

**COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Petition of PPL Electric Utilities  
Corporation for approval of a  
Default Service Program and  
Procurement Plan for the Period  
June 1, 2013 through May 31, 2015**

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**Docket No. P-2012-2302074**

**REPLY EXCEPTIONS OF  
CONSTELLATION NEWENERGY, INC. AND  
EXELON GENERATION COMPANY, LLC**

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**Filed: December 17, 2012**

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Petition of PPL Electric Utilities  
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**REPLY EXCEPTIONS OF  
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Constellation NewEnergy, Inc. and Exelon Generation Company, LLC (“Constellation”) hereby submit their Reply Exceptions to the Exceptions filed by parties regarding the Recommended Decision issued November 15, 2012 (“Recommended Decision”),<sup>1</sup> by the Honorable Administrative Law Judge (“ALJ”) Susan D. Colwell, with regard to the Default Service Program and Procurement Plan (“DSP”) filed with the Pennsylvania Public Utility Commission (“Commission”) by PPL Electric Utilities Corporation (“PPL Electric”) on May 1, 2012<sup>2</sup> (with supporting testimony from PPL Electric circulated on May 16, 2012<sup>3</sup>) in Docket No. P-2012-2302074, *Petition of PPL Electric Utilities Corporation for approval of a Default Service Program and Procurement Plan for the Period June 1, 2013 through May 31, 2015*. In these Reply Exceptions, Constellation responds only to PPL Electric Exception No. 1, regarding

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<sup>1</sup> *Recommended Decision in Re: Petition of PPL Electric Utilities Corporation for approval of a Default Service Program and Procurement Plan for the Period June 1, 2013 through May 31, 2015*, Commission Docket No. P-2012-2302074 (issued Nov. 15, 2012) (“Recommended Decision”).

<sup>2</sup> *Petition of PPL Electric Utilities Corporation for approval of a Default Service Program and Procurement Plan for the Period June 1, 2013 through May 31, 2015*, Commission Docket No. P-2012-2302074 (May 1, 2012).

<sup>3</sup> *Direct Testimony of PPL Electric Utilities Corporation*, Commission Docket No. P-2012-2302074 (May 16, 2012) (“PPL Electric Direct Testimony”).

PPL Electric’s proposed Unsecured Credit Thresholds for its Supply Master Agreement (“SMA”). As argued herein, Constellation urges the Commission to *adopt* the ALJ’s recommendation to maintain the Unsecured Credit Thresholds included in PPL Electric’s prior 2011-13 SMA (herein referred to as the “DSP I SMA”), and *reject* PPL Electric Exception No. 1.

**THE COMMISSION SHOULD ADOPT THE ALJ’S DECISION REQUIRING PPL ELECTRIC TO MAINTAIN THE UNSECURED CREDIT THRESHOLDS FROM ITS PRIOR DSP I SMA, AND REJECT PPL ELECTRIC EXCEPTION NO. 1**

In the Recommended Decision, the ALJ correctly concluded that:

[PPL Electric] did not provide any evidence to support a finding that its existing DSP I credit limits were a problem, and therefore, the Company has not upheld its burden of proving that the new limits should be imposed. Accordingly, the limits used in the DSP I should be maintained.<sup>4</sup>

In its response to the ALJ’s decision on this matter, PPL Electric simply restates the arguments it presented in this case, without appropriate supporting evidence, in an attempt to uphold its newly proposed, lower Unsecured Credit Thresholds. Specifically, in its Exceptions, PPL Electric argues that “other EDCs have lower unsecured credit amounts than PPL Electric’s current amounts.”<sup>5</sup>

The “other EDCs” to which PPL Electric refers, however, include four other EDCs – “PECO,” “NSTAR,” “Duke Ohio,” and “New Jersey BGS.”<sup>6</sup> With respect to PPL Electric’s arguments, which are the same as those presented in its testimony, Constellation pointed out in its Main Brief that PPL Electric’s highest proposed threshold of \$50,000,000 is in fact *lower than* all but one of the four EDCs that PPL Electric reviewed, and is not in line with those EDCs. Only NSTAR – the one utility that PPL Electric reviewed which is *not in* PJM, let alone

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<sup>4</sup> Recommended Decision at p.100.

<sup>5</sup> PPL Electric Exceptions at p.7.

<sup>6</sup> PPL Electric Exceptions at p.7.

Pennsylvania – was lower than PPL Electric. In addition, PPL Electric’s proposed highest threshold is \$25,000,000 *less* than that which PPL Electric used in the 2011-13 SMA, and roughly *half* that currently used by the West Penn Power Company in its current Default Service procurements. In this way, as recognized by the ALJ in her decision, PPL Electric has failed to show how its proposed Unsecured Credit Thresholds are in line with other EDCs in PJM.

PPL Electric also seems to argue that the risk of default by a wholesale Default Service supplier (“DS Supplier”) warrants lower Unsecured Credit Thresholds.<sup>7</sup> However, as pointed out by the ALJ, PPL Electric fails to identify any evidence to support its position for even lower thresholds than those already approved by the Commission. PPL Electric fails to identify even *one* instance where a DS Supplier has defaulted on its obligations, triggering the need for an EDC to call on a letter of credit or other form of collateral posted by the DS Supplier or seek other recovery from the DS Supplier.<sup>8</sup> Moreover, if a DS Supplier was to default on its obligations, it would likely do so in the scenario of a *declining* market where the value of its SMA is underwater, and where the EDC would then likely purchase replacement supplies at a discount from the SMA contracted amount, leading to a discount in the EDC’s supply costs, rather than a need for additional recovery from customers. In addition, PPL Electric fails to identify why it believes that its prior 2011-13 SMA – previously approved by the Commission – does not adequately moderate the risks that are faced upon a DS Supplier default. In fact, PPL

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<sup>7</sup> PPL Electric Exceptions at pp.5-6.

<sup>8</sup> Note that PPL Electric seems to suggest that RESA has provided evidence of such an instance of a DS Supplier default in this proceeding, but a careful review of PPL Electric’s citation to RESA testimony shows that RESA witness Williams refers to an instance where a DS Supplier contacted an EDC to state that it *might* file for bankruptcy protection, and *not* an instance where a DS Supplier *actually* filed for bankruptcy, *nor* an instance where a DS Supplier *actually* defaulted on its obligations. *See* PPL Electric Exceptions at p.7 and RESA St. 1-SR at p.18 (lines 14-18).

Electric itself concedes in its Exceptions that “PPL Electric has not experienced an event of default with any [DS Suppliers] under its current DSP I Program . . . .”<sup>9</sup>

Finally, no other party submitted testimony in the record – or exceptions to the ALJ’s Recommended Decision – rejecting the notion that PPL Electric should maintain its DSP I SMA Unsecured Credit Thresholds, or otherwise supporting PPL Electric’s position.

For all of the reasons above, and those explained in the ALJ’s Recommended Decision, Constellation asks that the Commission *adopt* the ALJ’s recommendation to maintain the Unsecured Credit Thresholds included in PPL Electric’s DSP I SMA, and *reject* PPL Electric Exception No. 1.

Respectfully Submitted,



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*On Behalf of Intervenors  
Constellation NewEnergy, Inc. and  
Exelon Generation Company, LLC*

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<sup>9</sup> PPL Electric Exceptions at p.7.