



Mr. John Wassam
Massachusetts Department of Energy Resources
100 Cambridge Street, Suite 1020
Boston, MA 02114.

Re: Class I & II RPS Rulemaking, 225 CMR 14.00 and 225 CMR 15.00

Dear Mr. Wassam,

Constellation New Energy (Constellation) respectfully submits the following comments with regard to the Department's proposed changes to 225 CMR 15.00.

Constellation is one of the largest retail electric suppliers in the Commonwealth, serving both residential and business customers across the state. Constellation has been an active participant over the years in the Department's development, modification and administration of its renewable portfolio programs. Constellation also participated in the public hearing on the recent proposed changes which was held at the Department's offices in Boston on May 13, 2019. At that hearing Constellation raised a single issue with the proposed changes to 225 CMR 15.07(2) which is described below.

In its proposed changes the Department would increase the Class II Waste Energy Minimum Standard from the current 3.5% to 3.7% for the years 2019 through 2025. As proposed, this change would be both costly and disruptive to the retail electric supply business and to its many Massachusetts customers. While the minimum standard calculation can change from year to year the proposed changes to 15.007(2) represent a fundamental change in the expectations that formed the basis for retail electric supply contracts that were entered into between suppliers and customers for fixed price electric service. Historically, when making such changes and increasing the portfolio obligations of retail suppliers the Department has exempted retail electric supply contracts entered into prior to the change and has refrained from making such changes applicable retroactive to their enactment. Missing from the proposed regulations is the exemption or "grandfathering" language the Department has employed in the past to balance the need for modifications with the policy of avoiding disruption to the retail electricity market.

Constellation appreciates the Department's desire to provide enhanced economic support to the two firms that produce eligible Class II Waste Energy

certificates and the implications for the management of solid waste that ensue if these firms ceased to be able to process waste. Nevertheless, because retail electric suppliers do not possess the ability to file tariff changes and pass on the increased cost of Class II Waste Energy compliance on to their customers, they will in most cases be forced to bear the cost of the increase. Even in limited cases where fixed price contracts do permit suppliers to adjust prices to bill customers for the increased costs, such practices frustrate the reasonable expectation of customers that they were to receive electric service through the term of their contract at a fixed price.

For the foregoing reasons Constellation respectfully suggests that the Department either reject the proposed changes to 225 CMR 15.07(2) or that the Department modify the proposed changes to exempt sales under fixed price retail electric supply contracts entered into prior to the effective date of the changes and further modify the proposed changes to apply on a going forward basis with the next compliance year.

Respectfully Submitted,

A handwritten signature in dark ink, appearing to read "Gretchen Fuhr". The signature is fluid and cursive, with the first name being more prominent.

Gretchen Fuhr

Sr. Manager, State Government Affairs

Constellation New Energy

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