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VIA ELECTRONIC FILING

Hon. Kathleen H. Burgess
Secretary
NYS Public Service Commission
3 Empire State Plaza
Albany, NY 12223

RE: Case 15-E-0302: Proceeding on Motion of the Commission to Implement a Large-Scale Renewable Program and a Clean Energy Standard

Dear Secretary Burgess:

On August 25, 2016, as directed by the CES Order,¹ the New York State Energy Research and Development Authority (“NYSERDA”) filed a petition proposing, among other things, the amount of an adder to cover its costs and fees for administering Tier 1 of the Renewable Energy Standard (“RES”) as established by the CES Order and a sales and payment schedule (the “August 25th Petition”).² On September 15, 2016, NYSEDA supplemented the August 25th Petition with a proposed Agreement for the Sale of Zero-Emissions Energy Certificates (the “Proposed ZEC Sales Agreement”) pursuant to which load serving entities (“LSE”) will purchase ZECs from NYSEDA. As energy service companies and LSEs required to purchase ZECs from NYSEDA, Constellation NewEnergy, Inc., Constellation Energy Power Choice, LLC, Constellation Energy Services of New York, Inc. (together “Constellation”) hereby provide these comments on the Proposed ZEC Sales Agreement.

The CES Order requires that LSEs purchase ZECs periodically during the year with a balancing reconciliation at the end of the year reflecting actual load served by the LSE. In order to implement the balancing reconciliation aspect of the CES Order, Constellation suggests that NYSEDA modify section 2.7 of the Proposed ZEC Sales Agreement to include the language set forth in red below:

2.7. Settlement and Reconciliation.

(a) In the event the Actual ZEC Quantity is less than 27,618,000 (the ZEC Cap), NYSEDA shall notify Buyer in writing on or before June 1, 2018 of the adjusted Quantity of ZEC Certificates to be Delivered and shall refund to Buyer by check a proration of the projected purchase price, less the administrative adder.

¹ Case 15-E-0302: *Proceeding on Motion of the Commission to Implement a Large-Scale Renewable Program and a Clean Energy Standard*, Order Adopting a Clean Energy Standard (Aug. 1, 2016) (the “CES Order”).

² *Id.* at 108-109.

(b) Regardless of the Actual ZEC Quantity, Buyer and Seller agree that, on a timely basis, the ZEC Purchase Quantity and the total purchase price paid hereunder shall be reconciled pursuant to the CES Order, reflecting the actual load served by Buyer during the applicable compliance period.

Addition of the proposed language will enable the efficient administration of this program including the year-end balancing reconciliation of LSE actual load.

Constellation appreciates the opportunity to submit these comments.

Respectfully submitted,

/s/ Steven D. Wilson

Steven D. Wilson

cc: Active Parties