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November 6, 2009

**VIA ELECTRONIC FILING**

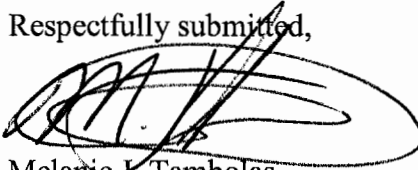
James J. McNulty  
Secretary  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

Re: Petition of PPL Electric Utilities Corporation Requesting Approval of a Voluntary Purchase of Accounts Receivables Program and Merchant Function Charge;  
Docket No. P-2009-2129502

Dear Secretary McNulty:

Enclosed for filing is Constellation NewEnergy, Inc.'s ("Constellation's") Statement in Support of the Joint Petition for Settlement filed with the Commission on October 30, 2009 in the above-captioned proceeding. Please be advised that Constellation will not be filing a Reply Brief in this proceeding. A copy of this filing is being served on all parties of record and the Office of Special Assistants ("OSA"). If you have any questions, please contact me.

Respectfully submitted,



Melanie J. Tambolas

MJT/dc  
Enclosure

cc: The Honorable Louis G. Cocheres  
Parties of Record  
Dennis Buckley, OSA  
Thomas Maher, OSA

**COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>Petition of PPL Electric Utilities Corporation Requesting Approval of a Voluntary Purchase of Receivables Program and Merchant Function Charge</b>	: : : : : : :	<b>Docket No. P-2009-2129502</b>
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**CONSTELLATION NEWENERGY, INC.  
STATEMENT IN SUPPORT OF JOINT PETITION FOR SETTLEMENT**

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**NOW COME** Constellation NewEnergy, Inc. (“Constellation”), by and through its counsel, in the above-captioned matter, and hereby offer this statement in support of the Joint Petition for Settlement (“Settlement”) executed by parties (“Joint Petitioners”)<sup>1</sup> to this proceeding and filed with the Pennsylvania Public Utility Commission (“Commission”) on October 30, 2009, as revised on November 5, 2009.<sup>2</sup>

In support of the Settlement, Constellation states as follows:

**I. BACKGROUND**

1. On September 10, 2009, the Company filed its Petition Requesting Approval of a Voluntary Purchase of Accounts Receivables Program and Merchant Function Charge (“POR Petition”). In the POR Petition, the Company requested Commission approval of a purchase of receivables program (“POR Program”) and approval to

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<sup>1</sup> The Joint Petitioners are: PPL Electric Utilities Corporation (“PPL Electric” or the “Company”), the Office of Consumer Advocate (“OCA”), the Office of Small Business Advocate (“OSBA”), the Retail Energy Supply Association (“RESA”), Dominion Retail, Inc. (“Dominion”), Direct Energy Services, LLC (“Direct”), FirstEnergy Solutions Corp. (“FES”) and Constellation (collectively the “Parties” or “Joint Petitioners”).

<sup>2</sup> After filing the Settlement on October 30, 2009, an error was identified in Appendix A to the Settlement. The Joint Petitioners agreed to file a revised Appendix A to replace the version of Appendix A that was filed on October 30, 2009. The Company filed the revised Appendix A with the Commission on November 5, 2009.

unbundle its generation-related uncollectible costs from base rates and recover such costs through a Merchant Function Charge (“MFC”).

2. On September 25, 2009, the Commission issued a Secretarial Letter assigning the proceeding to the Office of Administrative Law Judge for hearing and certification of the record to the Commission for final decision.
3. On October 7, 2009, a Prehearing Conference was held before Administrative Law Judge Louis G. Cocheres (the “ALJ”). At the Prehearing Conference, the ALJ granted the Petitions to Intervene that had been filed by the Parties and established a schedule for testimony to be filed in the proceeding. The hearing and briefing schedule had been established by the Commission in the September 25, 2009 Secretarial Letter.
4. Pursuant to the Procedural Schedule, direct testimony was submitted by OCA, RESA and Dominion on October 16, 2009.
5. After the submission of testimony, the parties engaged in multiple settlement conferences to try to settle some or all of the issues in this case. As a result of those negotiations, the Joint Petitioners were able to enter into the Settlement resolving all but two issues that were reserved for litigation.

## **II. CONSTELLATION’S SUPPORT FOR THE SETTLEMENT**

6. Constellation’s support of the Settlement does not imply Constellation’s agreement for each of the aspects of its terms, individually. Though not all of Constellation’s substantive issues are addressed fully by the Settlement, Constellation supports the Settlement’s terms taken together, and believes that the Commission should approve

the Settlement, as it is in the public interest as a reasonable settlement of the issues raised by the Joint Petitioners.

7. An Electric Generation Supplier (“EGS”) may choose to participate in the POR Program for individual small commercial and industrial (“C&I”) customer accounts; *i.e.*, the EGS will not be required to choose to participate in the POR Program for all of its small C&I accounts.<sup>3</sup>
8. PPL Electric agrees to continue its existing POR program for large C&I customers for 2010.<sup>4</sup>
9. The Settlement includes acceptable POR discount factors.<sup>5</sup>
10. EGSs are appropriately allowed to perform standard commercial business practices, such as performing credit checks and if necessary, requiring deposits for small and large C&I customers in order to address credit risk concerns, and are appropriately permitted to deny offering service to small and large C&I customers for credit-related reasons.<sup>6</sup>
11. PPL Electric has clarified that the POR Program’s minimum stay provision does not prohibit an EGS from enrolling a customer on a shorter-term product and that such provision will coincide with the end of the term of the POR program on December 31, 2010.<sup>7</sup>

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<sup>3</sup> See Settlement at P24.

<sup>4</sup> See Settlement at P30.

<sup>5</sup> See Settlement at P18 and P24.

<sup>6</sup> See Settlement at P26 and P30.

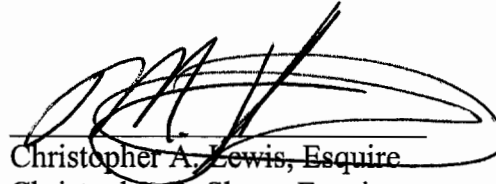
<sup>7</sup> See Settlement at P29.

12. In conclusion, implementation of the POR Program should expand the opportunities for the development of competitive opportunities for residential and smaller commercial customers.

### III. CONSTELLATION'S SUPPORT FOR THE SETTLEMENT

WHEREFORE, Constellation supports the Settlement as it is in the public interest and respectfully urges the ALJ and the Commission to expeditiously review and approve PPL Electric's POR Program.

Respectfully Submitted,



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*On Behalf of Intervenor Constellation NewEnergy, Inc.*

Dated: November 6, 2009

## **CERTIFICATE OF SERVICE**

I hereby certify that this day I have served a true and correct copy of the foregoing Statement in Support of the Joint Petition for Settlement on behalf of Constellation NewEnergy, Inc. upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code § 1.54.

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*Counsel to Constellation NewEnergy, Inc.*

Dated: November 6, 2009