

**IN THE UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION**

Constellation Energy Commodities Group, Inc. ) Docket No. RC08-7-000

**Motion for Extension of Time of  
Constellation Energy Commodities Group, Inc.**

Pursuant to Rules 212 and 2008 of the Federal Energy Regulatory Commission's ("FERC" or the "Commission") Rules of Practice and Procedure,<sup>1</sup> Constellation Energy Commodities Group, Inc. ("Constellation") respectfully requests extension of the date by which Constellation must withdraw its Request for Appeal from the North American Electric Reliability Corporation's ("NERC") decision to register Constellation as a Generator Operator in the NERC Compliance Registry, which was filed in the captioned proceeding ("FERC Appeal"), from September 16, 2009 to October 1, 2009. Good cause exists to grant this 15-day extension because it will ensure, consistent with the Joint Settlement Agreement between Constellation and the Texas Regional Entity ("Texas RE") (and approved by NERC) ("Settlement Agreement"), that Constellation is not

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<sup>1</sup>18 C.F.R. §§ 385.212 and 2008 (2009).

required to withdraw its FERC Appeal prior to the time that the Commission's order approving the Settlement Agreement<sup>2</sup> is final and nonappealable.<sup>3</sup>

## I. BACKGROUND

Under the Settlement Agreement, Constellation agreed to withdraw its FERC Appeal with prejudice, within thirty days after a Final Order.<sup>4</sup> The Settlement Agreement states that the Settlement Agreement "shall become effective upon the Commission's approval of the Agreement by final, non-appealable order."<sup>5</sup> However, the Settlement Order stated that the Settlement Agreement is effective as of the date of the Settlement Order, i.e., August 17, 2009.<sup>6</sup> Because the Settlement Order defined an effective date different from the Settlement Agreement, the Settlement Order could be interpreted as requiring Constellation to file to withdraw the FERC Appeal within 30 days of the Settlement Order, i.e., September 16, 2009, which is the same day that requests for rehearing of the Settlement Order are due.<sup>7</sup> In that case, should any requests

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<sup>2</sup>*Constellation Energy Commodities Group, Inc.*, 128 FERC ¶ 61,159 (2009) ("Settlement Order").

<sup>3</sup>Settlement Agreement ¶ 49.

<sup>4</sup>Settlement Agreement ¶¶ 42, 49.

<sup>5</sup>*Id.* ¶ 49.

<sup>6</sup>Settlement Order at PP 1, 11.

<sup>7</sup>18 C.F.R. § 385.713(b).

for rehearing be filed, the Settlement Order would not be final and nonappealable.

## II. MOTION FOR EXTENSION OF TIME

To preserve the intent of the Settlement Agreement that Constellation not be required to withdraw its FERC Appeal before the Settlement Order is final and nonappealable, yet ensuring that Constellation can meet its obligations should the Settlement Order be interpreted as requiring Constellation to file to withdraw the FERC Appeal within 30 days of the Settlement Order given the effective date of the Settlement Agreement as set forth in the Settlement Order, Constellation requests that the Commission extend the time for Constellation to withdraw the FERC Appeal until October 1, 2009. This modest 15-day extension will effectuate the settling parties' intent that the FERC Appeal be withdrawn only upon approval of the Settlement Agreement by a "final, *non-appealable* order,"<sup>8</sup> by allowing the time during which rehearing requests could be filed to expire before requiring Constellation to withdraw the FERC Appeal with prejudice. For these reasons, good cause exists to extend the deadline for withdrawing the FERC Appeal to October 1, 2009.

Texas RE and NERC have informed Constellation that they do not oppose the requested extension.

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<sup>8</sup>Settlement Agreement ¶ 49 (emphasis added).

Constellation respectfully requests that the Commission issue an order granting the requested extension by September 15, 2009.

### III. CONCLUSION

For the reasons set forth above, Constellation respectfully requests that the Commission extend the deadline for withdrawing the FERC Appeal to October 1, 2009, as requested herein.

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September 14, 2009

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### Certificate of Service

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary of the Federal Energy Regulatory Commission in these proceedings.

Dated at Washington, DC this 14th day of September, 2009.

/s/ Bethany B. Dukes  
Bethany B. Dukes

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