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STATE OF OHIO
PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of the Proposal of)
FirstEnergy Service Company to Modify)
Its RTO Participation)

Case No. 09-778-EL-UNC

COMMENTS OF
CONSTELLATION ENERGY COMMODITIES GROUP, INC.
AND CONSTELLATION NEWENERGY, INC.

I. INTRODUCTION

The Public Utilities Commission of Ohio ("PUCO" or "Commission") on September 4, 2009 entered an order ("Sept. 4 Order") opening the above-docketed proceeding, to consider FirstEnergy Service Company's ("FE-Ohio") August 17, 2009 application ("FE-Ohio Application") with the Federal Energy Regulatory Commission ("FERC") seeking permission for FE-Ohio to withdraw its six affiliated Ohio utilities' transmission facilities from the Midwest Independent Transmission System Operator's ("MISO") control and integrate into the PJM Interconnection, L.L.C. ("PJM") system (the "FE-Ohio Transition").

In its Sept. 4 Order, the Commission asked interested parties to comment on the impact of the FE-Ohio Transition. Pursuant to the Sept. 4 Order, Constellation Energy Commodities Group, Inc. ("CCG") and Constellation NewEnergy, Inc. ("CNE") (collectively, "Constellation") appreciate the opportunity to submit these comments.

II. BACKGROUND ON CONSTELLATION

CNE provides electricity and energy-related services to retail customers in Ohio as well as in 13 other states, the District of Columbia and two Canadian provinces and serves over 15,000 megawatts of load and over 10,000 customers. CNE provides such services in both PJM

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and MISO. CNE holds a certificate as a competitive retail electric supplier ("CRES") from the Commission to engage in the competitive sale of electric service to retail customers in Ohio.

CCG provides wholesale power and risk management services to wholesale customers (distribution utilities, co-ops, municipalities, power marketers, utilities and other large load serving entities), throughout the United States, in both regulated and restructured energy markets. CCG is active in both the PJM and MISO wholesale power markets and has sold power for wholesale delivery in Ohio. CCG was one of the winning suppliers in the May 2009 solicitation for the FE-Ohio electric distribution utilities' standard service offer ("SSO") supply. Both CNE and CCG are subsidiaries of Constellation Energy Group, Inc.

III. CONSTELLATION'S COMMENTS

Based on a review to date, Constellation believes that, once any remaining details have been addressed and FE-Ohio is able to correctly implement a final FERC-approved transition plan, the FE-Ohio Transition -- by facilitating efficiencies in the competitive marketplace -- will likely result in important benefits to wholesale market participants, CRESs and Ohio's retail end use consumers. Nonetheless, Constellation continues to evaluate the potential effects of the FE-Ohio Transition, and to seek greater understanding of the FE-Ohio Application's impact through discussions with PJM, MISO and affected stakeholders.

While it is important to understand fully the details of the FE-Ohio Transition and it is beneficial for all parties to understand its likely impacts, actions that may unnecessarily slow or else place unwarranted burdens on the FE-Ohio Transition may create undue and harmful regulatory uncertainty. As a study commissioned last year by the National Association of Regulatory Utility Commissioners ("NARUC") points out, state regulators' support for stable and prudent regulatory processes can:

reduce market and regulatory uncertainty faced by both utilities and third-party suppliers and will contribute positively to more competitive and less costly incremental supplies for ratepayers.¹

Regulatory certainty with respect to the FE-Ohio Transition is necessary on an expedient basis, for example, because of the various differences in market structures for meeting various product requirements to serve load; the more quickly that market participants serving retail load or SSO load to utilities in Ohio know with confidence that FE-Ohio will be part of PJM's system on a date certain, the more quickly they will be able to utilize the appropriate structures to efficiently and effectively meet their obligations. Regulatory uncertainty conversely may have a *harmful* impact on potential bidders' interest in FE-Ohio's wholesale SSO procurements going forward and/or may quell potential CRES interest in committing resources to developing and marketing innovative competitive retail offers for FE-Ohio's consumers, both to the ultimate detriment of Ohio's consumers. For this reason, Constellation urges the Commission to exercise caution in taking actions that may unnecessarily slow down the positive progress towards approval and implementation of a final plan for the FE-Ohio Transition.

IV. CONCLUSION

Constellation appreciates this opportunity to provide its comments. Constellation submits that the FE-Ohio Transition, if properly implemented, coupled with FE-Ohio's and the Commission's focus on providing competitively-priced SSO and the continued development of competitive retail markets, will result in greater competitive efficiencies in the markets serving Ohio consumers and, in turn, more competitive prices for electric generation service -- whether under SSO supply or by CRESs.

¹ *Competitive Procurement of Retail Electricity Supply: Recent Trends in State Policies and Utility Practices*, the Analysis Group, Dr. Susan F. Tierney and Dr. Todd Schatzki, Commissioned by NARUC (issued July 2008) at Executive Summary, p.v.

Respectfully Submitted,



M. Howard Petricoff (0008287)
VORYS, SATER, SEYMOUR AND PEASE LLP
52 East Gay Street
P.O. Box 1008
Columbus, Ohio 43216-1008
(614) 464-5414
(614) 719-4904 (fax)
mhpetricoff@vorys.com

*On Behalf of
Constellation Energy Commodities Group, Inc. and
Constellation NewEnergy, Inc.*

Dated: September 25, 2009

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have served on this 25th day of September, 2009 the foregoing document to all parties on the Service List for this proceeding.

Jacqueline Lake Roberts
Senior Manager, Regulatory Affairs
and
Public Policy
EnerNOC, Inc.
101 Federal Street, Suite 1100
Boston, MA 02110

David C. Rinebolt
Ohio Partners for Affordable Energy
Colleen L. Mooney
231 West Lima Street
P. O. Box 1793
Findlay, OH 45839-1793

Cleveland Electric Illuminating Co.
Arthur Korkosz
FirstEnergy Service Company
76 S. Main Street, Suite 1800
Akron, OH 44308

Thomas E. Lodge
Kurt P. Helfrich
Carolyn S. Flahive
Ann B. Zallocco
Thompson Hine LLP
41 S. High Street, Suite 1700
Columbus, OH 43215-6101

Ohio Edison Company
Ebony Miller
James Burke
FirstEnergy Service Company
76 S. Main Street
Akron, OH 44308

Samuel C. Randazzo
Lisa G. McAlister
Joseph M. Clark
McNees, Wallace & Nurick LLC
21 E. State Street, 17th Floor
Columbus, OH 43215

Toledo Edison Company
Mark Hayden
FirstEnergy Service Company
76 S. Main Street
Akron, OH 44308

Daniel Shields
Federal Energy Advocate
Public Utilities Commission of Ohio
180 E. Broad Street
Columbus, OH 43215

David F. Boehm, Esq.
Michael L. Kurtz, Esq.
Boehm, Kurtz & Lowry
36 E. Seventh Street, Suite 1510
Cincinnati, OH 45202

Theodore Robinson
Citizen Power
2121 Murray Avenue
Pittsburgh, PA 15217



Stephen M. Howard