

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Petition of PECO Energy Company for
Approval of its Smart Meter
Technology Procurement and
Installation Plan**

Docket No. M-2009-2123944

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

In accordance with 52 Pa.C.S. § 5.222, Intervenors Constellation NewEnergy, Inc. and Constellation Energy Commodities Group, Inc. (collectively, “Constellation”) submit the following Prehearing Memorandum:

I. INTRODUCTION

On or about August 14, 2009, PECO Energy Company (“PECO”) filed a Petition requesting approval of its Smart Meter Procurement and Installation Plan (the “Plan”) to reduce energy consumption and demand in its service territory in accordance with the requirements of Act 129, 66 Pa. C.S. § 2806.1 (“Act 129” or the “Act”).

Constellation filed a Petition to Intervene in this proceeding on September 25, 2009.

A Prehearing Conference is scheduled for September 29, 2009. This Prehearing Memorandum is being filed pursuant to the Prehearing Conference Order dated September 2, 2009.

II. IDENTIFICATION OF ISSUES

Constellation is at this time still formulating its position on the issues presented by the Plan and Petition. Based on a preliminary review of the Plan and Petition, Constellation expects

that it will address such issues as the design and capabilities of the proposed smart metering system, smart meter data collection, and the use and availability of such data.

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
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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 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 its counsel of record in this matter:

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V. SETTLEMENT

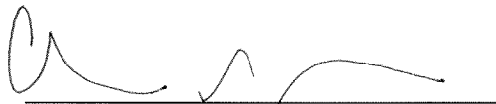
Constellation is amenable to meeting with PECO and all other parties for the purpose of discussing settlement of the entire matter or discrete issues.

VI. LITIGATION SCHEDULE

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

Respectfully submitted,

BLANK ROME LLP

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

Dated: September 25, 2009