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Constellation Energy

October 18, 2010

Ms. Elizabeth M. Murphy
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-109

Reference: File No. 4-608: Notice of Solicitation of Public Comment on Consideration of Incorporating IFRS into the Financial Reporting System for U.S. Issuers

Dear Ms. Murphy:

Constellation Energy Group, Inc. ("Constellation Energy") and its regulated affiliate, Baltimore Gas and Electric Company ("BGE"), respectfully submit comments on the Securities and Exchange Commission ("SEC") Notice of Solicitation of Public Comment on Consideration of Incorporating IFRS into the Financial Reporting System for U.S. Issuers. A FORTUNE 500 company headquartered in Baltimore, Maryland, Constellation Energy had revenues of $15.6 billion in 2009.

Constellation Energy is a leading competitive supplier of energy products and services to wholesale and retail electric and natural gas customers in the United States. In addition, we own a diversified fleet of generating units located throughout the United States. Constellation Energy also has a significant utility operation that is subject to rate regulation. BGE is a regulated electric transmission and distribution utility company and a regulated gas distribution utility company delivering electricity and natural gas to over 1.2 million electric customers and more than 650,000 gas customers in central Maryland.

Overall Comments

The request for comments asked for information on how the possible incorporation of IFRS into U.S. financial reporting could impact issuers' compliance with contractual arrangements that require the use of GAAP; issuers' compliance with corporate governance requirements; and, the application of certain legal standards tied to amounts determined for financial reporting purposes. In order to respond to the Request for Comment, we performed an internal review across our operations. However, we did not perform a detailed examination of all contractual arrangements and thus may not have identified all instances where a change from U.S. GAAP to another basis of accounting could have significant impact. Based on our review, we identified the following areas that likely would be impacted by a move to IFRS:

- Utility regulation
- Credit facility compliance and covenants
- Requirements to provide U.S. GAAP financial statements

We present our specific comments below.

<u>Utility Regulation</u>

Background

The activities of utilities, including BGE, are regulated by both state (i.e. Maryland Public Service Commission) and federal government agencies (i.e. Federal Energy Regulatory Commission, or "FERC"). Generally the regulators use the utility's accounting records as a starting point for making decisions regarding the amount, timing, and appropriateness of those activities within their jurisdiction. Examples of the activities that are subject to regulation and the extent the regulation considers accounting data include:

- The rates which regulated utilities charge their customers are based upon the utility's actual prudently incurred costs and prudent capital investments, plus a return on the utility's investments. These rates are set during a legal proceeding (rate case) which involves regulators and other interested parties analyzing and reviewing the utility's financial statements to determine the appropriate level of future rates.

- A formula rate mechanism, approved by the FERC is used to set rates for the utility's electric transmission business. The formula rate mechanism updates transmission rates annually based on the utility's historical financial statement data, including assets, liabilities, equity, revenue, and expenses.

- Some utilities have dividend restrictions which require compliance with specific financial metrics, such as the maintenance of a certain equity ratio, in order to make a dividend payment to its shareholders. The calculation of those metrics often uses the accounting balances as its starting point.

- Formulas to allocate costs (e.g., holding company/shared services expenses) among affiliates and jurisdictions may be based on financial statement data such as assets, equity, and gross margin.

- Certain tax rates and assessment factors rely on information from the FERC Form 1, a uniform financial reporting obligation imposed on all utilities that is based upon the utility's accounting records.

- Many utilities are obligated to provide market-based standard offer service (SOS) to those electric customers who elect not to select a competitive energy supplier. Bidding to supply the utility's SOS occurs from time to time through a competitive bidding process approved by the regulator. The terms of the auction often require the bidders to provide U.S. GAAP financial statements in order to determine the amount of unsecured credit based on tangible net worth. If an entity provides financial statements based on a different basis of accounting, e.g. IFRS, then the entity presently does not receive unsecured credit and thus must post additional collateral.

Impact of Incorporating IFRS

As the accounting data forms the starting point for many regulatory decisions, a change in the accounting data from U.S. GAAP to IFRS will have the potential for significant impact on the regulatory process. The following steps illustrate the timeline needed to address potential changes in accounting standards:

- First, the utility will need to understand the change in the accounting data and the related impact on concepts such as rate base, amount and treatment of expenses, operating income, and capital structure that are calculated from that data. This process may involve compiling a historical "test year" using IFRS data, a representative prior period that is used to calculate the revenue required to cover the utility's costs.

- Second, the utility will need to educate the regulators regarding the current and expected changes in the accounting data. The amount of time needed for this step could vary based on the number of differences between U.S. GAAP and IFRS, the number of regulatory jurisdictions involved, the availability of regulator staff resources, and the familiarity of the regulators with IFRS.

- Third, the regulatory body would likely initiate a public hearing to review and approve any proposed adjustments to the required calculations. Separate hearings could be required for each activity described above. Such hearings generally follow regimented procedural schedules in order to provide appropriate due process for assembling a record of evidence upon which the regulator ultimately will base its decisions. For example, the utility generally would file a request with the regulatory agency documenting the changes in the opening accounting data and how these changes should be handled for regulatory purposes, including setting rates or amending dividend restrictions and cost allocations. The request will be studied by the regulatory body's staff, often with the assistance of third party consultants related to technical matters. At this point, other interested parties such as broad customer groups, a consumer advocate, and the regulatory commission's staff, could file testimony with the regulatory body for consideration in their review. Typically, the regulator then would set a schedule for several rounds of hearings at which witnesses for each party testify and are cross-examined by attorneys representing other parties. Then all parties have an opportunity to present rebuttal witnesses and evidence. Ultimately the regulatory body will make the final decision.

Based on prior experiences with changes in accounting and other regulatory hearings, the public process would likely take greater than a year including the initial scheduling, actual hearings, and final deliberations by the regulatory body. We believe this is particularly likely given the potential for pervasive change resulting from adoption of IFRS (as compared to the more limited effects of adopting single accounting standards within GAAP) and the possible scarcity of qualified resources available to regulatory commissions and their staff due to country-wide implementation of IFRS.

Conclusion
The process of updating regulatory metrics and inputs to implement a change in accounting from U.S. GAAP to IFRS is likely to be time consuming given the fiduciary duty of the regulatory body to thoroughly understand all changes and ensure each is in the best interest of customers. Also, the public nature of these hearings and the need to obtain and assess the input of all affected parties contributes to the estimated time that would be required. This process could not begin until the utility has a thorough understanding of IFRS and thus the ability to put together calculations of the impact of IFRS for review by the regulatory body.

<u>Credit Facility Compliance and Covenants</u>
Background
Similar to most energy companies, Constellation Energy and BGE use bank loans, commercial paper, bank lines of credit, and long-term debt to fund portions of their business. The credit agreements often contain calculations which incorporate data contained in the financial statements. Examples of these calculations include:

- Compliance covenants which restrict the company from exceeding a certain debt to equity ratio. The starting point for this metric is generally the book value of debt and equity as reported in the GAAP financial statements with specific adjustments as agreed by the parties. Failure to comply with these covenants can result in the acceleration of the maturity of the borrowings outstanding or preclude the company from taking additional borrowings.
- The determination of material subsidiaries using book value of assets and net income. Material subsidiaries are not permitted to take specific actions including certain transfers or dispositions of assets and incurring certain liens without the consent of the lenders.

Impact of Incorporating IFRS
The negotiations for the covenants in existing credit agreements considered current and projected balances from the U.S. GAAP financial statements. A change from U.S. GAAP to IFRS would change the balances reported in the financial statements, particularly equity, which could substantially impact compliance with covenant ratios and the identification of material subsidiaries, both in the initial period of adoption as well as over the life of the credit agreement.

Currently upon a change in accounting principle, the company can notify the lenders and request an amendment to the covenant to eliminate the effect of the change in accounting principle. Once that notification is made then compliance with the ratio is determined on the basis of the accounting principles in effect prior to the change until either the company withdraws the notice or the ratio is amended in a manner acceptable to the company and the lenders.

A key step in amending the ratios is to consider whether the company would be in compliance with the covenant over the life of the credit agreement. This forecast could be challenging for IFRS due to the number of elective exemptions available upon an initial conversion as well as the differences in key standards. For instance, a significant U.S. GAAP - IFRS difference that impacts energy companies is the definition of a derivative, which could change the amount and timing of future earnings and thus future equity as well as which contracts are recognized as assets and liabilities in the financial statements.

There could also be a financial cost associated with seeking an amendment to the ratio requirement depending on the willingness of the lenders to agree to the amendments. While specific circumstances would be determined by the provisions of the credit agreements, it is possible that the renegotiation could be used as an opportunity to change the original mechanics and economics of the calculations or even to limit or withdraw the amount of credit available.

We note that bank loans, commercial paper, and bank lines of credit generally have shorter periods to maturity than long-term debt, and thus these credit agreements often are renegotiated more frequently. To the extent the timeline for adoption of IFRS were to exceed the term of these agreements, entities would be able to address covenant compliance issues in the normal negotiation process. This could help to minimize the need for a separate amendment process for many agreements, thereby reducing the impact of the concerns noted above. As such, we recommend the SEC consider the average terms for typical credit agreements, excluding long term debt, as well as the cycle for replacement of such agreements, in determining an appropriate timeline for conversion to IFRS.

Conclusion
A conversion to IFRS will impact the calculations established in existing credit agreements. Borrowers will need to obtain a thorough understanding of the differences between U.S. GAAP and IFRS as well as the specific elections the company may select upon a conversion to IFRS in order to forecast the results of the calculations using IFRS balances. This work would have to be completed to support a company's ability to determine the need for, propose, and negotiate any necessary amendments of credit terms prior to actually adopting IFRS.

Requirement to Provide U.S. GAAP Financial Statements
Background
There are a number of contracts in the energy industry that contain requirements to provide U.S. GAAP financial statements for compliance purposes including the following:

- Commodity contracts for the purchase and sale of commodities including power, natural gas, coal, and other related commodities. These commodity contracts generally require each party to provide audited financial statements in order to verify and monitor credit worthiness. Many of these contracts specifically state U.S. GAAP as the accounting basis for the financial statements.
- Many energy companies hold partnership investments in electric generation projects considered qualifying facilities under the Public Utility Regulatory Policies Act of 1978. These partnership investments are generally joint ventures where the parent companies account for the investments using the equity method of accounting. The partnerships generally require standalone audited financial statements both for compliance with borrowing arrangements and per the operating agreement to support the parent companies' financial reporting.

Impact of Incorporating IFRS
At a minimum, the commodity contracts and partnership operating agreements would need to be amended either to remove the specific reference to U.S. GAAP or to include a reference to IFRS. As the incorporation of IFRS would be industry wide for public energy companies, time would

be required to work through industry trade groups and other interested parties to develop and implement an industry wide solution. Additionally, there could be complexities in situations that involve a mix of either public and private companies and accelerated filers and nonaccelertated filers, either as counterparties to the commodity contracts or parents in the partnerships.

- If private companies continue to follow U.S. GAAP as issued by the FASB or another body and public companies follow IFRS as issued by the IASB, then employees, particularly credit analysts, will need to maintain an understanding of both sets of accounting in order to analyze the financial statements. Also, partnerships would need to maintain dual records under both U.S. GAAP and IFRS.
- If the conversion timeline is different for accelerated and nonaccelerated filers, the partnership would need to keep dual records over an extended period of time to support both entities during their conversion.

Conclusion

A conversion to IFRS will impact compliance with commodity contracts and partnership operating agreements as well as potentially create situations where dual record keeping is necessary. The cause of the dual reporting is the potential different accounting standards for public companies and private companies. Additionally, employees who review and evaluate financial statements in connection with transaction decision-making and extension of credit will have to become conversant with IFRS and adjust their evaluation techniques, metrics, and calculations to reflect its requirements.

Conclusion

The main contractual areas at Constellation Energy and BGE that could be impacted by a conversion from U.S. GAAP to IFRS, which we believe are typical of other entities in the energy industry, include the regulatory process for utilities, compliance with debt covenants, and the use of financial statements for various aspects of business transactions. In general, we believe that these contractual issues are manageable if adequate time is allowed for an orderly conversion to IFRS and education of constituents including regulatory bodies. The issue of public company IFRS and private company U.S. GAAP will produce challenges including dual record keeping for joint ventures and the need to retain employees, including credit analysts, that are familiar with both sets of accounting standards.

Very truly yours,

/s/ Bryan P. Wright
Vice President, Chief Accounting Officer, and Controller for Constellation Energy

/s/ Anne A. Hahn
Vice President, Controller – Baltimore Gas & Electric Co