

EXHIBIT A

COMMONWEALTH OF PENNSYLVANIA



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Patricia Corcoran, Acting Chief
Transportation, Energy & Agriculture Section
Antitrust Division, Department of Justice
450 Fifth Street NW, Suite 8000
Washington, D.C. 20530
ATR.Public-Comments-Tunney-Act-MB@usdoj.gov

Re: United States et al. v. Constellation
Energy Corporation et al.;
Proposed Final Judgment and Competitive
Impact Statement

Dear Acting Chief Corcoran,

The Pennsylvania Office of Consumer Advocate (PA OCA) submits this comment on the Proposed Final Judgment and Competitive Impact Statement (CIS) of *United States et al. v. Constellation Energy Corporation et al.* to thank the Department of Justice's Antitrust Division (Antitrust Division) for its work to promote competition in the wholesale electricity market, including the PJM Coastal Mid-Atlantic market, through the divestiture of certain Constellation Energy Corporation (Constellation) assets. The OCA appreciates the Antitrust Division's engagement in addressing competitive concerns arising from the merger transaction (Transaction) between Constellation and Calpine Corporation (Calpine) and its commitment to safeguarding competition in electricity markets.

While appreciative of the Antitrust Division's work and the proposed settlement (Settlement) divestiture outcome, the PA OCA cannot conclusively state whether the divestiture fully addresses the competitive concerns that the PA OCA raised during proceedings before the Federal Energy Regulatory Commission (FERC) regarding the Transaction.¹ Specifically, the Settlement and CIS do not address the Transaction's potential effects on the default service supply

¹ Order Conditionally Authorizing Merger and Disposition of Jurisdictional Facilities, *Constellation Energy Corp.*, Docket No. EC25-43-000, 192 FERC ¶ 61,074 (July 23, 2025).

procurements in the PJM wholesale market that the Pennsylvania local utilities conduct to meet their provider of last resort obligations for retail consumers. Constellation and Calpine may be participants in such default service procurements in Pennsylvania.² During the FERC proceeding, the PA OCA emphasized the importance of this market and requested an evidentiary hearing to investigate whether the Transaction would lessen competition in Pennsylvania's default service procurements. Remedies focused solely on wholesale generation markets may not address potential competitive harms in the local utility wholesale supply procurements, absent further evidence regarding the competitiveness of the same and the participation of Constellation and Calpine in that market.

Similarly, the Settlement and CIS do not address the potential impacts of the Transaction on Pennsylvania's retail electricity market. Constellation and Calpine are not only wholesale generators but are also retail electricity suppliers in Pennsylvania. Retail electric supply is a distinct, relevant product market from wholesale sales of electricity for purposes of assessing the impact on competition resulting from a merger of generation owners and suppliers. Addressing potential competitive harm in wholesale markets through divestiture may not resolve concerns regarding reduced competition in Pennsylvania's retail electricity markets.

The PA OCA will continue to consider these unresolved issues and the appropriate state and federal administrative forums in which the PA OCA may pursue its concerns to ensure that competition in Pennsylvania's retail electricity market and wholesale supply procurements is adequately protected. Again, the PA OCA thanks the Antitrust Division for its important work in this matter.

Respectfully submitted,

/s/ Olivia M. Spergel

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² The names of, and prices bid by, the participants in the competitive supply auctions for default service in Pennsylvania are confidential, so the OCA, at this time, does not know whether Constellation and Calpine are participants in the Pennsylvania EDC wholesale supply procurement auctions market.