

**COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

	:	
Joint Petition of Metropolitan Edison Company,	:	Docket Nos. P-2011-2273650
Pennsylvania Electric Company, Pennsylvania	:	P-2011-2273668
Power Company and West Penn Power	:	P-2011-2273669
Company For Approval of Their Default Service	:	P-2011-2273370
Programs	:	

**PREHEARING MEMORANDUM OF
CONSTELLATION NEWENERGY, INC. AND
CONSTELLATION ENERGY COMMODITIES GROUP, INC.**

Before the Pennsylvania Public Utility Commission (the “Commission”), pursuant to 52 Pa. Code §§ 5.222, Intervenors Constellation NewEnergy, Inc. (“CNE”) and Constellation Energy Commodities Group, Inc. (“CCG”) (collectively, “Constellation”), by their undersigned counsel, hereby respectfully submits this Prehearing Memorandum:

I. INTRODUCTION

On November 17, 2011, Metropolitan Edison Company (“Met-Ed”), Pennsylvania Electric Company (“Penelec”), Pennsylvania Power Company (“Penn Power”), and West Penn Power Company (“West Penn”) (collectively, “Joint Applicants”) filed a Joint Petition for Approval of their Default Service Implementation Plans (“Plans” or “DSPs”) pursuant to Section 2807(e) of the Public Utility Code.

II. IDENTIFICATION OF ISSUES

Constellation is at this time still formulating its position on the issues presented by the Plans. Based on a preliminary review of the Plans, Constellation expects that potential issues in this proceeding will include but not be limited to: (i) the manner in which the Joint Applicants are proposing to conduct default service procurements for various customer classes under the Plans; (ii) the manner in which the Plans hinder or support the development of retail competition in the Joint Applicant’s service territories, while preserving benefits from well-developed default

service offerings for customers; (iii) whether the Plans are consistent with Act 129, the Commission's recent orders regarding the retail markets, and other applicable rules; and (iv) billing and other operational and data issues and their impact on electric generation suppliers. Constellation reserves the right to address other issues as it deems appropriate.

With respect to the Administrative Law Judge's issues list, Constellation responds as follows:

(a) Whether the four dockets should be consolidated into one case.

Constellation supports consolidation of the four dockets into one case.

(b) The possibility for settlement of the proceeding, subject to the Commission's approval.

Constellation is amenable to discussing settlement with the parties to this proceeding, and has been able to agree to settlements in other similar proceedings in the past.

(c) Whether the matter should be decided upon legal briefs, or whether a hearing is necessary.

Constellation does not take a position with respect to this issue.

(d) If a hearing is required, a procedural schedule will be discussed including the amount of hearing time necessary to dispose of the proceeding.

Constellation supports the schedule filed by the Joint Applicants' with their Plans, including their proposed schedule for Oral Rejoinder and Hearings.

(e) Arrangements for the submission of direct testimony of witnesses in writing in advance of the hearing to the extent practicable, and for the submission in advance of hearing of written requests for information which a party contemplates asking another party to present at hearing.

Constellation supports the schedule filed by the Joint Applicants' with their Plans, including their proposed schedule for providing written Direct, Rebuttal and Surrebuttal Testimony in advance of Hearings.

(f) Other matters that may aid in expediting the orderly conduct and disposition of the proceeding and the furtherance of justice, including, but not limited to the following:

(i) The exchange and acceptance of exhibits proposed to be offered into evidence.

Constellation does not take a position with respect to this issue.

(ii) The obtaining of admissions as to, or stipulations of, facts not remaining in dispute, or the authenticity of documents which might properly shorten the hearing.

Constellation is amenable to discussions to stipulate undisputed facts into the record of this proceeding.

(iii) The limitation of the number of witnesses.

Constellation does not take a position with respect to this issue.

(iv) The discovery or production of data or other material.

Constellation notes only that parties should develop and enter into an appropriate form of protective order prior to the discovery or production of data or other materials.

III. WITNESSES

Constellation reserves the right to present in this proceeding direct, rebuttal, and surrebuttal fact and expert testimony, to the extent it deems necessary. Constellation expects to present expert testimony by:

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Once discovery has begun and the positions of all parties to this proceeding have been made known, Constellation will notify the Administrative Law Judge and all parties of the identities of any additional witnesses it intends to call.

IV. SERVICE ON CONSTELLATION

Constellation consents to accept electronic delivery documents on the deadlines for their filing, if followed by hard copy delivery by first class mail to its counsel of record.

Constellation respectfully requests that service be made to the following individuals:

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V. CONCLUSION

WHEREFORE, for all the foregoing reasons, Constellation NewEnergy, Inc. and Constellation Energy Commodities Group, Inc. respectfully request that their Prehearing Memorandum be entered in to the record of this proceeding.

Respectfully submitted,



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Dated: December 15, 2011