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February 14, 2013

CPUC, Energy Division  
Attention: Tariff Unit  
505 Van Ness Avenue  
San Francisco, CA 94102

Re: Constellation NewEnergy, Inc. Advice Letter No. CNE-043-ESP, Greenhouse Gas  
Emission Performance Standard Compliance Filing.

Dear Energy Division Tariff Unit,

Enclosed please find Constellation NewEnergy, Inc.'s Greenhouse Gas Emission Performance  
Standard Compliance filing pursuant to Commission Decision 07-01-039. Please direct any  
questions to Mr. Andrew B. Brown at (916) 447-2166 or by email to [abb@eslawfirm.com](mailto:abb@eslawfirm.com).

Very truly yours,



Eric Janssen  
Legal Assistant to Andrew B. Brown

Enclosures

# CALIFORNIA PUBLIC UTILITIES COMMISSION

## ADVICE LETTER FILING SUMMARY ENERGY LOAD SERVING ENTITY

MUST BE COMPLETED BY LOAD SERVING ENTITY (Attach additional pages as needed)

Company name/CPUC Utility No. Constellation NewEnergy, Inc. / ESP No. 1359

LSE type:

- ELC       GAS  
 PLC       HEAT     WATER

Contact Person: Joseph Donovan

Phone #: (410) 470-3582

E-mail: joseph.donovan@constellation.com

### EXPLANATION OF UTILITY TYPE

ELC = Electric      GAS = Gas  
PLC = Pipeline      HEAT = Heat      WATER = Water

(Date Filed/ Received Stamp by CPUC)

Advice Letter (AL) #: CNE-043-ESP

Subject of AL: Greenhouse Gas Emission Performance Standard Compliance Filing

Keywords (choose from CPUC listing):

AL filing type:  Monthly  Quarterly  Annual  One-Time  Other \_\_\_\_\_

If AL filed in compliance with a Commission order, indicate relevant Decision/Resolution: D.07-01-039

Does AL replace a withdrawn or rejected AL? If so, identify the prior AL \_\_\_\_\_

Summarize differences between the AL and the prior withdrawn or rejected AL<sup>1</sup>: \_\_\_\_\_

Resolution Required?  Yes  No - Tier 2 Filing

Requested effective date: March 17, 2013

No. of tariff sheets: 0

Estimated system annual revenue effect (%): n/a

Estimated system average rate effect (%): n/a

When rates are affected by AL, include attachment in AL showing average rate effects on customer classes (residential, small commercial, large C/I, agricultural, lighting).

Tariff schedules affected: n/a

Service affected and changes proposed<sup>1</sup>: Retail electric service; no changes proposed

Pending advice letters that revise the same tariff sheets: none

**Protests: Resource Adequacy compliance filings are not subject to protest.**

### CPUC, Energy Division

Attention: **Tariff Unit**

505 Van Ness Ave.

San Francisco, CA 94102

### ESP Info (including e-mail)

Constellation NewEnergy, Inc.

111 Market Place

6<sup>th</sup> Floor

Baltimore, MD 21202

joseph.donovan@constellation.

com

Andrew B. Brown

Ellison Schneider & Harris

2600 Capitol Ave. Ste. 400

Sacramento, CA 95816

abb@eslawfirm.com

<sup>1</sup> Discuss in AL if more space is needed.

**Attachment 1**  
**Compliance Filing for LSEs with no Long-Term Financial Commitments**

February 14, 2013

CA Public Utilities Commission  
Energy Division  
Attention: Tariff Unit  
505 Van Ness Avenue, 4<sup>th</sup> Floor  
San Francisco, CA 94102-3298

Re: GHG Environmental Performance Standard (EPS) Compliance Filing 2013

Pursuant to Ordering Paragraph No. 4 of Decision (“D.”) 07-01-039, issued in R. 06-04-009 on January 25, 2007, Constellation NewEnergy, Inc. submits this annual Attestation Letter affirming that the financial commitments Constellation NewEnergy, Inc. has entered into for generation during the prior calendar year are in compliance with the greenhouse gas (“GHG”) emissions performance standard (“EPS”). Specifically, Constellation NewEnergy, Inc. is in compliance with the EPS as it has no generation facilities and no long-term financial commitments for generation.

**Effective Date:** March 16, 2013 – 30 days after filing

**Tier Designation:** Tier 2 Designation

**Purpose**

This Attestation Letter provides information and documentation required by D.07-01-039. This Attestation Letter demonstrates that for **2012** Constellation NewEnergy, Inc. has entered into financial commitments that are in compliance with the EPS (long-term financial commitments defined on Page 3 of Attachment 7 in D.07-01-039).

**Background**

D.07-01-039 requires all Load Serving Entities (“LSEs”) to file annual Attestation Letters, due February 15<sup>th</sup> of each year, attesting to the Commission that the financial commitments entered into for generation during the prior calendar year are in compliance with the EPS. D.07-01-039 requires LSEs to file Attestation Letters as an advice letter and serve the Attestation Letter on the service list in Rulemaking (“R.”) 06-04-009. This Attestation Letter is filed pursuant to that process.

D.07-01-039 requires LSEs to include a listing of long-term financial commitments of five years or longer that they have entered into during the prior year. Furthermore, D.07-01-039 requires additional documentation demonstrating that LSEs have complied with

the EPS. Specifically, D.07-01-039 requires LSEs to provide documentation to demonstrate:

- (a) That the commitments were not “covered procurements” under the interim EPS rule and/or
- (b) For those that represent covered procurements, documentation demonstrating that such procurements are EPS-compliant, including any contracts with a term of five years or longer that include provisions for substitute energy purchases.
- (c) For any requested reliability-based exemptions that have been pre-approved by the Commission, a reference to the application and Commission decision number.

D.07-01-039 requires all LSEs to disclose the investment amount and type of alteration to retained generation, by generation facility and unit. D.07-01-039 also advises LSEs to present documentation regarding the design and intended use of the powerplant(s) underlying their new long-term financial commitments utilizing the sources of information listed in § 8341(b)(4), as well as any other sources of documentation that they believe will be relevant to this determination.

D.07-01-039 emphasizes that the key concept is to establish the design and intended use of the powerplant. Accordingly, documentation of the annualized plant capacity factor for the powerplant should include historical annual averages in order to help determine whether the plant is “designed and intended” to be used for baseload generation. D.07-01-039 requires LSEs to provide documentation of capacity factors, heat rates and corresponding emissions rates that reflect the actual, expected operations of the plant.

This Attestation Letter comports with the requirements outlined above.

### **Protests**

This compliance filing is not subject to protest pursuant to General Order 96-B, Energy Industry Rule 9.

### **Correspondence**

Any correspondence regarding this compliance filing should be sent by email to the attention of:

Joseph E. Donovan  
Senior Counsel  
Constellation Energy Resources, LLC  
111 Market Place, 6th Floor  
Baltimore, MD 21202  
E-mail: Joseph.Donovan@constellation.com

Andrew B. Brown  
Ellison, Schneider & Harris, L.L.P.  
2600 Capitol Avenue, Suite 400  
Sacramento, CA 95816  
Tel: (916) 447-2166  
E-mail: abb@eslawfirm.com

**Certification**

- (1) I have reviewed, or have caused to be reviewed, this compliance submittal.
- (2) Based on my knowledge, information, or belief, this compliance submittal does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements true.
- (3) Based on my knowledge, information, or belief, this compliance submittal contains all of the information required to be provided by Commission orders, rules, and regulations.

Include the name and contact information for the LSE officer(s) certifying the above:

Dated: February 12, 2013



Mark Huston  
President & CEO  
Constellation NewEnergy, Inc.  
111 Market Place, 12th Floor  
Baltimore, MD 21202