

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 FINAL APPROVAL, AND RESPONSES
TO OBJECTIONS**

The Court has considered Plaintiff's motion for final approval of the Class Action Settlement between Plaintiff Anthony Deien and Defendant Seattle City Light ("SCL"), the Class Action Settlement Agreement entered into between the parties, Plaintiff's motion for an award of attorneys' fees and class representative service award, the single objection to the settlement, Plaintiff's and Defendant's responses to the objection, the record in the Action, and the arguments presented by counsel at a Final Approval Hearing on April 15, 2022.

The Court FINDS and ORDERS as follows:

1. Unless defined herein, all capitalized terms in this Final Approval Order shall have the same meanings as set forth in the Settlement.
2. The Court has jurisdiction over the subject matter of the Action and over the settling parties, including the Settlement Class Members.

1 3. On October 13, 2021, the Court preliminarily approved the Settlement and
2 certified, for settlement purposes, the Settlement Class as defined in the Settlement.

3 4. Pursuant to the Court's Preliminary Approval Order, the email and postcard
4 notices were distributed to the Settlement Class by First Class mail. The Court hereby finds and
5 concludes that the notice was disseminated to Settlement Class Members in accordance with
6 the terms set forth in the Settlement and in compliance with the Court's Preliminary Approval
7 Order. The Court further finds and concludes that the notice fully satisfies CR 23(c)(2) and the
8 requirements of due process, was the best notice practicable under the circumstances,
9 provided individual notice to all members of the Class who could be identified through
10 reasonable effort, and provided an opportunity for the Class Members to object to or exclude
11 themselves from the Settlement.

12 5. The Settlement Administrator received 36,965 claims. Of those, 34,801 claims
13 are valid and APPROVED.

14 6. The Settlement Administrator received 23 claims after to deadline for
15 submission of claims. The Court APPROVES acceptance of the 26 late claims. No other late
16 claims shall be accepted.

17 7. The Settlement Administrator received 128 invalid claims, which are REJECTED
18 and will not be paid.

19 8. The Settlement Administrator received 2,036 claims that are partially deficient.
20 The Settlement Administrator has sent notice of the deficiencies to claimants who submitted
21 deficient claims. The Court APPROVES acceptance of each claim for which the claimant provides
22 sufficient information to cure a deficiency.

23 9. Class Members had an opportunity to exclude themselves from the Settlement.
24 Twenty-eight (28) Class Members requested exclusion from the Settlement. The Court
25 APPROVES those exclusion requests. The 28 individuals appearing on the list attached as Exhibit
26 A to this Order are excluded from the Settlement Class and are not bound by the release in the
27 Settlement Agreement.

1 10. The Settlement Class Members were given an opportunity to object to the
2 Settlement. One Settlement Class Member, Matthew Pampena objected to the Settlement.
3 Sub. No. 62. Mr. Pampena argues that one of the injunctive relief provisions of the settlement
4 should be revised. The Court can only approve or deny the Settlement agreed to by the parties,
5 not modify it. The Court does not agree that the injunctive relief provisions as written will make
6 it too difficult for consumers to have bills recalculated in appropriate cases. The Court therefore
7 **OVERRULES** the objection filed by Mr. Pampena.

8 11. The Settlement is the result of arms' length negotiations conducted in good faith
9 by experienced attorneys familiar with the legal and factual issues of this case.

10 12. The Settlement is fair, reasonable, adequate, and in the best interests of the
11 Settlement Class in light of the complexity, expense, and duration of litigation, as well as the
12 risk involved in establishing liability and damages and in obtaining and maintaining the class
13 action through trial and appeal.

14 13. The consideration provided by the Settlement constitutes fair value given in
15 exchange for the release of the Settlement Class Members' Released Claims against the
16 Released Parties. The Court finds that the consideration provided to the Settlement Class
17 Members is reasonable, considering the facts and circumstances of the claims and defenses
18 asserted in the action, and the potential risks and likelihood of success of pursuing class
19 certification and trial on the merits.

20 14. The Settlement is finally approved as fair, reasonable, adequate, just, and in
21 compliance with all applicable requirements of the applicable laws, and in the best interest of
22 the Settlement Class. The Settlement Agreement, which shall be deemed incorporated herein,
23 and all terms the Settlement are finally approved and shall be consummated in accordance with
24 the terms and provisions thereof, except as amended by any subsequent order issued by the
25 Court.

1 15. Defendant shall fund the \$3,500,000 settlement through a Cash Fund and retail
2 bill credits, as describe in the Settlement Agreement and implement the injunctive relief
3 required under the Settlement Agreement.

4 16. Pursuant to CR 23(b)(3), the Action is hereby certified, for settlement purposes
5 only, as a class action on behalf of the following Settlement Class Members: All Seattle City Light
6 residential customers who received one or more bills based on estimated usage followed by a
7 bill based on actual usage between August 21, 2015 and June 8, 2020 and who do not timely and
8 properly opt out from this Settlement. Excluded from the Settlement Class are Counsel for
9 Plaintiff and the Judge presiding over this Action.

10 17. Pursuant to CR 23, the Court appoints Plaintiff Anthony Deien as the Class
11 Representative and appoints Terrell Marshall Law Group PLLC as Class Counsel.

12 18. For settlement purposes only, the Court finds that the Action satisfies the
13 applicable prerequisites for class action treatment under CR 23(a) and (b)(3), namely:

- 14 • The Class is so numerous that joinder of all members is impracticable;
- 15 • There are questions of law and fact common to the Class Members;
- 16 • The claims of the Class Representative are typical of the claims of the
17 Settlement Class Members;
- 18 • The Class Representative and Class Counsel have fairly and adequately
19 represented and protected the interests of all the Settlement Class Members;
- 20 • Common issues predominate over any individualized issues; and
- 21 • A class action is superior to thousands of individual actions.

22 19. The Plaintiff, Settlement Class Members, and their successors and assigns have
23 released claims against the Released Parties under the Release contained in the Settlement.
24 The Released Claims are compromised, settled, released, discharged, and dismissed with
25 prejudice by virtue of these proceedings and this Final Approval Order.

26 20. To the extent permitted by law and without affecting the other provisions of this
27 Final Approval Order, this Final Approval Order is intended by the parties and the Court to be

1 *res judicata* and to prohibit and preclude any prior, concurrent, or subsequent litigation
2 brought individually, or in the name of, or otherwise on behalf of, Plaintiff or any Settlement
3 Class Member who has not been validly excluded with respect to the Released Claims.

4 21. The Court hereby retains continuing and exclusive jurisdiction over the parties
5 and all matters relating to the Action or Settlement, including the administration,
6 interpretation, construction, effectuation, enforcement, and consummation of the Settlement,
7 including its injunctive provisions, and this Final Approval Order. This Final Approval Order
8 finally disposes of all claims and is appealable.

9 22. This Final Approval Order is not, and shall not be construed as, an admission by
10 Defendant of any liability or wrongdoing in this or in any other proceeding.

11 23. The Court approves Class Counsel's application for [\$875,000] in attorneys' fees,
12 which is 25% of the Settlement Fund. Class Counsel has made no separate request for litigation
13 costs.

14 24. The Settlement created a common fund for the benefit of Settlement Class
15 Members. Accordingly, the Court finds that the percentage of the fund method is the
16 appropriate method to use in determining the appropriate fee award in this case. *Bowles v.*
17 *Wash. Dep't of Ret. Sys.*, 121 Wn.2d 52, 72, 847 P.2d 440 (1993).

18 25. Class Counsel obtained an excellent result for the Settlement Class. Class
19 Counsel's work lead to the creation of a \$3,500,000 common fund. In addition, the Settlement
20 provides significant injunctive relief to the Settlement Class Members.

21 26. The Court has considered the factors set forth in Washington Rule of
22 Professional Conduct 1.5(a) in concluding that the requested fee is reasonable. Specifically:

23 a. The case raised novel and difficult questions of law, which demanded
24 litigators with the skill and experience of Class Counsel.

25 b. Class Counsel's work on this matter precluded work on other matters.

26 c. A one-third fee (higher than the fee requested by Class Counsel here) in
27 contingency cases is customary in this county.

1 d. The excellent results obtained, and the amount of time involved support
2 the award.

3 27. The Court approves a service award to the Class Representative in the amount of
4 \$2,500, to be paid from the Cash Fund.

5 28. The Court further approves and authorizes payment of the Settlement
6 Administrator's Administrative Costs from the Cash Fund.

7 29. Any amount of the Cash Fund remaining after the date for cashing checks has
8 passed will be transferred to SCL's Emergency Low Income Assistance (ELIA) Program.

9 30. The attorneys' fees and costs, service award, and settlement administration
10 costs are to be deducted from the Cash Fund as set forth in the Settlement.

11 31. The Court hereby dismisses the Action and all claims against Defendant, with
12 prejudice, and without costs to any party, except as expressly provided for in the Settlement
13 and this Order.

14 Finding that there is no just reason for delay, the Court orders that this Final Approval
15 Order shall constitute a final judgment pursuant to CR 58 that is binding on the settling parties
16 and the Settlement Class Members who have not been excluded.

17 IT IS SO ORDERED.

18 Dated this 15 day of April, 2022.

19
20 K Richardson
THE HONORABLE KRISTIN RICHARDSON

1 Presented by:

2 TERRELL MARSHALL LAW GROUP PLLC

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

4 Beth E. Terrell, WSBA #26759

Email: bterrell@terrellmarshall.com

5 Blythe H. Chandler, WSBA #43387

Email: bchandler@terrellmarshall.com

6 936 North 34th Street, Suite 300

7 Seattle, Washington 98103-8869

8 Telephone: (206) 816-6603

9 *Attorneys for Plaintiff*

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- Exhibit A -

Exclusion Requests

Anthony Deien v. Seattle City Light - Case No. 19-2-21999-8 SEA

| Number | First Name | MI | Last Name | State |
|---------------|-------------------|-----------|------------------|--------------|
| 1 | Janice | L | Bronkema | WA |
| 2 | Valerie | | Pihlstrom | WA |
| 3 | Scott | C | Pihlstrom | WA |
| 4 | Janice | T | Colella | WA |
| 5 | Jack | G | Nuckolls | WA |
| 6 | Kay | | Bergeron | WA |
| 7 | Darrell | M | Storvick | WA |
| 8 | Hitoshi | | Esumi | WA |
| 9 | Curtis | Douglas | Walters | WA |
| 10 | Hayat | | Mohamed | WA |
| 11 | Martha | Eulah | Church | WA |
| 12 | Dewayne | | Cole | WA |
| 13 | Erin | Maureen | Baldwin | WA |
| 14 | Karen | | Jung | WA |
| 15 | Brian | C | Sherman | WA |
| 16 | Gloria | J | Craig | WA |
| 17 | Audrey | | Satterlee | WA |
| 18 | James | Francis | Lydon | WA |
| 19 | Constantinos | | Nicolaidis | VA |
| 20 | Kevin | Anthony | Addison | WA |
| 21 | Sharon | | Trumbull | WA |
| 22 | John | | Stowell | WA |
| 23 | Carol | A | Hurlburt | WA |
| 24 | Keith | R | Hurlburt | WA |
| 25 | Cynthia | Marie | Peters | WA |
| 26 | Alex | | Marquez | WA |
| 27 | Alyssa | | Cote | WA |
| 28 | Elizabeth | | Nelson | WA |