

October 27, 2017

Pennsylvania Public Utility Commission
Attn: Rosemary Chiavetta, Secretary
Commonwealth Keystone Building
2nd Floor, Room-N201
400 North Street
Harrisburg, PA 17120

**RE: Transfer of Aspirity Customers to Constellation NewEnergy, Inc.
Constellation Energy, Inc.
License Number A-110036**

Dear Secretary Chiavetta:

Constellation NewEnergy, Inc. (“CNE”) is in receipt of your letter dated October 18, 2017, serving Data Request 1 and stating:

On August 31, 2017, Constellation NewEnergy, Inc.’s Notice for Assignment of customers related to their Electric Generation Supplier license was filed with the Public Utility Commission. The filing was incomplete. In order for us to complete our analysis of your filing, the Energy Industry Group requires answers to the attached question(s).

According to your letter, the filing was insufficient because it was not accompanied by a Certificate of Service evidencing the service of the document on the statutory Pennsylvania governmental parties and affected electric distribution companies (“EDCs”).

After investigating the matter, CNE determined that it did not make the above-referenced filing. The filing described above was made by Aspirity Holdings, LLC (“Aspirity”) and signed by Scott, Lutz, Aspirity’s Chief Executive Officer. Thus, in response to Data Request 1, reproduced below, CNE denies that it failed to serve the referenced August 31, 2017, because it did not make the filing.

1. Constellation NewEnergy, Inc. failed to serve their filing submitted August 31, 2017 on the Bureau of Investigation & Enforcement, the Office of Consumer Advocate, the Office of Small Business Advocate, the Office of the Attorney General, the Pennsylvania Department of Revenue, and all EDCs in whose service territory they are licensed to operate. Please submit a Certificate of Service as proof of service.

In attempt to further resolve this matter, undersigned counsel contacted Mr. McCracken of the Bureau of Technical Utility regarding the discovery request, and as a result of that discussion, will now serve its “Notice of Customer Assignment to Constellation NewEnergy, Inc.,” originally filed on August 9, 2017, and related to the above-referenced

filing, on the statutory parties and affected EDCs. Note, CNE filed its “Notice of Customer Assignment to Constellation NewEnergy, Inc.” pursuant to *Notification of EGS Operations Changes Interim Guidelines*, Docket No. M-00960890F.0013,¹ which provides only the following guidance with regard to notifying of a contract assignment:

To allow the Commission to monitor the development generation market, all contract assignments must be reported to the Commission at least 30 days prior to the effective date of the assignment. The notice to the Commission must include the information required for the customer notice and the reason for the assignment.²

CNE’s August 9, 2017, notice, addressed to the Secretary and filed through e-filings, provided that Aspirity will assign their Pennsylvania retail electric customers to CNE as soon as the bankruptcy judge approves the settlement that includes the assignment, which was then expected in late August 2017. CNE pledged to work with the electric distribution companies (“EDC”) to expedite the enrollments. CNE attached the “Customer Legal Notification” and “Bankruptcy Notice” to its filing. CNE conferred with the Office of Competitive Markets Oversight and copied that office on its filing with its attached customer notices. On August 18, CNE emailed Duquesne (DLC_SSC@duqlight.com), PECO (egc@peco-energy.com) and PPL (Oehler, Cheryl T; Scheetz, Susan M), the three EDCs where Aspirity had customers. CNE mailed the customer notices on or about August 9, 2017, and subsequently, Aspirity filed a notice on August 31, 2017, that the underlying settlement agreement that called for the assignment of Aspirity customers had been approved by the Bankruptcy Court. By the date of today’s letter, all Pennsylvania Aspirity customers have either dropped back to the utility or are now served by CNE.

CNE believes it complied with all Commission regulations, in this case the *Interim Guidelines* governing notices of contract assignment, which requires that the assignment be “reported to the *Commission*,” a requirement which it met by filing with the Secretary’s Office and contacting OCMO. As stated above, at the request of Mr. McCracken, CNE is now serving its August 9, 2017, notice on the statutory government entities included in the draft certificate of service received with the data request. CNE has already notified the affected EDCs, as described above, but in an abundance of caution will also serve its August 9 notice on the listed persons at PPL, Duquesne and PECO.

Please consider this letter as CNE’s response to Data Request 1 served on October 18, 2017.

¹ Available at http://www.puc.state.pa.us/electric/pdf/OCMO/Order-IG_Not_EGS_OCACSC081398.pdf.

² *Id* at 13.

I, Holly R. Smith, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief, and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Please do not hesitate to contact me with any questions regarding this filing. My telephone number is 202 804-5128 and my email address is holly.smith@exeloncorp.com.

Sincerely,



Holly Rachel Smith

cc: Certificate of Service
Attachments



Holly Rachel Smith
Assistant General Counsel

Edison Place
701 9th Street, NW
Mailstop EP2205
Washington, DC 20001
(202) 804-5128
Holly.Smith@exeloncorp.com

Pennsylvania Public Utility Commission
Attn: Rosemary Chiavetta, Secretary
Commonwealth Keystone Building
2nd Floor, Room-N201
400 North Street
Harrisburg, PA 17120

RE: Aspirity Energy, LLC, License Number A-2568296
Notice of Customer Assignment to Constellation NewEnergy, Inc.,
License Number A-110036

Dear Secretary Chiavetta:

Aspirity Energy, LLC (“Aspirity”) will assign their Pennsylvania retail electric customers to Constellation NewEnergy, Inc. (“CNE”) as soon as the bankruptcy judge approves the settlement that includes the assignment, which is expected in late August 2017. CNE will work with the electric distribution companies (“EDC”) to expedite the enrollments by CNE as a result of the bankruptcy to provide the best customer experience.

Notice of the settlement including the assignment was mailed on August 7, 2017, pursuant to bankruptcy law requirements. An additional customer letter will be mailed once the settlement is approved by the bankruptcy judge. Both letters are enclosed and include CNE’s name and license number.

OCMO directed us to contact the EDCs and have them suppress the enrollment confirmation letters. We understand that this is generally standard practice in any assignment process.

If there are any questions regarding this matter, or if any additional information is required, please call Melissa Lauderdale at (410) 470-3582 or melissa.lauderdale@constellation.com.

Sincerely,

/s/Holly Rachel Smith

Enclosures

cc: Dan Mumford
Kris Brown



CUSTOMER LEGAL NOTIFICATION - NO ACTION IS REQUIRED ON YOUR PART

Customer Name

Customer Address

Date

RE: Notice of assignment of electricity agreement (the "Agreement")

LDC Account Number: [account number]

Service Address:

Dear Customer,

On or after your next meter read, Aspirity Energy, LLC. ("Aspirity") will assign its retail electric contracts to Constellation NewEnergy, Inc., a leading competitive energy supplier and part of a Fortune 100 company. You will notice the Constellation name and/or logo on your utility bill going forward. **Rest assured no changes are being made to your contract term, price, or terms and conditions of service as a result of this transfer and no action is required by you.**

Constellation will continue to provide you with the same superior customer care you have come to expect, plus additional benefits that come along with being a Constellation customer, such as:

- Earn rewards for referring friends and family. For every friend you refer, get a \$50 Visa® Prepaid Card when they enroll with Constellation! Plus – we'll reward them, too, when they sign up!* Find out more on constellation.com/friends
- Do you have a local cause or community project that needs support? As a customer, you can apply to the Constellation Community Champions program which awards grants up to \$500 for causes that benefit the communities we serve.** Learn more on constellation.com/communitychampions
- Looking for tips on home energy savings tips or energy efficiency? Visit blog.constellation.com to read engaging articles like these and much more.

After your next meter read, all customer inquiries and assignment questions should be made to Constellation NewEnergy, Inc. c/o Customer Care, P.O. Box 4911, Houston, TX 77210 or by telephone at 1-888-898-2297.

Sincerely,

/signature/

Constellation

* ONLY NEW CUSTOMER CONTRACTS NOT TERMINATED WITHIN 90 DAYS ARE ELIGIBLE FOR REWARDS CARDS.

Cards are issued by Citibank, N.A. pursuant to a license from Visa U.S.A. Inc. and managed by Citi® Prepaid Services. Cards will not have cash access and can be used everywhere Visa® debit cards are accepted. Please allow 8-10 weeks after your first bill to receive your card. To check the status of your card or to report lost or stolen cards, please call 1-800-522-7458 or email help@citiprepaid.com.

** Applicants must meet all eligibility requirements and conditions to qualify for award consideration. Limit one grant award per customer, per year. Constellation reserves the right to approve or deny any grant application. For a complete list of eligibility requirements, visit www.constellation.com/communitychampions.

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**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In re:

Aspirity Energy, LLC,

BKY No. 17-41991 (KHS)
Chapter 11

Debtor.

**NOTICE OF POTENTIAL ASSUMPTION AND ASSIGNMENT
OF EXECUTORY CONTRACT AND CURE AMOUNTS**

You are receiving this notice because you may be a counterparty to a contract with Aspirity Energy, LLC (“Aspirity”). Please read this notice carefully as your rights may be affected by the transactions described herein.

As discussed below, on or after your next meter read, if the settlement described below is approved, your contract for electric supply service will be assigned to Constellation NewEnergy, Inc., an Exelon company and leading competitive energy supplier.¹ No changes are being made to your contract term, price or terms and conditions of service as a result of this transfer and no action is required by you to complete this transfer, notwithstanding paragraph 6 below. You will receive additional communications before any assignment.

1. On June 30, 2017 (the “Petition Date”), Aspirity filed a voluntary petition seeking relief under Chapter 11 of the Bankruptcy Code in this Court. Aspirity, the Debtor, is in possession of its assets as a debtor-in-possession pursuant to Sections 1107 and 1108 of the Bankruptcy Code and is continuing to operate, including providing power service, during its bankruptcy.

2. On August 5, 2017, Aspirity, as debtor-in-possession, filed a motion (the “Motion”) seeking approval of a settlement (the “Agreement”) with Exelon Generation Company, LLC (“Exelon”). A hearing on the Motion is scheduled for August 28, 2017 at 1:30 P.M. (the “Hearing”) in the United States Bankruptcy Court for the District of Minnesota in Minneapolis, Minnesota (the “Bankruptcy Court”). Upon request by email to Steve Nosek and Yvonne Doose (counsels to Aspirity) at snosek@noseklawfirm.com and ydoose@noseklawfirm.com, a copy of the Motion will be provided to you.

3. Pursuant to the Agreement and pending approval by the Bankruptcy Court, Aspirity intends to assume and assign to Constellation NewEnergy, Inc. your contract for power supply (your “Customer Contract”), pursuant to section 365 of the Bankruptcy Code.

¹ Constellation NewEnergy, Inc. holds the following retail electric service licenses: IL # 11-0394; MD # IR-500; OH # 00-003E(8); PA # A-110036. Constellation NewEnergy, Inc. c/o Customer Care, P.O. Box 4911, Houston, TX 77210 or by telephone at 1-888-898-2297.

4. Aspurity does not believe that you are owed any cure amount that Aspurity or Constellation NewEnergy, Inc., believes must be paid to cure pre-petition defaults and/or pay amounts accrued under your Customer Contract (a "Cure Amount").

5. If you agree that Aspurity does not owe you any amounts, you need not take any further action. If your Customer Contract is assigned to Constellation NewEnergy, Inc., you will see no interruption in your electric service, should continue to pay your electric bill as usual, and will be contacted by Constellation NewEnergy, Inc., about your service.

6. If you seek to object to the validity of the Cure Amount as determined by Aspurity or Exelon or otherwise assert that any other amounts, defaults, conditions or pecuniary losses must be cured or satisfied under your Customer Contract in order for such contract to be assumed and assigned, you must contact Steve Nosek and Yvonne Doose (counsels to Aspurity) by email at snosek@noseklawfirm.com and ydoose@noseklawfirm.com, within fourteen (14) days of service of this notice. Pending an order of the Bankruptcy Court, and if you do not object or your objection is resolved, your Customer Contract will be deemed assumed and assigned under section 365 of the Bankruptcy Code as of the date of the Order granting the Motion; any amounts due as of the date hereof, other than as agreed to as a Cure Amount, cannot be collected from Aspurity or used as a reason to withhold performance under your Customer Contract once assumed and assigned.

7. If there are any unresolved objections, Aspurity either shall not assume and assign such contract, or shall schedule a hearing to resolve such objection.

Any additional questions about this matter can be directed by email to Steve Nosek and Yvonne Doose (counsels to Aspurity) at snosek@noseklawfirm.com and ydoose@noseklawfirm.com.

Dated: August 4, 2017

Certificate of Service

On this the 27th day of 2017, I certify that a true and correct copy of the foregoing filing and attachments have been served upon the following:

Bureau of Investigation & Enforcement
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2 West
Harrisburg, PA 17120

Office of Consumer Advocate
5th Floor, Forum Place
555 Walnut Street
Harrisburg, PA 17120

Small Business Advocate
Commerce Building, Suite 202
300 North Second Street
Harrisburg, PA 17101

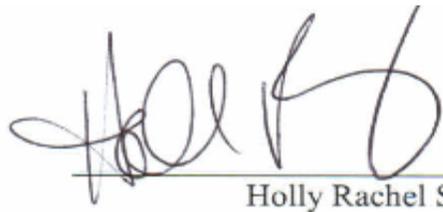
Regulatory Affairs
Duquesne Light Company
411 Seventh Street, MD 16-4
Pittsburgh, PA 15219

Office of the Attorney General
Bureau of Consumer Protection
Strawberry Square, 14th Floor
Harrisburg, PA 17120

Commonwealth of Pennsylvania
Department of Revenue
Bureau of Compliance
Harrisburg, PA 17128-0946

Manager Energy Acquisition
PECO Energy Company
2301 Market Street
Philadelphia, PA 19101-8699

Office of General Counsel
Attn: Kimberly A. Klock
PPL
Two North Ninth Street (GENTW3)
Allentown, PA 18101-1179



Holly Rachel Smith