



**Monitoring  
Analytics**

Monitoring Analytics, LLC  
2621 Van Buren Avenue, Suite 160  
Valley Forge Corporate Center  
Eagleville, PA 19403  
Phone: 610-271-8050  
Fax: 610-271-8057

**MARKET MONITORING UNIT NOTIFICATION TO PJM MEMBERS OF DISCLOSURE  
OF CONFIDENTIAL INFORMATION PURSUANT TO OPEN ACCESS  
TRANSMISSION TARIFF ATTACHMENT M-APPENDIX SECTION I.B**

Dated: July 13, 2011

Pursuant to section 1.B. of the PJM Open Access Transmission Tariff Attachment M-Appendix, the Market Monitoring Unit (MMU) hereby notifies PJM Members that it has received a data request from Exelon Corp. (Exelon) and Constellation Energy Group, Inc. (CEG) in connection with the proceeding convened by the Public Service Commission of Maryland to review the proposed merger of Exelon and CEG (Case No. 9271). The MMU's compliance with this request would result in the disclosure to Exelon, CEG and other parties to the proceeding of certain market sensitive information that is otherwise required to be maintained in confidence. A copy of the data request is attached to this transmittal, as well as a copy of the protective agreement currently effective in this proceeding.



J. Joseph Curran, III  
Phone: (410) 332-8629  
Fax: (410) 332-8178  
JCurran@saul.com  
www.saul.com

July 12, 2011

*VIA E-MAIL*

Jeffrey W. Mayes, Esq.  
Monitoring Analytics, LLC  
2621 Van Buren Avenue, Suite 160  
Valley Forge Corporate Center  
Eagleville, PA 19403

**Re: Maryland Public Service Commission Case No. 9271 – First Set of Data Requests to Monitoring Analytics, LLC from the Applicants, Exelon Corporation, Constellation Energy Group, Inc., Baltimore Gas and Electric Company, and Exelon Energy Delivery Company, LLC**

Dear Mr. Mayes:

Accompanying this letter is the First Set of Data Requests from Exelon Corporation, Constellation Energy Group, Inc., Baltimore Gas and Electric Company, and Exelon Energy Delivery Company, LLC (collectively, “Applicants”) to Monitoring Analytics, LLC (“Monitoring Analytics”) in the above-captioned case. For each response, please state the question being answered followed by the response on the same page. For each separate answer, please identify the name and title of the principal person who supplied the information for the answer.

Please provide, consistent with Order No. 84154, electronic and hard copies of all responses within ten (10) business days, or sooner if possible. All responses should be directed to: J. Joseph Curran, III, attorney for the Applicants.

With respect to the data requests that seek the production of documents, the term “document” means any writing whatsoever (including any study, report, memorandum, letter, or any information stored in a computer) in the possession or control of, or available to, Monitoring Analytics, its affiliates, contractors, and/or consultants.

If any documents identified in responding to these data requests include electronic spreadsheet files, please leave all formulas intact and provide any additional documents or spreadsheets relied upon in deriving the formulas or inputs in the originally identified spreadsheet.

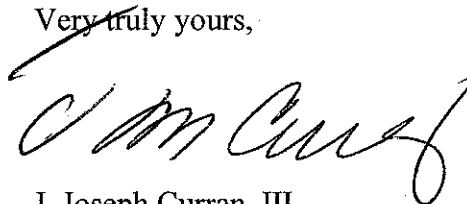
With respect to any data request asking for an explanation or opinion of a witness, please identify all facts or documents that form the basis for or otherwise support the response.

These requests are continuing in nature. Please update any responses as necessary to provide the Applicants with the most current information available to Monitoring Analytics.

If you refuse to respond to any data request by reason of a claim of privilege, or for any other reason, state in writing the type of privilege claimed and the facts and circumstances you rely upon to support the claim of privilege or the reason for refusing to respond. With respect to requests for documents to which you refuse to respond by reason of claim of privilege, identify each such document, including the date of the document, its subject matter, its recipient(s) and its sender(s), and state the basis for the claim. Please identify any objections or claims of privilege within five (5) business days, consistent with Order No. 84154.

If you need any clarification, have any questions, or anticipate any delay in responding, please contact me at the above phone number and/or email address.

Very truly yours,



J. Joseph Curran, III  
Attorney for the Applicants

Enclosure

cc: Service List – Case No. 9271

**Exelon Corporation, Constellation Energy Group, Inc., Baltimore Gas and Electric  
Company, and Exelon Energy Delivery Company, LLC**  
**First Set of Data Requests**  
**To: Monitoring Analytics, LLC**  
**Application of the Merger of Exelon Corporation and Constellation Energy Group, Inc.**  
**Maryland PSC Case No. 9271**

**July 12, 2011**

1. Please identify and furnish copies of all hourly sales data you intend to rely upon for calculating PJM aggregate energy market shares and HHIs. As indicated in the Introduction above, these data (and all other data requested below) should be provided for each hour of the period January 1, 2010 through June 30, 2011, and for any additional pre-January 1, 2010 or post-June 30, 2011 periods if you intend to rely on such data in your analysis.
2. Please identify and furnish copies of all offer price and quantity data you intend to rely upon for calculations residual supply indices for the PJM aggregate energy market.
3. Please identify and furnish copies of all offer data you intend to rely upon to develop the PJM aggregate energy market supply curve.
4. Please identify and furnish copies of any other data you intend to rely upon in any part of your analysis of the PJM aggregate energy market.
5. Please identify and furnish copies of all data you intend to rely upon to examine locational energy markets within PJM. This should include but not be limited to relevant data used by PJM dispatchers to alleviate transmission constraints cost effectively.
6. Please identify and furnish copies of all data you intend to rely upon to analyze PJM-wide or locational capacity markets within PJM.
7. Please identify and furnish copies of all data you intend to rely upon to analyze regulation markets within PJM. If several measures of regulation service capability, offers or sales are identified, state which measures your analysis will place the most significant weight on and explain why.
8. Please identify and furnish copies of all data you intend to rely upon to analyze spinning reserve markets. If multiple measures are cited, state which measures your analysis will place the most weight on and explain why.
9. Please identify any other ancillary service market you intend to analyze and furnish copies of all data you intend to rely upon in analyzing those markets. If multiple measures are cited, state which measures your analysis will place the most weight on and explain why.

10. Please identify with specificity the sellers to which your analysis will attribute the output, offers and capabilities of all jointly-owned generation units in PJM. State the basis for those attributions and provide all supporting documentation.
11. Please identify with specificity all generation units in PJM, other than jointly-owned units covered by request number 10, which in your analysis will have their output, offers or capabilities attributed to a seller other than the unit's owner. State the basis for those attributions and provide all supporting documentation.
12. Please identify the specific time periods (hours, days or time span) you now intend to rely upon in your analysis of each of the following:
  - a. PJM aggregate energy market, historical data analysis.
  - b. PJM aggregate energy market, supply curve analysis.
  - c. PJM locational energy markets.
  - d. PJM aggregate capacity market.
  - e. PJM locational capacity markets.
  - f. PJM regulation market or markets.
  - g. PJM spinning reserve market or markets.

**BEFORE THE  
PUBLIC SERVICE COMMISSION  
OF MARYLAND**

**IN THE MATTER OF THE MERGER OF        )  
EXELON CORP. AND CONSTELLATION        )  
ENERGY GROUP, INC.                        )**

**Case No. 9271**

**PROTECTIVE AGREEMENT**

WHEREAS, certain parties in the above-captioned proceeding have requested data and documents in the above-captioned matter relating to the application by Exelon Corporation (“Exelon”), Exelon Energy Delivery Company, LLC (“EEDC”), Constellation Energy Group, Inc. (“Constellation”), and the Baltimore Gas and Electric Company (“BGE”) (collectively, the “Applicants”). Certain of the requested data and documents or portions thereof contain commercially sensitive information and are confidential and proprietary to the Applicants, as well as any other affiliate, subsidiary or assign of the Applicants (individually, a “Producing Party” and collectively, the “Producing Parties”). In addition, certain of the requested information may include materials designated as containing Critical Energy Infrastructure Information (“CEII”), as defined in 18 C.F.R. § 388.113(c)(1). In an effort to provide certain of the requested information regarding the merger of Exelon and Constellation while protecting the confidential information of the Producing Parties and of CEII material, the Producing Parties agree to release or provide for inspection and review certain materials that shall be treated as confidential or CEII in accordance with this Protective Agreement (“Agreement”).

THEREFORE, IT IS HEREBY AGREED, certain of the requested materials shall only be provided subject to the following conditions:

1. Protected Materials. All confidential information and CEII made available subject to

the terms of this Protective Agreement hereinafter shall be referred to as "Protected Materials." Any such Protected Materials provided by a Producing Party shall be clearly identified as "CONFIDENTIAL," "CONFIDENTIAL – Attorneys' Eyes Only," or "CEII," as appropriate. Protected Materials shall include any portion of any notes, memoranda, analyses or any other writing (including deposition transcripts), prepared by any person which includes any information from documents provided pursuant to this Protective Agreement or any knowledge derived from such documents (collectively, "Derived Materials"). Protected Materials shall not include any information which now, or prior to these proceedings, is or was public knowledge, or which becomes public knowledge as a result of publication or intentional disclosure by the Interested Parties. A Reviewing Party shall be defined upon its execution of this Protective Agreement. If a Reviewing Party is a Maryland agency subject to the Maryland Public Information Act ("Act") as set forth in Maryland Code, Sections 10-611 *et seq.* of the State Government Article, Protected Materials shall not include public records, as defined in the Act, for which disclosure is required under the Act.

a. Protected Materials will only be made available to a "Reviewing Party."

b. A Reviewing Party shall be permitted access to Protected Materials only through its "Authorized Representatives." Authorized Representatives of a Reviewing Party include the Reviewing Party's counsel of record and associated attorneys, paralegals, economists, statisticians, accountants, consultants, or other persons retained by a Reviewing Party and directly assisting a Reviewing Party.

c. Each person who inspects the Protected Materials, including all Authorized Representatives, shall first agree in writing to the following Certification:

I certify my understanding that the Protected Materials are provided to me pursuant to the terms and restrictions of the

Protective Agreement in Case No. 9271 dated \_\_\_\_\_, 2011, and I have read and understand the Protective Agreement and I agree to be bound by that Protective Agreement. I understand that the contents of the Protected Materials, including any portion of any notes, memoranda, analyses or any other writing (including deposition transcripts), prepared by any person which includes information from the Protected Materials, either taken directly or derived in some other form, and any knowledge derived from the Protected Materials, shall not be disclosed to anyone other than in accordance with the Protective Agreement and shall be used only for the purpose of the proceedings in Case No. 9271. I understand that the obligations in the Protective Agreement and this Certification are ongoing in nature and shall continue in full force and effect, and that to the extent I retain knowledge of the information contained in Protected Materials, I will not use or divulge such information in any other proceeding or for any other purpose. By signing this Certification I represent that I am not a Restricted Person, as that term is defined in the Protective Agreement and/or 18 C.F.R. § 388.113, and that I will not disclose any information designated as CEII to a Restricted Person.

I understand that the restrictions in the Protective Agreement and in this Certification will not apply to any Protected Materials subsequent to the time, if any, such Protected Materials are intentionally disseminated publicly by a Producing Party who has declared the material to be confidential or are disclosed pursuant to lawful order of the Public Service Commission of Maryland, its designated Discovery Judge, or a court of competent jurisdiction; subpoena; or an agreement of the parties.

I agree to comply with this Protective Agreement and understand that a Producing Party will enforce its rights under the Protective Agreement and will pursue any available remedies to address material violations, including, but not limited to, pecuniary damages, attorneys' fees and injunctive relief.

d. A copy of each executed, written Certification shall be provided to counsel for the Producing Parties. Any Authorized Representative may disclose materials only to any other person who is an Authorized Representative, provided that if the person to whom disclosure is to be made has not executed and provided for delivery of a written Certification to the Producing Parties, that written Certification shall be executed prior to any disclosure. In the



event that any person to whom such Protected Materials are disclosed ceases to be an Authorized Representative, access to such materials by such person shall be terminated and he or she immediately shall return or destroy any Protected Materials in his or her possession in accordance with Paragraph 11. Any person who has agreed to the foregoing Certification shall continue to be bound by the provisions of this Protective Agreement, even if no longer so engaged.

e. Upon execution of this Protective Agreement and the Certification by the person receiving the documents, any and all requested materials will be provided to the Reviewing Party, without delay, in the ordinary course of discovery and pursuant to any Orders or rulings, if any, of the Maryland Public Service Commission ("PSC").

f. If the Reviewing Party, or its Authorized Representative(s), makes notes containing Protected Materials or the information contained therein, any portion of those notes and the portion of any copies of those notes that contain Protected Materials shall all be considered "Protected Materials" as defined in Paragraph 1 herein.

g. All Protected Materials shall be made available to the Reviewing Party solely for the purposes of the proceedings in Case No. 9271. The Protected Materials, including any Derived Materials, are to be treated confidentially by the Reviewing Party and shall not be disclosed or used by the Reviewing Party except as permitted and provided in this Protective Agreement. A Reviewing Party must take all reasonable precautions to ensure that Protected Materials, including Derived Materials are not viewed, taken by, or communicated to any person other than an Authorized Representative of the Reviewing Party.

2. Attorneys' Eyes Only Protected Materials. Any Producing Party may designate Protected Materials as "Attorneys' Eyes Only" when the Producing Party reasonably

believes that the disclosure of the Protected Materials to anyone other than counsel or a designated Authorized Representative for a Reviewing Party could be especially detrimental or harmful to the Producing Party. Counsel for the Reviewing Party shall be subject to the restrictions regarding Protected Materials described in this Agreement and further shall not disclose or permit the disclosure of any Protected Materials designated as "Attorneys' Eyes Only" to any other person or entity except:

a. disclosure may be made to employees of counsel for the Reviewing Party who are involved in providing service to the Reviewing Party,

b. disclosure may be made to a designated Authorized Representative and his/her employees who are involved in providing consulting service to the Reviewing Party, provided

i. the Producing Parties are first informed of the identity of the designated Authorized Representative so as to ensure that the designated Authorized Representative is not or may not become a competitor or affiliated with a competitor of the Producing Party;

ii. if any Producing Party determines that a designated Authorized Representative designated under this paragraph is or may become a competitor or affiliated with a competitor of the Producing Party, the Producing Party and the Reviewing Parties shall work together to put in place additional confidentiality protections so as to allow the designated Authorized Representative access to the Attorneys' Eyes Only information; and

iii. the designated Authorized Representative and his/her employees sign the Certification described above and shall be subject to the restrictions regarding Protected Materials described in this Agreement and further shall not disclose or permit the disclosure of

any Protected Materials except as set forth in this Protective Agreement.

3. Critical Energy Infrastructure Information – CEII. Intervenors and interested persons may also seek information that includes CEII, as defined in 18 C.F.R. §388.113(c)(1).<sup>1</sup> An Authorized Representative shall be subject to the restrictions regarding Protected Materials described in this Agreement with respect to CEII and, additionally, to the restrictions set forth in paragraphs 3 and 4 of this Agreement. Information deemed as “CEII” may be made available for inspection and review by an Authorized Representative at a location to be agreed upon by the Producing Parties and the Reviewing Party. Provided, further, any Producing Party may, by subsequent objection or motion, seek further protection with respect to CEII, including, but not limited to, total prohibition of disclosure to a Restricted Person or limitation of disclosure only to particular Authorized Representatives. A “Restricted Person” is any person who poses a security risk, including, but not limited to, a person identified as potentially misusing information in planning an attack on critical infrastructure or a person who has been denied access to CEII by the Federal Energy Regulatory Commission. The burden to establish a Reviewing Party or Authorized Representative as a “Restricted Person” shall be on the Producing Party.

4. CEII may be made available to an Authorized Representative for inspection and review but not copied, except as specified herein. The Producing Party producing the materials may, but is not required to, permit other Reviewing Parties’ counsel to take custody of CEII; the

---

<sup>1</sup> 18 C.F.R. §388.113(c)(1) defines “Critical Energy Infrastructure Information” as specific engineering, vulnerability, or detailed design information about proposed or existing critical infrastructure that: (i) Relates details about the production, generation, transportation, transmission, or distribution of energy; (ii) Could be useful to a person in planning an attack on critical infrastructure; (iii) Is exempt from mandatory disclosure under the Freedom of Information Act, 5 U.S.C. 552; and (iv) Does not simply give the general location of the critical infrastructure. Moreover, 18 C.F.R. §388.113(c)(2) defines “Critical Infrastructure” as existing and proposed systems and assets, whether physical or virtual, the incapacity or destruction of which would negatively affect security, economic security, public health or safety, or any combination of those matters.

information shall not be copied except that Authorized Representatives who are independent consultants and who are assisting counsel with the preparation or presentation of the Reviewing Party's case in these proceedings may, if authorized by the Producing Parties, make copies. Notwithstanding the immediately preceding sentence, CEII may be copied by an Authorized Representative when agreed to by the Parties. All copies of CEII shall also be deemed to be CEII.

5. All copies containing CEII shall be maintained by the Reviewing Party and Authorized Representative in a secure place. CEII information is on loan to the Reviewing Party and Authorized Representative and shall either be returned to the Producing Parties or destroyed in accordance with Paragraph 11 of the Protective Agreement. The parties intend that Paragraphs 3, 4, and 5 of the Protective Agreement are consistent with the regulations and practices of the Federal Energy Regulatory Commission, 18 C.F.R. §§ 388 *et seq.*, and that any challenge under Paragraphs 3, 4, or 5 of the Protective Agreement shall be governed by those rules and regulations.

6. The Producing Party shall bear the burden of proof in connection with any challenge to the designation of Protected Materials as such. Material shall be designated as "CONFIDENTIAL," "CONFIDENTIAL – Attorneys' Eyes Only," or "CEII," and thereby attain the status of Protected Material only if the Producing Party reasonably believes there is a legally recognized basis in law supporting the "CONFIDENTIAL," "CONFIDENTIAL – Attorneys' Eyes Only," or "CEII" designation. If only a portion of the material includes such Protected Material, then the Producing Parties will make reasonable efforts to designate only such portion as Protected Material and the remainder of the material shall not be designated Protected Material. Disputes over the designation of materials as "Confidential," "Confidential –

Attorneys' Eyes Only," or "CEII" shall be treated as a discovery dispute in Case No. 9271.

7. After completion of the discovery phase of this proceeding, this Protective Agreement shall continue in full force and effect, and Protected Materials shall remain protected.

8. Unless otherwise ordered by the PSC or Discovery Judge, or any court of competent jurisdiction, or otherwise agreed upon by the parties, Protected Materials shall only be used or disclosed in hearings or other proceedings which may occur in accordance with this Paragraph. In any phase of this proceeding, including the filing of testimony, the conduct of a hearing or the submission of initial or reply briefs or memoranda on appeal or replies thereto, any filing containing Protected Materials shall be made by submission of a public, non-confidential copy with any Protected Materials excised and a confidential copy kept under seal by the PSC and only available to persons bound by this Protective Agreement or by a similar protective agreement executed in this proceeding. Any hearings or other proceedings in which Protected Materials will be discussed will be *in camera* unless otherwise ordered by the PSC or the Discovery Judge, or any court of competent jurisdiction, or otherwise agreed upon by the parties. Transcripts of those hearings or other proceedings will be made to provide for public, non-confidential copies and confidential copies kept in a manner set forth above, unless otherwise ordered by the PSC or the Discovery Judge, or any court of competent jurisdiction, or otherwise agreed upon by the parties.

9. Notwithstanding any other provision in this Agreement, a Reviewing Party or its Authorized Representatives may disclose Protected Materials if necessary to comply with any applicable law, order, ruling, or subpoena of a governmental authority or tribunal with competent jurisdiction. In the event that a Reviewing Party or its Authorized Representative(s) is so requested or required to disclose any Protected Materials, the Reviewing Party or its Authorized

Representative(s) shall, to the extent permitted by law, promptly notify the Producing Parties of such request or requirement prior to disclosure so that the Producing Parties may, if they so elect, seek an appropriate protective order or otherwise seek to contest, limit, or protect the confidentiality of the Protected Materials. With respect to any disclosure made by a Reviewing Party pursuant to this Paragraph, the Reviewing Party and its Authorized Representative(s) agree to furnish only that portion of the Protected Materials that is reasonably determined to be consistent with the scope of the subpoena or demand.

10. Nothing in this Protective Agreement shall be construed as precluding any Producing Party from objecting to the use of the Protected Materials on any legal ground other than confidentiality or the CEII nature of the materials.

11. Unless otherwise agreed upon by the parties, within thirty (30) days after a final, PSC Order in this proceeding, and the exhaustion of any appeals thereof, the Reviewing Party shall, at the discretion of the Producing Parties, either return all Protected Materials to the Producing Parties or destroy all Protected Materials, except that any Derived Materials shall be destroyed by that party. When requested, the Reviewing Party shall certify to the Producing Parties that all such materials have been destroyed. However, to the extent that any testimony, hearing transcripts, briefs, memoranda on appeal or any other documents containing Protected Material are submitted into the record in this proceeding as prescribed in Paragraph 8, such documents need not be returned to the Producing Parties or destroyed.

[INTENTIONALLY LEFT BLANK – SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto, by their undersigned counsel, have executed the foregoing Protective Agreement this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Company/  
Organization: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Phone: \_\_\_\_\_

Counsel for: \_\_\_\_\_

*Darryl M. Bradford /psc*

Darryl M. Bradford  
Exelon Corporation  
Chase Tower  
10 South Dearborn, 54<sup>th</sup> Floor  
Chicago, IL 60603  
(312) 394-7541

*David O. Dardis /psc*

David O. Dardis  
Constellation Energy Group, Inc.  
111 Market Place  
Suite 500  
Baltimore, MD 21202  
(410) 470-3416

*Daniel P. Gahagan /psc*

Daniel P. Gahagan  
Baltimore Gas and Electric Company  
2 Center Plaza, 13<sup>th</sup> Floor  
110 West Fayette Street  
Baltimore, MD 21201  
(410) 470-5012

*J. Joseph Curran, III*

J. Joseph Curran, III  
Saul Ewing LLP  
500 East Pratt Street, 8th Floor  
Baltimore, MD 21202  
(410) 332-8629  
Attorney for the Applicants

**PROTECTIVE AGREEMENT CERTIFICATION**

I certify my understanding that the Protected Materials are provided to me pursuant to the terms and restrictions of the Protective Agreement in Case No. 9271 dated \_\_\_\_\_, 2011, and I have read and understand the Protective Agreement and I agree to be bound by that Protective Agreement. I understand that the contents of the Protected Materials, including any portion of any notes, memoranda, analyses or any other writing (including deposition transcripts), prepared by any person which includes information from the Protected Materials, either taken directly or derived in some other form, and any knowledge derived from the Protected Materials, shall not be disclosed to anyone other than in accordance with the Protective Agreement and shall be used only for the purpose of the proceedings in Case No. 9271. I understand that the obligations in the Protective Agreement and this Certification are ongoing in nature and shall continue in full force and effect, and that to the extent I retain knowledge of the information contained in Protected Materials, I will not use or divulge such information in any other proceeding or for any other purpose. By signing this Certification I represent that I am not a Restricted Person, as that term is defined in the Protective Agreement and/or 18 C.F.R. § 388.113, and that I will not disclose any information designated as CEII to a Restricted Person.

I understand that the restrictions in the Protective Agreement and in this Certification will not apply to any Protected Materials subsequent to the time, if any, such Protected Materials are intentionally disseminated publicly by a Producing Party who has declared the material to be confidential or are disclosed pursuant to lawful order of the Public Service Commission of Maryland, its designated Discovery Judge, or a court of competent jurisdiction; subpoena; or an agreement of the parties.

I agree to comply with this Protective Agreement and understand that a Producing Party will enforce its rights under the Protective Agreement and will pursue any available remedies to address material violations, including, but not limited to, pecuniary damages, attorneys' fees and injunctive relief.

Printed Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Company/ \_\_\_\_\_

Organization: \_\_\_\_\_

Date: \_\_\_\_\_