

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Filing of PPL Electric Utilities Corporation for Approval of Time-of-Use Rates	:	Docket No. R-2009-2122718
	:	
Pennsylvania Public Utility Commission	:	Docket No. C-2009-2128394
v.	:	
PPL Electric Utilities Corporation	:	
	:	
	:	

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

In accordance with 52 Pa.C.S. § 5.222 and the Prehearing Conference Order issued by Administrative Law Judge David A. Salapa in this matter, Intervenors Constellation NewEnergy, Inc. and Constellation Energy Commodities Group, Inc. (collectively, “Constellation”) submit the following Prehearing Memorandum:

I. INTRODUCTION

On or about July 31, 2009, PPL Electric Utilities Corporation issued and filed for approval by the Commission Supplement No. 71 to PPL Electric Utilities Corporation’s Tariff Electric – Pa. P.U.C. No. 201. Supplement No. 71 proposes the establishment of a new optional time-of-use program (“the TOU program”) for residential and small commercial and industrial customer classes. On or about September 2, 2009, the Office of Consumer Advocate filed a Complaint against Supplement No. 71. On or about October 9, 2009, the Office of Small Business Advocate filed a Complaint against Supplement No. 71.

Constellation filed a Petition to Intervene in this proceeding on October 13, 2009.

A Prehearing Conference is scheduled for October 16, 2009. This Prehearing Memorandum is being filed pursuant to the Prehearing Conference Order dated October 9, 2009.

II. IDENTIFICATION OF ISSUES

Constellation is at this time still formulating its position on the issues presented by the TOU program and the Complaints filed by OCA and OSBA. Based on a preliminary review, Constellation expects that it will address such issues as the competitive impact of the TOU program on retail competitors, and its effect on load procurement, as well as the allegations made by the OCA and OSBA in their respective Complaints.

Constellation reserves the right to address other issues as it deems appropriate.

III. WITNESSES

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

David I. Fein
Vice President, Energy Policy
Director of Retail Energy Policy
Constellation Energy
550 Washington St #300, St. 1100
Chicago, Illinois 60661
Telephone: (312) 704-8499
david.fein@constellation.com

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

IV. SERVICE ON CONSTELLATION

Constellation consents to accept electronic delivery documents on the deadline for their filing, if followed by hard copy delivery by first class mail. Constellation respectfully requests that service be made to both Divesh Gupta and their counsel of record in this matter:

Christopher A. Lewis
Christopher R. Sharp
Blank Rome, LLP
One Logan Square
Philadelphia, PA 19103
Telephone: (215) 569-5793
Facsimile: (215) 832-5793
Lewis@blankrome.com
Sharp@blankrome.com

Divesh Gupta
Senior Counsel
Constellation Energy
111 Market Place, Suite 500
Baltimore, Maryland 21202
Telephone: (410) 470-3158
Facsimile: (443) 213-3556
Divesh.gupta@constellation.com

V. SETTLEMENT

Constellation is amenable to meeting with PPL Electric and all other parties for the purpose of discussing settlement of the entire matter or discrete issues.

VI. LITIGATION SCHEDULE

Constellation will cooperate with other parties to develop a schedule in this proceeding.

Respectfully submitted,

BLANK ROME LLP

By: 

Christopher A. Lewis
Christopher R. Sharp
Melanie J. Tambolas
One Logan Square
Philadelphia, PA 19103
Phone: (215) 569-5500
Fax: (215) 569-5555

*Counsel to Intervenors Constellation
NewEnergy, Inc. and Constellation Energy
Commodities Group, Inc.*

Dated: October 14, 2009

CERTIFICATE OF SERVICE

I hereby certify that this day I have served a true copy of the foregoing Prehearing Memorandum of Constellation NewEnergy, Inc. and Constellation Energy Commodities Group, Inc., upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code § 1.54.

VIA E-MAIL AND FIRST CLASS MAIL

Paul E. Russell, Esquire
PPL Electric Utilities Corporation
Two North Ninth Street
Allentown PA 18101-1179
perussell@pplweb.com

James A. Mullins, Esquire
Tanya J. McCloskey, Esquire
Office of Consumer Advocate
5th Floor Forum Place
555 Walnut Street
Harrisburg PA 17101-1923
jmullins@paoca.org
tmccloskey@paoca.org

Sharon E. Webb, Esquire
Office of Small Business Advocate
Commerce Building, Suite 1102
300 North Second Street
Harrisburg, PA 17101
swebb@state.pa.us

Allison C. Kaster, Esquire
Pa Puc Office of Trial Staff
Po Box 3265
Harrisburg PA 17105-3265
akaster@state.pa.us

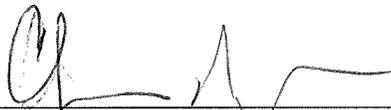
Craig A. Doll, Esq.
25 West Second Street
Po Box 403
Hummelstown PA 17036
(717) 566-9000
Cdoll76342@Aol.Com
Richard Energy Group Inc.

Shelby Linton-Keddie, Esq.
Pamela C. Polacek, Esq.
McNees Wallace & Nurick
Po Box 1166
100 Pine Street
Harrisburg PA 17108-1166
(717) 237-5459
Skeddie@Mwn.Com
ppolacek@mwn.com
PPLICA

Eric Joseph Epstein
4100 Hillside Road
Harrisburg PA 17112
(717) 541-1101
Lechambon@Comcast.Net

Frank Richards
Richards Energy Group
3901 Nolt Road, Building#1
Landisville, PA 17538
frichards@richardsenergy.com

Andrew S. Tubbs, Esq.
Post & Schell, PC
17 N. Second Street, 17th Floor
Harrisburg, PA 17101
atubbs@postschell.com



Christopher R. Sharp
Christopher A. Lewis
Melanie J. Tambolas
Blank Rome, LLP
One Logan Square
Philadelphia, PA 19103
Telephone: (215) 569-5450
Facsimile: (215) 832-5450
Sharp@blankrome.com
Lewis@blankrome.com
Tambolas@blankrome.com

*Counsel to Constellation NewEnergy, Inc. and
Constellation Energy Commodities Group, Inc.*

Dated: October 14, 2009