introduction Room where our neighbors visiting The Market are greeted by a staff member or volunteer.

Because we both serve a vulnerable population, it was important for leadership at Duquesne Light to partner with the Food Bank to help build Community Connections where the Call Center is the front-line entry point for anyone calling the Food Bank for assistance. In FY23, the Call Center handled nearly 18,000 calls, a 9% increase over the prior year. Not only do our neighbors get connected to resources like SNAP benefits and their local pantry, but they are also connected to other types of services including help with utilities, healthcare, low-cost internet and workforce development providers. For FY23 a total of 341 LIHEAP applications were submitted from the Call Center. This includes 260 LIHEAP applications in Allegheny County and 19 in Beaver County. Already in FY24 a total of 340 LIHEAP applications were submitted with 236 for Allegheny County neighbors and 14 for Beaver County neighbors.

The employees at Duquesne Light are also very committed to the Food Bank's mission. Kristy Stone, VP, Chief Customer Officer, is an active and engaged board member. Her commitment influenced a recent \$10,000 donation from DLC. In three years, DLC has donated more than \$133,000 in Employee Matching Gifts, including more than \$24,500 in 2024 alone.

Looking toward FY25, DLC committed \$50,000 of below-the-line support to continue our joint goal of providing resources to help our neighbors thrive. To further our partnership, DLC sponsored the Food Bank in the Satell Institute, an independent, nonprofit, nonpartisan Think and DO Tank dedicated to Corporate Social Responsibility that pairs companies with nonprofits and requires a four-year funding commitment.

Duquesne Light Company's partnership with the Food Bank over the years is representative of their commitment to strengthen the community in which we live.

Sincerely,



Jennifer Zgurich
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