

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of PECO Energy Company

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Docket No. P-2008-2062739

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

Before the Pennsylvania Public Utility Commission (the “Commission”), in accordance with 52 Pa.C.S. § 5.222, Intervenor Constellation NewEnergy, Inc. and Constellation Energy Commodities Group, Inc. (collectively, “Constellation”), by their undersigned counsel, hereby respectfully submit this Prehearing Memorandum in response to the Notice of Prehearing Conference to be held before Presiding Administrative Law Judge Marlane R. Chestunt (“ALJ”) on Wednesday, July 6, 2011 at 10:00 a.m.:

I. INTRODUCTION

On or about April 5, 2011 PECO Energy Company (“PECO”) filed a Petition seeking expedited approval of certain revisions to the Generation Supply Adjustment Reconciliation Process for Default Service Procurement Class One (“Petition”). In its Petition, PECO requested to modify the Generation Supply Adjustment (“GSA”) reconciliation process in a manner so that any reconciliation balance after the first quarter 2011, would be recovered over a one-year period rather than over a quarter as currently provided. The current methodology was approved as part of the settlement of PECO’s Default Service Plan (“DSP Plan”).¹

¹ *Petition of PECO Energy Company for Approval of its Default Service Program and Rate Litigation Plan*, Docket No. P-2008-2062739 (Opinion and Order entered June 2, 2009).

On April 25, 2011, Direct Energy Services, LLC, Dominion Retail, Inc., the Office of Consumer Advocate and the Retail Energy Supply Association individually submitted Answers in opposition to PECO's Petition.

On June 27, 2011, the Commission issued a Hearing Notice, in which the Honorable Marlene R. Chestnut was assigned as Presiding Administrative Law Judge, and a Prehearing Conference was scheduled for Wednesday, July 6, 2011.

II. COUNSEL

Constellation will be represented in the above-captioned matter by the following counsel:

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III. IDENTIFICATION OF ISSUES

Constellation is at this time still formulating its position on the issues presented by the Petition.

IV. DISCOVERY

Constellation has not yet determined its need, if any, to conduct discovery. Constellation will work with the other parties to develop a schedule for discovery and, to the extent necessary, will work with the other parties to develop appropriate modifications to the Commission's discovery rules in order to ease the process of discovery in this proceeding.

V. 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, if any, by:

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Vice President, Energy Policy
Director of Retail Energy Policy
Constellation Energy
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Chicago, Illinois 60661
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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.

VI. SETTLEMENT

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

VII. PROCEDURAL SCHEDULE

The Parties have not yet discussed a procedural schedule in this matter, but Constellation will cooperate with other parties and with Your Honor to develop a schedule in this proceeding.

VIII. CONCLUSION

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

Respectfully submitted,



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*On Behalf of Intervenors Constellation NewEnergy,
Inc. and Constellation Energy Commodities Group,
Inc.*

Dated: July 5, 2011

CERTIFICATE OF SERVICE

Docket Number P-2008-2062739

I hereby certify that I have this day served a true copy of the foregoing document upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54.

BY E-MAIL AND FIRST CLASS MAIL

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Divesh Gupta

Dated this 5th day of July 2011