

128 FERC ¶ 61,159
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

August 17, 2009

In Reply Refer To:
Constellation Energy Commodities Group, Inc.
Docket Nos. RC08-7-000 and RC08-7-001

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Reference: *Constellation Energy Commodities Group, Inc.*, Docket No. RC08-7-000.
Joint Settlement Agreement

Dear Messrs. Ackerman, Vincent, and Cook:

1. In this order, the Commission approves the Settlement Agreement (Agreement) you filed on April 21, 2009 in Docket No. RC08-7-000, effective as of the date of this letter order.
2. On January 11, 2007, Constellation Energy Commodities Group, Inc. (Constellation) entered into an agreement with Power Resources, Ltd. (PRL) governing PRL's sales and Constellation's purchases of electric generation capacity and electric energy in the market administered by the independent transmission system operator of the Electric Reliability Council of Texas, Inc. (ERCOT) from PRL's gas-fired, combined cycle electrical generation facility. On May 22, 2008, the North American Electric Reliability Corporation (NERC) issued a registration decision finding that Texas Regional Entity, an independent division of ERCOT, properly "concurrently" registered Constellation and PRL as generation operators.
3. On July 11, 2008, Constellation sought Commission review of the NERC registration decision. On November 20, 2008, the Commission remanded the proceeding

to NERC for further consideration, and encouraged the parties to seek a voluntary resolution of the matter.¹

4. On April 21, 2009, NERC filed the Agreement between Constellation and the Texas Regional Entity to resolve all issues related to the registration dispute in this proceeding. The Commission issued a notice of NERC's April 21, 2009 filing, with comments on the Agreement due by May 12, 2009. NERC and the Texas Regional Entity filed joint comments in support of the Agreement.

5. In the Agreement, Constellation agrees to withdraw with prejudice its appeal of the Texas Regional Entity and NERC decisions regarding Constellation's registration as a generator operator. The Agreement provides that Constellation and PRL entered into a joint registration organization agreement for the generator operation function. In addition, Constellation agrees to make a payment of \$5,000 to Texas Regional Entity to settle and resolve an alleged violation regarding the adequacy of Constellation's initial self-certification of compliance as a generator operator.

6. With regard to the \$5,000 payment, the Agreement explains that, on August 2, 2007, Texas Regional Entity notified Constellation that it was required to certify compliance with actively monitored standards by October 1, 2007. In an August 31, 2007 correspondence, Constellation responded that it was not in a position to respond to the self-certification request. On September 27, 2007, Constellation provided a self-certification to Texas Regional Entity which included "not applicable" responses to the generator operator functions. After several conferences to resolve the matter, on January 18, 2008, Texas Regional Entity formally notified Constellation that the self-certification was inadequate.

7. On January 29, 2008, Constellation resubmitted the self-certification under protest, stating "no" it did not comply with the applicable Reliability Standards, and that it was unable to comply because it did not own or control the PRL facility. On February 18, 2008, Texas Regional Entity issued an Initial Notice of Alleged Violation to Constellation. Following meetings and correspondence between the parties, Constellation submitted revised self-certifications on April 18, 2008, June 2, 2008, October 7, 2008 and December 19, 2008, the latter filing designated as a "mitigation plan." Constellation certified compliance with all applicable Reliability Standards and provided a detailed compilation of evidence demonstrating compliance.

8. Texas Regional Entity reviewed the evidence and found that Constellation's submissions demonstrated compliance with applicable Reliability Standards. Texas Regional Entity verified the mitigation plan in January 2009 and confirmed this

¹ *Constellation Energy Commodities Group, Inc.*, 125 FERC ¶ 61,205 (2008).

verification in a February 24, 2008 letter to Constellation. However, Texas Regional Entity asserted that Constellation committed an alleged violation of the data submittal requirements regarding self-certification for the period October 1, 2007 through October 7, 2008.

9. Constellation neither admits nor denies that the circumstances constitute a violation of the data submittal requirements, and asserts that there was confusion on its part with regard to the manner in which Constellation was expected to meet its obligations during the initial self-certification process. Pursuant to the Agreement, Constellation agrees to make a payment of \$5,000 to the Texas Regional Entity and Texas Regional Entity agrees to rescind the Initial Notice of Alleged Violation. Furthermore, the Agreement sets forth specific compliance instructions that Constellation agrees to provide to its employees involved in the NERC self-certification process.

10. This uncontested Agreement resolves all issues in these proceedings. It is fair, reasonable, in the public interest and is hereby approved pursuant to Rule 602(g).² The Commission's approval of this Agreement does not constitute approval of, or precedent regarding, any principle or issue in this proceeding.

11. The Agreement fully resolves Constellation's July 11, 2008 appeal of the decision of NERC and Texas Regional Entity to register Constellation as a generator operator in the above referenced dockets and any related matters arising between Constellation and Texas Regional Entity during the pendency of the appeal. The effective date of the Agreement will be the date of this letter order.

12. This letter order terminates Docket Nos. RC08-7-000 and RC08-7-001.

By direction of the Commission.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

² 18 C.F.R. § 385.602(g) (2009).

Document Content(s)

RC08-7-001.DOC.....1-3