

July 20, 2018

By Electronic Filing

Ms. Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building, 2nd Floor
400 North Street
Harrisburg, PA 17120

Re: Implementation of Act 40 of 2017
Docket No. M-2017-2631527

Dear Secretary Chiavetta:

Constellation NewEnergy, Inc., and Exelon Generation Company, LLC (together, “Constellation/ExGen”) submit this letter in response to the letter filed by Duquesne Light Company (“Duquesne”) on June 29, 2018.¹ Duquesne’s letter addressed an important issue raised in Constellation/ExGen’s Petition for Clarification and/or Reconsideration (“Petition”) of the Commission’s Final Implementation Order (“FIO”), filed in this docket on May 18, 2018.² Specifically, Duquesne’s letter notified the Commission that it:

presently acquires alternative energy credits to satisfy its Alternative Energy Portfolio Standards (“AEPS”) obligations through its contracts with its default service electric suppliers. The Company does not maintain separate contracts with out-of-state solar PV systems for the purchase of alternative energy credits; thus, the Company has no contracts for which to seek Commission approval under the process established in the Final Implementation Order.³

Duquesne’s statement confirms Constellation/ExGen’s general description of the market for alternative energy credits, including SRECs. EDCs generally do not directly purchase

¹ *Implementation of Act 40 of 2017*, Docket No. M-2017-2631527 Letter of Duquesne Light Company (June 29, 2018) (the “Duquesne Letter”).

² Docket No. M-2017-2631527, Petition of Exelon Generation Company, LLC and Constellation NewEnergy, Inc. for Clarification and/or Reconsideration of the Commission’s Final Implementation Order (May 18, 2018).

³ Duquesne Letter.

alternative energy credits, including SRECs, to satisfy their AEPS obligation.⁴ Duquesne confirmed that it relies upon its default service suppliers to procure alternative energy credits, including SRECs, on its behalf.⁵ The FIO did not expressly provide an avenue for default service suppliers to file petitions under Section 2804(2)(ii) of Act 40.

Duquesne's statement also confirms Constellation/ExGen's general description that SREC purchasers, including default service suppliers, generally rely on brokers or other participants in the wholesale market to procure their alternative energy credits, including SRECs.⁶ In some cases, there can be a number of different transactions throughout the chain of custody of one credit. Yet, the FIO did not provide an avenue for these entities to seek protection under the statute's grandfathering provisions.

Uncertainty in the market regarding SREC eligibility and the future of de-tagged SRECs is presenting challenges for Constellation/ExGen and other market participants. As delivery dates come and go for the transfer of SRECs purchased under contracts expected to qualify under Section 2804(2)(ii), it remains unclear how and when SRECs will be retagged or requalified, which is having a chilling effect on the willingness of SREC purchasers to take delivery, and the ability of SREC sellers to make delivery. In sum, the market needs clarity on the interpretation of Act 40 very soon to avoid potential harm to customers.

Constellation/ExGen provided recommendations to address these issues in its Petition and continues to request, respectfully, that the Commission address these issues by granting the following relief:

1. Clarify that contracts under Section 2804(2)(ii) will be honored for all parties in the supply chain from producer to EDC, EGS, and wholesale default service supplier.
2. Alternatively, allow the facilities, not the EGS/EDCs, to petition to maintain Tier 1 Solar status. Under this approach, the grandfathering process focuses on the beginning of the supply chain, the eligible solar PV facilities, rather than the end of the supply chain.
3. As a second alternative, clarify that EDCs, EGSs, and/or their wholesale suppliers will be permitted to present contracts for SRECs used to serve current and projected load, entered into prior to October 30, 2017, and those contracts will be honored under Section 2804(2)(ii).

⁴ Petition at ¶ 24 (“...EDCs rely primarily on contracts with wholesale default service suppliers such as ExGen to fulfill a significant portion of the default service supply (and SREC) obligation.”)

⁵ Duquesne Letter.

⁶ Petition at ¶¶ 10, 12.

Respectfully submitted,

/S/ Holly Rachel Smith

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c: Certificate of Service

CERTIFICATE OF SERVICE

I hereby certify that this 20th day of July, 2018, I served a copy of the foregoing letter from Constellation NewEnergy, Inc. and Exelon Generation Company upon the persons listed below in accordance with the requirements of 52 Pa. Code § 1.54.

VIA EMAIL AND/OR FIRST-CLASS MAIL

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Date: July 20, 2018

/S/ Holly Rachel Smith
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