

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
COUNTY OF KING

ANTHONY DEIEN, on behalf of himself and all  
others similarly situated,

Plaintiff,

vs.

SEATTLE CITY LIGHT,

Defendant.

NO. 19-2-21999-8 SEA

**ORDER GRANTING  
PLAINTIFF'S MOTION FOR PRELIMINARY  
APPROVAL OF CLASS ACTION  
SETTLEMENT**

Plaintiff Anthony Deien moved for preliminary approval of a class action settlement with Defendant Seattle City Light. The terms of the settlement are set forth in the Settlement Agreement and Release attached as Exhibit 1 to the Declaration of Beth E. Terrell in Support of Plaintiff's Motion for Preliminary Approval of Class Action Settlement. The Court has read and considered the Settlement Agreement, the exhibits attached thereto, and the briefing submitted in support of preliminary approval of the settlement and is fully advised.

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. The Court preliminarily approves the Settlement Agreement and Release between Plaintiff and Seattle City Light (SCL).

1           2.       The settlement appears to be the product of serious, informed, non-collusive  
2 negotiations, including a mediation before a mediator with substantial experience with  
3 consumer class action cases. The settlement has no obvious deficiencies, does not improperly  
4 grant preferential treatment to any class members, and falls within the range of possible  
5 judicial approval. *See* William B. Rubenstein, *Newberg on Class Actions* § 13:10 (5th ed. June  
6 2021 update).

7           3.       For purposes of settlement only, the Court finds that the Settlement Class  
8 satisfies the requirements of CR 23(a) and (b)(3) and grants conditional and preliminary  
9 certification of the following Settlement Class:

10                   All Seattle City Light residential customers who received one or  
11 more bills based on estimated usage followed by a bill based on  
12 actual usage between August 21, 2015 and June 8, 2020. Excluded  
13 from the Settlement Class are those who submit a valid and timely  
14 exclusion request, Plaintiff's Counsel and the Judge presiding over  
15 this Action.

16           4.       The numerosity requirement is satisfied because there are approximately  
17 386,103 Class members. *See* CR 23(a)(1); *Miller v. Farmer Bros. Co.*, 115 Wn. App. 815, 821, 64  
18 P.3d 49 (2003).

19           5.       The commonality requirement is satisfied because there are overarching  
20 questions of law and fact common to the Class, including whether SCL's billing practices were  
21 unfair and deceptive under the CPA, violated contractual obligations of good faith and fair  
22 dealing, and violated RCW 80.04 *et seq.* and WAC 480-100. *See* *Smith v. Behr Process Corp.*, 113  
23 Wn. App. 306, 320, 54 P.3d 665 (2002).

24           6.       The typicality requirement is satisfied because Plaintiff's claims arise from the  
25 same course of conduct that gives rise to the claims of other Class Members and are based on  
26 the same legal theories. *See* CR 23(a)(3); *Pellino v. Brink's Inc.*, 164 Wn. App. 668, 267 P.3d 383,  
27 392 (2011).

1           7.       The adequacy requirement is satisfied because Plaintiff has no interests  
2 antagonistic to the other Class Members and is represented by qualified counsel. *See Hansen v.*  
3 *Ticket Track, Inc.*, 213 F.R.D. 412, 415 (W.D. Wash. 2003).

4           8.       The predominance requirement is satisfied because there is a “common nucleus  
5 of operative facts” to each Class Member’s claim, and all Class Members were subject to the  
6 same conduct by SCL. *See CR 23(b)(3); Chavez v. Our Lady of Lourdes Hosp. at Pasco*, 190 Wn.2d  
7 507, 516, 415 P.3d 224 (2018).

8           9.       The superiority requirement is satisfied because the resolution of approximately  
9 386,103 claims in one action is far superior to individual lawsuits and promotes consistency and  
10 efficiency of adjudication, particularly in a case like this one with modest damages. *See CR*  
11 *23(b)(3); Chavez*, 190 Wn.2d at 518-23.

12          10.       For purposes of settlement, the Court appoints Anthony Deien as the class  
13 representative.

14          11.       The Court appoints the Terrell Marshall Law Group PLLC as Class Counsel.

15          12.       The Court appoints P&N Class Action Services as the Settlement Administrator.  
16 As provided for in the Settlement Agreement, the Settlement Administrator shall disseminate  
17 notice to Settlement Class Members by mail and email, establish the Settlement Website and  
18 toll-free phone number, process and report on claim forms and exclusion requests, establish  
19 and maintain an account for deposit of the Settlement Fund, mail Settlement Award checks to  
20 Class Members who submitted valid claim forms and are not current customers of SCL, arrange  
21 for the filing of tax forms and payments (if any) relating to the Settlement Fund, and perform  
22 any additional duties that are called for by the Settlement Agreement or ordered by the Court.

23          13.       The Court approves the notice program outlined in the Settlement Agreement,  
24 including the Class Notice and Claim Form attached as exhibits to the Settlement Agreement.  
25 The Class Notice provides all of the information Settlement Class Members need to evaluate  
26 and respond to the settlement, including the nature of the litigation, the general terms of the  
27 proposed settlement, their rights under the settlement, an explanation of how they can object

1 to or exclude themselves from the settlement and how to file a claim form to receive a  
2 payment, the identity of Class Counsel and that Class Counsel will request attorneys' fees from  
3 the Settlement Fund, and the date and time of the Final Approval Hearing. The notices also  
4 direct Class Members to a website that will provide additional information about the  
5 settlement, as well as a toll-free number that Class Members can call with questions.

6 14. The Court also approves the parties' plan for disseminating notice, which will  
7 ensure that Class Members receive "the best notice practicable under the circumstances." CR  
8 23(c)(2). Issuance of notice substantially in the manner set forth in Section III.G.3 of the  
9 Settlement Agreement satisfies the requirements of due process and applicable state and  
10 federal law and constitutes due and sufficient notice to all members of the Settlement Class.

11 15. No later than October 15, 2021, SCL shall provide to the Settlement  
12 Administrator and Plaintiff's expert the information and data outlined in section III.G.2 of the  
13 Settlement Agreement.

14 16. Within 75 days of entry of this Order, or within 75 days from the date SCL  
15 provides the Settlement Administrator with the identities of Settlement Class Members,  
16 whichever is later, the Settlement Administrator shall send notice to all Settlement Class  
17 Members in accordance with the notice plan described in Section III.G.3 of the Settlement  
18 Agreement. The date the Settlement Administrator distributes notice is the "Notice Date."

19 17. Any Settlement Class Member may file a Claim Form online or by mail to the  
20 Settlement Administrator no later than 2-12-22. The Claim Form must include the Class  
21 Member's current address and either an SCL account identification number or the Settlement  
22 Administrator's claim ID for the Class Member.

23 18. Any Settlement Class Members may exclude himself or herself from the  
24 settlement by sending a written request to the Settlement Administrator postmarked no later  
25 than ~~2-12-22~~. The exclusion request must: (i) be in writing; (ii) state that individual's current  
26 address; (iii) contain the following statement: "I request that I be excluded from the Settlement  
27 Class in the case of *Deien v. Seattle City Light*"; (iv) be signed; and (v) be mailed to the

1 Settlement Administrator at the address provided in the Class Notice. Following final approval  
2 of the settlement and the occurrence of the Effective Date, each Class Member who does not  
3 submit a timely, valid request for exclusion shall be bound by all terms of the Settlement  
4 Agreement, including the release, and any final judgment entered by the Court in this case.

5 19. Any Settlement Class Member may object to the settlement by filing with the  
6 Court and mailing to Class Counsel and SCL's Counsel a written statement objecting to the  
7 settlement, along with any supporting documentation that the Class Member wishes the Court  
8 to consider, no later than 2-12-22. For his or her objection to be considered by  
9 the Court, the Class Member must not have excluded himself or herself from the settlement.

10 20. Class Counsel shall file their motion for an award of attorneys' fees, costs, and  
11 service award no later than 1-28-22.

12 21. The Settlement Administrator shall provide the parties with a declaration of due  
13 diligence and proof of mailing, including information as to any inability to deliver notice  
14 because of invalid addresses, the number of claims, the number of requests for exclusion, and  
15 the number of objections, report on completion of the notice plan no later than 14 days before  
16 the Final Approval Hearing.

17 22. The parties shall file a motion for final approval of the settlement and response  
18 to any objections no later than 2-26-22.

19 23. A Final Approval Hearing shall be held before this Court on  
20 4/8/22, at 11:00 (a.m.) p.m. in the courtroom of the Honorable Kristin  
21 Richardson (Department 52), King County Superior Court, 516 3rd Avenue, Seattle, Washington,  
22 98104. At the hearing, the Court will consider whether the prerequisites for class certification  
23 and treatment under CR 23(a) and (b)(3) are satisfied and whether the settlement is fair,  
24 reasonable, and adequate, and should be approved by the Court. The Court will also consider  
25 Class Counsel's motion for attorneys' fees and costs and for a service award to the class  
26 representative, and rule on any other matters that the Court deems appropriate.



1 Presented by:

2 TERRELL MARSHALL LAW GROUP PLLC

3

4 By: /s/ Beth E. Terrell, WSBA #26759

5 Beth E. Terrell, WSBA #26759

6 Email: bterrell@terrellmarshall.com

7 Ari Brown, WSBA #29570

8 Email: abrown@terrellmarshall.com

9 Blythe H. Chandler, WSBA #43387

10 Email: bchandler@terrellmarshall.com

11 936 North 34th Street, Suite 300

12 Seattle, Washington 98103-8869

13 Telephone: (206) 816-6603

14 *Attorneys for Plaintiff*

15

16

17

18

19

20

21

22

23

24

25

26

27