

**COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of PECO Energy Company : **P-2012-2283641**
For Approval of Its Default Service Program :

**PETITION TO INTERVENE OUT-OF-TIME OF
CONSTELLATION NEWENERGY, INC. AND
CONSTELLATION ENERGY COMMODITIES GROUP, INC.**

Before the Pennsylvania Public Utility Commission (the "Commission"), pursuant to 52 Pa. Code §§ 5.71-5.76, Constellation NewEnergy, Inc. ("CNE") and Constellation Energy Commodities Group, Inc. ("CCG") (collectively, "Constellation"), by their undersigned counsel, hereby file this Petition to Intervene Out-of-Time ("Intervention") in the above-captioned proceeding. In support of this Intervention, Constellation states the following:

1. Constellation's principal place of business is:

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Baltimore, MD 21202

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2. The name and address of Constellation's counsel in this matter is:

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Constellation's attorney is authorized to accept service on behalf of Constellation in this proceeding. Constellation requests that the Commission and all parties of record serve copies of all discovery requests and answers, correspondence, Commission Orders and any other documents issued on both Constellation and its attorney. Particularly, Constellation respectfully requests that service (both electronic and paper) be made to its counsel of record, Divesh Gupta, while electronic service only be made to David I. Fein.

3. On January 13, 2012, PECO Energy Company ("PECO") filed a Petition for Approval of Its Default Service Implementation Plans ("DSP Petition") pursuant to Section 2807(e) of the Public Utility Code.

4. CCG and CNE are indirect, wholly-owned subsidiaries of Constellation Energy Group, Inc., a North American energy company with several merchant subsidiaries in addition to CCG and CNE, including a regulated utility subsidiary in Maryland, Baltimore Gas and Electric Company. CCG and CNE have been granted market-based rate authority by the Federal Energy Regulatory Commission and are buyers and sellers of wholesale electricity and capacity.

5. CNE is authorized to provide electricity and energy-related services to retail customers in Pennsylvania and thirteen other states, the District of Columbia and two Canadian provinces. CNE is a licensed Electric Generation Supplier in the Commonwealth, pursuant to 66 Pa.C.S. § 2809, is a registered Pennsylvania Conservation Service Provider, and is a registered retail supplier to customers in PECO's service territory.

6. CCG provides wholesale power and risk management services to wholesale customers (including, but not limited to, distribution utilities, co-ops, municipalities, power marketers, utilities and other large load serving entities), including through participation in

wholesale load procurements, in both regulated and restructured energy markets. CCG is a licensed participant in PJM Interconnection, L.L.C.

7. As a potential supplier of both retail and wholesale power in PECO's territory, Constellation falls squarely within the test articulated for intervention in this proceeding: simply put, Constellation possesses "[a]n interest which may be directly affected and which is not adequately represented by existing participants, and as to which the petitioner may be bound by the action of the Commission in the proceeding." Pa. Code § 5.72(a)(1).

8. The DSP Petition presents fundamental issues which affect the ability of Constellation, and suppliers like it, to compete in the Commonwealth's electricity market. The public interest demands that Constellation be afforded the opportunity to be heard in this proceeding. See Pa. Code § 5.72(a)(3).

9. In summary, Constellation has a direct and substantial interest in the outcome of this proceeding as a potential retail and wholesale supplier in PECO's territory. No other party can adequately represent Constellation's interests in this matter. Moreover, it is in the public interest that Constellation be permitted to participate in this proceeding.

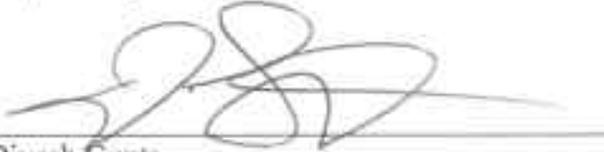
10. The Commission's "Notice to Be Published" in the above-docketed proceeding stated that petitions to intervene should be filed on or before February 13, 2012. The granting of Constellation's Intervention, though out-of-time, will not prejudice any party, particularly as Constellation is filing this Intervention prior to the date of the prehearing conference in this docket, and as granting this request will not result in any delay in this proceeding.

11. Due to the early stage of this proceeding, Constellation is still formulating its position on the proposed DSP Petition and will finalize its position after it has had an opportunity

to further study and evaluate the filings, conduct discovery and obtain additional information as necessary.

WHEREFORE, for all the foregoing reasons, Constellation NewEnergy, Inc. and Constellation Energy Commodities Group, Inc. respectfully request that their Intervention be granted and that the Commission grant them such other relief as is just and reasonable under the circumstances.

Respectfully submitted,



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and Constellation Energy Commodities, Group, Inc.*

Dated: March 8, 2012