

April 29, 2011

Via electronic delivery:

sepcomments@nysesda.org

State Energy Plan Comments
NYSERDA
17 Columbia Circle
Albany, NY 12203-6399

Re: Draft Scope for the 2013 New York State Energy Plan and Public Solicitation of Comments

Constellation Energy Commodities Group, Inc. and Constellation NewEnergy, Inc. (collectively, “Constellation”) appreciates the opportunity to provide comments on the Draft Scope (“Scope”) of the 2013 New York State Energy Plan (“Plan”) issued on March 10, 2011. Specifically, Constellation offers the below comments on the following issues: Resource Planning and Retail Competition, Clean Energy Infrastructure, Reliability, and Baseload Energy Resources.

Resource Planning and Retail Competition

Fundamentally, New York has introduced customer choice to its citizens, creating a plethora of retail options beyond just competitive commodity supply, including energy efficiency, demand response, and a variety of renewable alternatives. Similarly, consumers can elect short or long-term fixed prices, or purchase “real-time” options that allow them to enjoy extremely low rates during low demand periods, or to shut off their consumption during high demand, high cost period. This framework of customer choice also gives New York a unique opportunity to allow consumers to make critical renewable investments that meet both their environmental preferences and their budget limitations. New York should take a very careful look at its retail market and ensure that every effort is made to respect the preferences of its constituents.

New York must be exceedingly vigilant in resisting central planning initiatives that place major, capital intensive investments on the backs of its citizens. History is replete with examples of cost-overruns and failed technologies that must recover investment through non-bypassable surcharges including “stranded costs.” Generation supply and demand side technology alternatives are evolving rapidly as information systems converge with power infrastructure technology. Many of these costly decisions are long-lived (30 or more years) and the consequences for poor choices are both expensive and seemingly interminable.

In considering resource additions, it is important to bear in mind that New York is a state which has re-structured its electric utility industry to empower customers to make their own decisions about energy supply and energy consumption. New York must balance the need to provide its citizens with access to a clean and reliable electric system with the need to respect the power to choose that New Yorkers have been given. It may be tempting to direct resource investments through a system that relies upon long term contracts or rate-based utility investments that are paid for with non-bypassable charges on electric customer bills. Such commitments, however, erode the value of customer choice. They increase the monopoly charges portion of a customer's bill and reduce the competitive portion of the bill that is affected by energy shopping and demand response. Holding customers captive to pay for investments that are made "on their behalf" reduces the ability of customers to control costs or to manage their own environmental footprint through their own decisions. For these reasons, Constellation urges the state to minimize its reliance upon these long-term captive-recovery mechanisms and to rely upon market mechanisms more compatible with customer choice.

Clean Energy Infrastructure

To promote investment in clean energy infrastructure within the State of New York, Constellation recommends that New York consider adoption of a portfolio standard that requires retail load serving entities to provide a portion of the power they sell from a list of specified clean technologies. Such systems are in place in New England and portions of PJM and have been quite successful. By using a system of tradable certificates, these systems not only foster resource development to meet the portfolio requirements but have also support the development of a voluntary green product market. These systems also encourage investors to take investment risks, rather than placing those risks upon customers. Only the most cost-effective clean energy projects will move forward under a portfolio program and the consequences of any un-economic investments will not be passed along to consumers. So long as the portfolio program rules are clear and consistent, companies should and will take on the risk of recovery associated with their investments.

Reliability

For reliability, the NYPSC has already adopted an approach that identifies reliability needs and seeks merchant-based solutions, prior to adopting any sort of regulated infrastructure solution as a backstop. This approach was developed after the conduct of an open proceeding at the PSC and was arrived at through a process of compromise and agreement.

Baseload Energy Resources

In its analysis of how the State's energy needs are met, the Plan would benefit by a recognition of the important role that baseload power facilities, such as nuclear energy, play as a necessary counterpart to increased supplies of renewable energy resources. In doing so, the Plan should consider mechanisms to encourage the continued operation, and

potential expansion of, existing baseload power facilities. Continued and enhanced use of existing infrastructure, through repowering or uprates, can provide economic and environmental benefits that should not be overlooked.

In particular, New York's nuclear facilities provide reliable, virtually emission free, baseload power. The significant contribution of nuclear energy to achieving the State's climate change objectives should be recognized in the Plan's evaluation of climate change and its environmental impacts. Further, expansion of these facilities through power uprates should be identified as a strategy for increasing the use of low carbon energy resources.

Thank you for the opportunity to offer these comments.

Respectfully submitted,

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