

Exhibit No. NES-010

**Answering Testimony of
Constance T. Cannady**

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Constellation Mystic Power, LLC

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Docket No. ER18-1639-000

**PREPARED ANSWERING TESTIMONY AND EXHIBITS
OF
CONSTANCE T. CANNADY**

**ON BEHALF OF
NEW ENGLAND STATES COMMITTEE ON ELECTRICITY**

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LIST OF EXHIBITS

NES-010	Answering Testimony
NES-011	Resume of Connie T. Cannady
NES-012	Record of Testimony of Connie T. Cannady
NES-013	Workpapers of Connie T. Cannady
NES-014	Mystic Data Responses Mystic Resopnse to NES-MYS-1-46 Mystic Response to NES-MYS-1-51 (CUI/PRIV-HC) Mystic Response to NES-MYS-1-19 Mystic Response to NES-MYS-1-20 Mystic Response to NES-MYS-1-9 Mystic Response to NES-MYS-1-12
NES-015	Mystic Response to CUI/PRIV-HC ENC-CM-2-4 0000003135 2.4-2.3.15 Distrigas and Everett 2017 financials
NES-016	CUI/PRIV-HC Mystic Response to ENC-CM-3-10 (Exelon Business Service Company Associate Transaction Procedures Manual)
NES-017	Excerpt from Exelon Notice of Annual Meeting and 2018 Proxy Statement
NES-018	Excerpt from Entergy Texas Response to OPUC-RFI-1-9
NES-019	Excerpt of Exelon Corporation Form 10-Q for the Quarterly Period Ended June 30, 2018
NES-020	Mark-up of Schedule 3A

**Summary of Prepared Answering Testimony of
Constance T. Cannady**

1 Ms. Cannady provides testimony and workpapers on behalf of the New England States
2 Committee on Electricity (“NESCOE”) concerning recommendations as to reasonable and
3 necessary cost considerations for certain rate base items and operating expenses requested by
4 Constellation Mystic Power, LLC (“Mystic”) in its proposed revenue requirements during a
5 cost-of-service (“COS”) period from June 1, 2022 through May 31, 2024 (“COS Period”).
6 Ms. Cannady specifically addresses the manner in which cash working capital should be
7 computed for both Mystic 8&9 and the Everett Marine Terminal (“EMT”), the removal or
8 limitation on certain operating and maintenance (“O&M”) expenses during the COS Period,
9 the treatment of accumulated deferred income taxes and excess deferred income taxes, the
10 capital structure that should be approved for determining the rate of return to be used in the
11 computation of revenue requirements, and certain changes that should be made to Mystic’s
12 proposed true-up methodology.

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**PREPARED ANSWERING TESTIMONY
OF
CONSTANCE T. CANNADY**

I. INTRODUCTION AND QUALIFICATIONS

Q. PLEASE STATE YOUR NAME, OCCUPATION, AND BUSINESS ADDRESS.

A. My name is Constance T. Cannady. I am an Executive Consultant with NewGen Strategies and Solutions, LLC. My office is located at 2803 Bowie Street, Amarillo, Texas 79109.

Q. ON WHOSE BEHALF ARE YOU PRESENTING TESTIMONY IN THIS PROCEEDING?

A. I am testifying on behalf of the New England States Committee on Electricity (“NESCOE”).

1 **Q. PLEASE OUTLINE YOUR EDUCATIONAL AND PROFESSIONAL**
2 **BACKGROUND.**

3 A. Exhibit No. NES-011 provides a description of my qualifications and education. I have
4 been involved in utility regulatory proceedings since 1979 and have conducted analyses
5 of numerous electric, natural gas, and telecommunications rate filings before a number of
6 state regulatory commissions.

7 **Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE A REGULATORY AGENCY?**

8 A. Yes, I have. Exhibit No. NES-012 includes a listing of dockets in which I have provided
9 expert testimony before regulatory bodies.

10 **II. PURPOSE AND SCOPE**

11 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS PROCEEDING?**

12 A. The purpose of my testimony is to present my analysis, findings, and recommendations
13 with respect to Constellation Mystic Power, LLC's ("Mystic") proposed components of
14 rate base, operating expense and federal income taxes requested for inclusion in revenue
15 requirements during the period June 1, 2022 through May 31, 2024 ("COS Period"). I
16 will address these components with respect to both the Mystic 8&9 plants and the Everett
17 Marine Terminal ("EMT"). I will also address the proposed capital structure used by
18 Mystic for its recommended rate of return to be applied during the COS Period. Finally, I
19 will address certain specific components of Mystic's proposed True-Up Mechanism that

1 will be used in reconciling estimated revenue requirements to actual during the
2 COS Period.

3 More specifically, I address the following issues:

- 4 • Mystic's proposed use of the one-eighth method for determining its cash working
5 capital ("CWC") requirement for Mystic 8&9 and EMT;
- 6 • Mystic's proposed additional CWC for estimated lag in liquefied natural gas
7 ("LNG") fuel payments to EMT;
- 8 • Mystic's inclusion of excessive overtime expenses for Mystic 8&9;
- 9 • Mystic's inclusion of incentive pay related to Mystic 8&9 and EMT direct
10 employees, as well as incentive pay expense allocated through overhead charges;
- 11 • Mystic's failure to recognize the amortization of excess deferred income taxes
12 during the COS Period for Mystic 8&9 and EMT;
- 13 • Mystic's proposed capital structure for computing the rate of return ("ROR") for
14 Mystic and EMT;
- 15 • Mystic's proposed expensing of all capital expenditures during the COS Period;
16 and
- 17 • Mystic's proposed True-Up Mechanism.

18 **Q. DOES YOUR TESTIMONY INCLUDE REVIEW AND COMMENT ON ALL**
19 **ISSUES IDENTIFIED IN MYSTIC'S APPLICATION?**

20 A. No. However, failure to address in my testimony any cost or adjustment included in
21 Mystic's proposed revenue requirements for the COS Period does not indicate my
22 acquiescence to Mystic's proposal.

23 **Q. WHAT EXHIBITS ARE YOU SPONSORING?**

24 In addition to my Answering Testimony, I am sponsoring the following Exhibits:

1	Exhibit No. NES-011	Resume of Connie T. Cannady
2	Exhibit No. NES-012	Record of Testimony of Connie T. Cannady
3	Exhibit No. NES-013	Workpapers of Connie T. Cannady
4	Exhibit No. NES-014	Mystic Data Responses
5	Exhibit No. NES-015	Mystic Response to CUI/PRIV-HC ENC-CM-2-4
6		Distrigas and Everett 2017 financials (excerpt)
7	Exhibit No. NES-016	CUI/PRIV-HC Mystic Response to ENC-CM-3-10
8		(Exelon Business Service Company Associate Transaction
9		Procedures Manual)
10	Exhibit No. NES-017	Excerpt from Exelon Notice of Annual Meeting and 2018
11		Proxy Statement
12	Exhibit No. NES-018	Excerpt from Entergy Texas Response to OPUC-RFI-1-9
13	Exhibit No. NES-019	Excerpt of Exelon Corporation Form 10-Q for the
14		Quarterly Period Ended June 30, 2018
15	Exhibit No. NES-020	Mark-up of Schedule 3A

16

17 **Q. WHAT DOCUMENTS WERE PROVIDED TO YOU OR REVIEWED BY YOU**
18 **IN THIS PROCEEDING?**

19 A. I reviewed Mystic's application with focus on the direct testimony prepared by Alan C.
20 Heintz and his attached public and confidential schedules and workpapers. I also
21 reviewed discovery responses to request for information from NESCOE, Eastern New
22 England Consumer-Owned Systems, and FERC Trial Staff, that relate to the manner in

1 which Mystic developed the cost components of its proposed revenue requirements, and I
2 reviewed the testimony of Dr. Charles E. Olson with respect to the capital structure used
3 to determine rate of return. I reviewed Mystic's supplemental testimony and materials
4 with focus on Mr. Heintz's proposed true-up mechanism and protocols and the tank
5 management testimony of Michael M. Schnitzer.

6 In addition to the documents provided in this case, I reviewed a number of state
7 regulatory case files with respect to overtime expenses, incentive pay expenses and the
8 development of cash working capital requests. I also reviewed several FERC opinions
9 that addressed incentive pay and CWC.

10 III. CASH WORKING CAPITAL

11 **A. One-Eighth Methodology**

12 **Q. WHAT IS YOUR UNDERSTANDING OF MYSTIC'S PROPOSED CASH**
13 **WORKING CAPITAL COMPUTATION FOR BOTH MYSTIC 8&9 AND FOR**
14 **EMT?**

15 A. It is my understanding that Mystic has computed a CWC allowance for both Mystic 8&9
16 operations and EMT based on one-eighth of its proposed operations and maintenance
17 ("O&M") expenses excluding fuel expenses. *See* Exhibit No. MYS-006 at 7:24 – 8:2 and
18 at 12:15-16. In addition, for EMT, Mystic is proposing a 15-day lag in the payment for
19 the LNG supplied to customers as a separate proposed CWC requirement. Exhibit No.
20 MYS-006 at 12:17-19. The one-eighth amounts are adjusted each year based on Mystic's
21 proposed escalation of O&M expenses. *See* Exhibit No. MYS-008, Schedule A at 1. The

1 impact of Mystic's use of the one-eighth method for computing CWC results in an
2 increase in the revenue requirement during the COS Period of approximately \$2.4 million
3 for Mystic 8&9 and \$2.3 million for EMT, with an additional revenue requirement of
4 \$4.0 million for the requested 15-day lag between EMT's payment for fuel and receipt of
5 revenue associated with the fuel. *See* Exhibit No. NES-013 at 1 (Schedule CTC-1).

6 **Q. DO YOU AGREE WITH MYSTIC'S PROPOSED COMPUTATION OF CWC?**

7 A. No. Given the parameters of Mystic's request, I do not believe that the one-eighth
8 methodology ("45-day rule") is appropriate. I recommend that the Commission disallow
9 the inclusion of CWC requested from 2017 through the COS Period for both Mystic 8&9
10 and EMT. I also recommend that the Commission disallow the additional CWC
11 requested for alleged fuel costs lag. The impact of my recommendations on Mystic's
12 revenue requirements for the entire period is shown in Exhibit No. NES-013 at 1
13 (Schedule CTC-1) with a total reduction of \$8.9 million.

14 **Q. PLEASE EXPLAIN YOUR RATIONALE FOR CONCLUDING THAT THE**
15 **ONE-EIGHTH METHODOLOGY IS INAPPROPRIATE FOR THIS RATE**
16 **FILING.**

17 A. My recommendation has two bases. First, the one-eighth methodology was originally
18 developed as a proxy in the utility industry for determining CWC and dates back to the
19 late 1930's.¹ This methodology continued to be used by the Commission in the absence
20 of a detailed analysis of the timing differences between the payment of an expense and

¹ *See Interstate Power Co.*, 2 F.P.C. 71, 85 (1939).

1 the receipt of revenues related to the expense from ratepayers. Such detailed “lead lag”
2 studies were burdensome to perform, particularly prior to the advent of personal
3 computers, and those offered in the early years of proposing such studies often included
4 non-cash items that were rejected by the Commission.²

5 In the absence of a reliable lead lag study, the Commission has affirmed the use of the
6 one-eighth method in determining CWC for electric operations.³ However, the
7 Commission mandates that natural gas companies file a lead lag study in order to obtain
8 CWC allowances.⁴ In *Duke Energy Guadalupe Pipeline, Inc.*, the Commission made the
9 following finding with respect to CWC:

10 Section 154.306 of the Commission’s regulations, which applies to NGA
11 rate cases, provides that any natural gas company that files a tariff change
12 may not receive a cash working capital adjustment to its rate base unless
13 such adjustments are accompanied by a fully developed and reliable lead
14 lag study. The Commission adopted this regulation after finding that the
15 one-eighth of current operating expenses methodology overstated the lag
16 in pipelines’ recovery of expenses. Although Part 154 of our regulations
17 does not apply here, the rationale for this policy is to ensure that all of a
18 pipeline’s cost and revenue timing differences are accounted for in
19 developing an appropriate cash working capital allowance. . . Therefore,
20 we will require Guadalupe to remove the working capital allowance of
21 \$1,226,313 from its calculation of rate base.⁵

² See *Southern California Edison Company*, Opinion No. 55, 8 FERC ¶ 61,099 at 61,377; *Southern California Edison Company*, Initial Decision, 3 FERC ¶ 63,033 at 65,209 (1978), *aff’d in relevant part*, Opinion No. 62, 8 FERC ¶ 61,198 (1979), *aff’d*, *Anaheim v. FERC*, 669 F.2d 799 (D.C. Cir. 1981); *Virginia Electric Power Company*, 11 FERC ¶ 63,028, at 65,161 (1980), *aff’d in part, rev. in part* 15 FERC ¶ 61,052 (1981).

³ See *Southwestern Public Service Company*, Opinion No. 501, 123 FERC ¶ 61,047 (2008).

⁴ See *Duke Energy Guadalupe Pipeline, Inc.*, 123 FERC ¶ 61,057 (2008).

⁵ *Id.*, at P 18.

1 Mystic's proposed use of the one-eighth method does not take into account all of its costs
2 and revenue timing differences given the special circumstances in this case.

3 **Q. PLEASE EXPLAIN THE NATURE OF THE SPECIAL CIRCUMSTANCES IN**
4 **THIS CASE THAT SHOULD BE CONSIDERED WHEN DETERMINING THE**
5 **NEED FOR A CASH WORKING CAPITAL REQUIREMENT IN MYSTIC'S**
6 **RATE BASE?**

7 A. Compared to a typical cost of service for electric operations, Mystic's request to expense
8 all capital expenditures for both Mystic 8&9 and EMT during the COS Period greatly
9 enhances Mystic's cash flow during this period. This accelerated payment of Mystic's
10 capital outlay absolutely should be considered when determining the need for a CWC
11 allowance.

12 More specifically, if we assume that the capital expenditures of \$ 29,282,629 for Mystic
13 8&9 during the first year of the COS Period have an average remaining life of 26 years
14 (*See* Exhibit No. MYS-008, Schedule D at 2), then in a typical cost-of-service analysis,
15 this capital amount would be recovered over a 26-year period, at \$1,126,255 per year.
16 But under Mystic's proposal, the entire \$29,282,629 is recovered in total during the first
17 year of the COS Period. This results in over \$28 million of additional revenue being
18 recovered during the first year of the COS Period than would have been recovered using
19 a typical cost-of-service computation. Although depreciation is neither a component of
20 the one-eighth method nor a component of a lead lag study, the recovery of 100% of the
21 depreciable expense of a capital item does significantly increase the cash available for

1 operations, reducing the need for additional cash flow. Under either the one-eighth
2 method or a reliable lead lag study, the impact of expensing all capital expenditures must
3 be taken into consideration. To do so appears to eliminate any additional need for cash
4 working capital.

5 **Q. DOES THE SAME SPECIAL CIRCUMSTANCE EXIST WITH RESPECT TO**
6 **EMT'S PROPOSED CWC?**

7 A. Yes. Mystic also proposes to expense all capital expenditures for EMT during the COS
8 Period. In the first year, Mystic proposes to expense \$7,000,000. Exhibit No. MYS-008,
9 Schedule K at 1. Based on the [BEGIN CUI/PRIV-HC] [REDACTED]
10 [REDACTED]
11 [REDACTED] [END CUI/PRIV-HC] in revenue requirements during
12 the first year of the COS Period rather than the proposed \$7 million.

13 **Q. GIVEN THE ADDITIONAL CASH FLOW YOU HAVE DESCRIBED, WHAT IS**
14 **YOUR RECOMMENDATION WITH RESPECT TO MYSTIC'S PROPOSED**
15 **CWC FOR BOTH MYSTIC 8&9 AND EMT USING THE ONE-EIGHTH**
16 **METHOD?**

17 A. I recommend that the Commission set the CWC for both Mystic 8&9 and EMT at \$0, in
18 the absence of a reliable lead lag study that recognizes the increased cash flow from
19 expensing all capital expenditures during the COS Period. The CWC should be set at \$0
20 from 2017 through and inclusive of the COS Period and should not be a component of
21 any true-up established in the proceeding.

B. Proposed Lag in Fuel Cost Recovery

Q. WHAT IS YOUR UNDERSTANDING OF HOW MYSTIC DEVELOPED ITS PROPOSED 15-DAY LAG RELATED TO EMT FUEL COSTS?

A. Mystic witness Mr. Alan C. Heintz states that the proposed CWC related to the lag in receipt of fuel costs is based on an assumed float of 15 days from the time EMT pays for the fuel to the time it receives payment. *See* Exhibit No. MYS-006 at 12:17-19. His computation results in a CWC allowance for EMT, in addition to the one-eighth method, of approximately \$11.4 million. *See id.* at 12:20.

Q. IS THE USE OF A 15-DAY LAG REPRESENTATIVE OF THE TYPE OF ANALYSIS THAT WOULD BE INCLUDED IN A LEAD LAG STUDY?

A. Yes. A lead lag study would develop both lead days and lag days due to the timing of expenses and receipt of payment for those expenses. The lead days and lag days would be based on a sampling of the actual invoices paid by a company and the timing of how these costs are included in recovery from rates.

Q. HAS MYSTIC INCLUDED SUCH AN ANALYSIS TO SUPPORT ITS LIMITED LEAD LAG ON FUEL EXPENSE?

A. No, it has not. *See* Exhibit No. NES-014, p. 1.

1 **Q. DOES FERC REQUIRE THAT ANY LEAD LAG BE FULLY SUPPORTED BY A**
2 **REVIEW OF ACTUAL EXPENSES AND REVENUE?**

3 A. Yes. This is clearly evidenced by the following FERC finding in a case involving
4 Southwestern Public Service Company, Opinion No. 501. That Opinion referenced a
5 1980 case involving Pennsylvania Power Company:

6 A fully developed and reliable lead-lag study's revenue lag calculation
7 must be based on, or confirmed by, a study of the wholesale customers'
8 actual bill paying practices. Absent this, the lead-lag study cannot be
9 found to reflect the actual cash needs of the company.⁶

10 **Q. ARE THERE ANY ADDITIONAL ISSUES THAT SHOULD BE RAISED WITH**
11 **RESPECT TO MYSTIC'S PROPOSED 15-DAY LAG IN RECOVERY OF FUEL**
12 **COSTS?**

13 A. Yes. Mystic is already requesting a fuel inventory at EMT that represents 50% of the
14 total purchases for the month. [BEGIN CUI/PRIV-HC] [REDACTED]

15 [REDACTED]
16 [REDACTED] [END CUI/PRIV-HC].

17 See Exhibit No. MYS-014 at 5. Therefore, Mystic has already included a 15-day lag in
18 the payment by including 50% of the monthly expenditures for LNG in inventory. To
19 allow for both components in rate base is double counting the return on inventory.

⁶ See *Golden Spread Elec. Coop. Inc. v. Southwestern Public Service Company*, Opinion No. 501, 123 FERC ¶ at 61,047 (2008), at P 99 (citing *Pennsylvania Power Co.*, 12 FERC ¶ 61,049, at 61,080 (1980), *aff'd*, *Boroughs of Ellwood City v. FERC*, 731 F.2d 959 (D.C. Cir. 1984)).

1 **Q. WHAT IS YOUR RECOMMENDATION WITH RESPECT TO THE PROPOSED**
2 **ADDITIONAL \$11.4 MILLION IN CWC RELATED TO FUEL COSTS FOR**
3 **EMT?**

4 A. I recommend that the Commission disallow this additional CWC on the basis that it is not
5 supported in the manner required by the Commission and because it double counts the
6 return already requested on the average balance of inventory in the tanks.

7 **IV. OVERTIME LABOR EXPENSE**

8 **Q. WHAT DOES MYSTIC PROPOSE WITH RESPECT TO OVERTIME LABOR**
9 **EXPENSE FOR BOTH MYSTIC 8&9 AND EMT?**

10 A. Based on Mystic's application, Mystic requests approval of overtime labor expense that
11 is 35.78% of base payroll using the actuals for 2017. Because both the base payroll and
12 the overtime labor expense is trended using a 2.5% annual escalation, this percentage
13 remains constant from 2018 through 2021 and during the COS Period. *See* Exhibit No.
14 MYS-008, Schedule E, at 6. For EMT, the overtime percentage is also based on 2017,
15 and represents [BEGIN CUI/PRIV-HC] [REDACTED] [END CUI/PRIV-HC]
16 *See* Exhibit No. NES-014, p. 2. This EMT overtime expense is trended at 2.5% due to it
17 being included in the total adjusted O&M for EMT. *See* Exhibit No. MYS-008, Schedule
18 K at 1.

1 **Q. WON'T THESE PROJECTED OVERTIME LABOR EXPENSES BE TRUED-UP**
2 **DURING THE COS PERIOD BASED ON ACTUAL OVERTIME EXPENSES?**

3 A. Yes. However, the level of overtime at 35.78% based on the actuals in 2017 is excessive
4 for a cost-based rate, and any true-up based on actuals without adjustment could be even
5 greater. In fact, Mystic's response to NES-MYS-1-19 shows an overtime percentage in
6 2018 of 37.4%. *See* Exhibit No. NES-014, p. 3. Allowing a true-up to actual overtime
7 without any parameters is inappropriate and could result in excessive overtime in cost-of-
8 service rates.

9 **Q. ON WHAT DO YOU BASE YOUR OPINION THAT THE ACTUAL OVERTIME**
10 **FOR MYSTIC 8&9 IS EXCESSIVE?**

11 A. As shown on Exhibit No. NES-013 at 2 (Schedule CTC-2), I have compared the overtime
12 rates for three different fully integrated electric utilities operating in Texas. These
13 electric utilities are not part of the deregulated ERCOT service area, but rather are
14 utilities that continue to have generating facilities included in rates. As demonstrated, the
15 average overtime for each of these electric service providers was significantly less than
16 Mystic's proposed 35.78%, with an average for all three of 15.55%. I chose to compare
17 to these utilities because each of them has gas-fired generation facilities that would
18 require similar activities to those at Mystic 8&9.

1 **Q. ARE YOU RECOMMENDING THAT THE PERCENTAGE OF OVERTIME**
2 **THAT CAN BE INCLUDED IN RATES SHOULD BE BASED ON THE**
3 **AVERAGE SHOWN IN EXHIBIT NO. NES-013 AT 2?**

4 A. No. I am recommending that the level of overtime as a percentage of base pay be no
5 greater than 21%, which is the highest annual percentage reported by these fully
6 integrated electric utilities and [BEGIN CUI/PRIV-HC] [REDACTED]
7 [REDACTED] [END CUI/PRIV-HC]. Therefore, for any
8 of the true-up computations, Mystic should be limited to the actual or no greater than
9 21% of base payroll expense for both the Mystic 8&9 and EMT overtime expense
10 included in revenue requirements.

11 **V. INCENTIVE PAY**

12 **Q. HOW HAS MYSTIC INCLUDED INCENTIVE PAY IN ITS PROPOSED O&M**
13 **EXPENSES DURING THE COS PERIOD?**

14 A. Mystic has included the actual incentive pay for 2017 for both Mystic 8&9 and EMT and
15 trended these amounts from 2018 through 2025 using a 2.5% annual escalation. *See*
16 Exhibit No. MYS-008, Schedule E and Schedule K at 4. The Mystic incentive pay for
17 2017 represents an average of 15.30% of base pay. *See* Exhibit No. MYS-008, Schedule
18 E. This is the second highest percentage of base pay awarded to Mystic 8&9 employees
19 for the last six years. *See* Exhibit No. NES-014, p. 4. EMT's incentive pay for 2017 was
20 [BEGIN CUI/PRIV-HC] [REDACTED]
21 [REDACTED] [END CUI/PRIV-HC]. *See* Exhibit No. NES-015. These

amounts have also been trended at 2.5% as included in the total O&M projected from 2018 through 2025. *See* Exhibit No. MYS-008, Schedule K at 4.

Q. IS THERE ANY ADDITIONAL INCENTIVE PAY INCLUDED IN THE PROPOSED COS OTHER THAN THAT AWARDED TO DIRECT EMPLOYEES OF MYSTIC 8&9 AND EMT?

A. [BEGIN CUI/PRIV-HC] [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] **[END CUI/PRIV-HC]**

Q. DO YOU AGREE THAT MYSTIC SHOULD BE ALLOWED TO RECOVER ALL OF ITS INCENTIVE PAY DURING THE COS PERIOD?

A. No. In my opinion, any incentive pay that is awarded pursuant to a financially based performance measure should not be allowed. Incentive pay included in cost-of-service rates should be based on performance measures that benefit those using the utility services. Incentive pay based on performance measures that only benefit shareholders should not be included in regulated cost of service rates.

1 **Q. DOES EXELON OFFER INCENTIVE PAY THAT IS PRIMARILY BASED ON**
2 **FINANCIAL PERFORMANCE MEASURE THAT BENEFIT SHAREHOLDERS?**

3 A. Yes. Exelon offers long-term incentive plans that awards stock to higher level
4 management depending entirely on Exelon's achievement of a certain targeted return on
5 equity. This portion of any incentive pay included in the proposed O&M during the COS
6 Period should be disallowed.

7 **Q. HAS INCENTIVE PAY AWARDED BASED ON FINANCIAL PERFORMANCE**
8 **BEEN DISALLOWED IN RATES BY ANY OTHER COMMISSION THAT**
9 **REGULATES AN EXELON COMPANY?**

10 A. Yes. The Maryland Public Service Commission has determined that 50% of the allocated
11 overhead expenses related to the long-term incentive restricted stock plan and 60% of the
12 allocated overhead of the expenses related to the long-term incentive performance share
13 plan should be excluded from Baltimore Gas & Electric's overhead costs to be included
14 in rates.⁷

⁷ See *In Re: Application of Baltimore Gas & Electric Co. for Adjustments in its Electric and Gas Base Rates*, MD Pub. Serv. Comm., Case No. 9326, Order No. 86060 (Nov. 4, 2015).

1 **Q. DO OTHER STATE COMMISSIONS ADDRESS THE PERFORMANCE BASIS**
2 **OF INCENTIVE PAY WHEN DETERMINING THE AMOUNT THAT SHOULD**
3 **BE INCLUDED IN COST-BASED RATES?**

4 A. Yes. Many state commissions disallow or restrict the recovery of both short-term and
5 long-term incentive pay that is awarded based on financial measures.⁸ In addition,
6 several commissions have issued decisions that disallow or restrict the amount of both
7 short-term and long-term incentive pay that exceed 100% of targeted rates set for each
8 employee's performance.⁹

9 **Q. WHAT HAS BEEN THIS COMMISSION'S POLICY WITH RESPECT TO**
10 **RECOVERY OF INCENTIVE PAY?**

11 A. It is my understanding that this Commission allows the recovery of incentive pay to the
12 extent that it can be shown to be reasonable.¹⁰ However, incentive pay that is based on
13 the financial performance of a company and that potentially can be awarded in an amount
14 up to 200% of an individual's targeted bonus is not reasonable.¹¹ This is not to say that a
15 company can't continue to award these bonuses, just that such expenses should be borne
16 by its shareholders, not its customers.

⁸ See e.g. *Application of AEP Texas Central Company for Authority to Change Rates*, Order on Rehearing, FoF 82, (March 4, 2008); *Application of Entergy Texas, Inc for Authority to Change Rates, Reconcile Fuel Costs, and Obtain Deferred Accounting Treatment*, Docket No. 39896, Order on Rehearing, FoF 129-134 (Nov 2, 2012).

⁹ See e.g. *Statement of Intent to Change the Rates of City Gas Service (CSG) and Rate Pipeline Transportation (PT) Rates of Atmos Pipeline – Texas (APT)*, Proposal for Decision, page 32 (June 26, 2017).

¹⁰ See *NRG Energy, Inc. v. Entergy Servs.*, 126 FERC ¶ 61,053 at P 33 (2009); see *Williams Natural Gas Co.*, 77 FERC ¶ 61,277 at 62,179 (1996).

¹¹ See e.g. *Entergy Texas Inc's Statement of Intent and Application for Authority to Change Rates*, Response to OPUC RFI 1-9 included as Exhibit No. NES-018.

1 **Q. HAVE YOU REVIEWED DOCUMENTATION THAT REPORTS INCENTIVE**
2 **PAY AWARDED DURING THE 2017 BASE YEAR PERIOD?**

3 A. Yes. However, the only public information available is related to executive incentive pay
4 reported in Exelon Corporation's Securities Exchange Commission ("SEC") reports.
5 Although requested, I have not yet received Mystic's response to a discovery request for
6 copies of the incentive plans applicable to Exelon employees. Based on Exelon's 2017
7 Proxy Statement to its Shareholders, Exelon executives received long-term incentive pay
8 that was, on average, over 3 times their base salaries in 2017, and short-term incentive
9 pay that was over 90% of their base salaries. *See* Exhibit No. NES-013 at 5 (Schedule
10 CTC-5) and Exhibit No. NES-017 (Excerpt from Exelon Corporation Proxy Statement
11 Pursuant to Section 14(a) of the Securities Exchange Act of 1934, 2018). This level of
12 incentive pay is not reasonable and should not be included in cost-based rates.

13 **Q. WHAT IS YOUR RECOMMENDATION WITH RESPECT TO INCENTIVE PAY**
14 **THAT IS REASONABLY INCLUDED DURING THE COS PERIOD?**

15 A. With respect to the incentive pay awarded to direct employees of both Mystic 8&9 and
16 EMT, I recommend that incentive pay be limited to a maximum amount not greater than
17 13.3% of base pay, which is the average percentage awarded to Mystic 8&9 employees
18 during the last six years (2013-2018). I also recommend that any incentive pay awarded
19 to direct employees be based totally on financial performance measures be excluded
20 during the COS Period. With respect to the allocation of overhead from affiliated Exelon
21 companies, I recommend that all short-term and long-term incentive awarded based on

1 financial performance measures be removed from allocable expenses during the COS
2 Period.

3 **VI. EXCESS DEFERRED INCOME TAXES (“EDIT”)**

4 **Q. HAS MYSTIC REFLECTED ANY IMPACT OF THE PASSAGE OF THE TAX**
5 **CUTS AND JOBS ACT OF 2017 (“TCJA”) IN ITS FILING?**

6 A. Yes, but only as it relates to the change in the federal income tax (“FIT”) rate from 35%
7 to 21% used to compute the FIT amount in revenue requirements. It has not reflected any
8 changes to the accumulated deferred balances that existed on the books of either Mystic
9 and EMT as of December 31, 2017 and has not included any amortization of EDIT that
10 currently exists on the books of Mystic (or its parent) as a regulatory liability.

11 **Q. WHAT IS EDIT AND HOW DOES IT IMPACT THIS FILING?**

12 A. EDIT results from a change in an income tax rate for companies that normalize the
13 timing differences between the book and tax treatment of certain expenses. When a
14 company’s accumulated deferred income taxes (“ADIT”) have been computed based on
15 one rate, and that rate changes, the ADIT must be recomputed to reflect the tax amount
16 that will paid in the future. More specifically, with the TCJA, companies have computed
17 their respective balances of ADIT up to December 31, 2017 based on an expected
18 payment of FIT at a 35% corporate rate. The TCJA changed the rate to 21%, requiring
19 companies to recompute the ADIT at 21% and reflect an EDIT balance based on the
20 difference. The EDIT balance is to be refunded, either to customers or to shareholders in

1 accordance with IRS normalization rules. Because this filing requests a regulated
2 revenue requirement based on cost-of-service, the annual amortization of EDIT that
3 would otherwise be given to shareholders during the COS Period should be included as
4 an offset to the FIT expense.

5 **Q. WHY SHOULD MYSTIC 8&9 AND EMT REFUND AN AMOUNT OF EDIT**
6 **WHEN THEIR RESPECTIVE OPERATIONS HAVE BEEN MARKET-BASED?**

7 A. I am not recommending that any amount of EDIT be reflected in the years prior to the
8 COS Period, but once cost-of-service rates are implemented, the EDIT is a component
9 that should be included during the rate-regulated period.

10 **Q. HAS MYSTIC REFLECTED ANY EDIT IN THIS FILING?**

11 A. No. Mystic responded that it does not anticipate recognizing any EDIT in any of the
12 years 2017 through 2025 for purposes of establishing the revenue requirements. *See*
13 Exhibit No. NES-014, p. 5.

14 **Q. WHAT HAPPENS TO THE AMORTIZATION OF EDIT IF IT IS NOT**
15 **REFLECTED IN THE COS PERIOD?**

16 A. EDIT will be amortized to the exclusive benefit of the shareholders. I believe this is
17 inappropriate during a period when revenue requirements are cost based.

VII. CAPITAL STRUCTURE

Q. WHAT CAPITAL STRUCTURE IS MYSTIC PROPOSING BE USED TO ESTABLISH ITS RATE OF RETURN?

A. Mystic proposes an overall rate of return on 8.46% that is based on a capital structure of 32.7% debt and 67.3% equity. *See* Exhibit No. MYS-008 at 2. Mystic witness Dr. Charles E. Olson states that this is the capital structure of ExGen and is appropriately used because ExGen issues its own debt, has a credit rating on such debt, and is the indirect parent of Mystic. *See* Exhibit No. MYS-010 at 7.

Q. DOES EXGEN ISSUE STOCK?

A. No. ExGen does not issue stock and, therefore, its reported common equity is based on an infusion from its parent, Exelon Corporation. Dr. Olson recognizes this fact in his analysis of return on equity, by using Exelon Corporation stock information when comparing Exelon with other selected utility companies. *See* Exhibit No. MYS-010 at 4:7-13. The results of Dr. Olson's analysis and recommendations are to include a capital structure that has a significantly greater "equity" position than the company on which the ROE evaluation is based.

Q. WHAT IS THE CAPITAL STRUCTURE OF EXELON CORPORATION?

A. As of June 2018, Exelon Corporation has a capital structure that is comprised of approximately 52.38% debt and 47.62% equity. *See* Exhibit No. NES-019 (Exelon Corporation Form 10Q, Excerpt for the Quarterly Period Ended June 30, 2018) and

1 Exhibit No. NES-013 at 3 (Schedule CTC-3). Exelon Corporation's equity percentage
2 has continued to decline from 2013 to 2017 but was never greater than 55.58% during
3 this period. *See* Exhibit No. NES-013 at 3 (Schedule CTC-3). To request a return on
4 equity that is based on Exelon Corporation's financial risk and apply that ROE to an
5 equity position that is over 41% greater than Exelon Corporation's is unreasonable and
6 should not be approved.

7 **Q. HOW CAN THE MISMATCH BETWEEN THE CAPITAL STRUCTURE AND**
8 **THE ROE ANALYSES CONDUCTED BY DR. OLSON BE RECONCILED?**

9 A. The use of a double leverage capital structure can provide such a reconciliation. A double
10 leverage capital structure for an affiliate that does not issue its own common equity
11 recognizes that the equity infusion from a parent company is actually based on the
12 manner in which the parent company attracts capital.

13 **Q. PLEASE EXPLAIN.**

14 A. When a utility is owned by a parent company and the parent company obtains its funding
15 through the issuance of debt and equity, double leveraging will occur when any of the
16 parent funding is provided to its affiliate as equity. The resulting capital structure of the
17 affiliated utility is double leveraged because it has debt investors of its own and debt and
18 equity investor funds from the parent, thus double leverage.

19 **Q. PLEASE PROVIDE A SIMPLE EXAMPLE OF DOUBLE LEVERAGE.**

A. If we assume a utility is financed with \$500 of its own debt and \$800 of parent provided equity, the capital structure of the utility on a stand-alone basis would be 38.5% debt and 61.5% equity as shown below.

Figure 1
Stand-Alone Capital Structure

Subsidiary Debt	\$500	38.5%
Subsidiary Parent Provided Equity	\$800	61.5%
Total	\$1,300	100%

Now we assume that the \$800 of subsidiary equity is provided by the parent company through the issuance of \$400 of its own common equity and \$400 of its own debt. The capital structure of the parent company on a stand-alone basis is 50% debt and 50% equity.

Figure 2
Stand-Alone Capital Structure

Parent Debt	\$400	50%
Parent Common Equity	\$400	50%
Total	\$800	100%

Based on the parent funding sources, the \$800 provided to the subsidiary, booked as equity, is actually comprised of 50% parent debt and 50% parent equity.

Q. HOW WOULD A DOUBLE LEVERAGED CAPITAL STRUCTURE BE PRESENTED BASED ON YOUR EXAMPLE?

A The resulting double leveraged capital structure would be as follow:

Figure 3
Double Leverage Capital Structure

Parent Debt	\$400	30.8%
Subsidiary Debt	\$500	38.4%
Total Debt	\$900	69.2%
Parent Common Equity	\$400	30.8%
Total	\$1,300	100%

Q. DO YOU RECOMMEND THAT A DOUBLE LEVERAGE CAPITAL STRUCTURE BE USED IN THIS CASE TO DETERMINE THE APPROPRIATE RATE OF RETURN DURING THE COS PERIOD?

A. Yes. Based on the 2017 capital structure of Exelon and the 2017 capital structure of ExGen, an appropriate double leverage capital structure is as follows:

Figure 4
Double Leverage Capital Structure for ExGen

Exelon Debt Percentage	31.10%
ExGen Debt Percentage	32.72%
Total Debt	67.82%
Parent Common Equity	32.18%
Total	100.00%

Q. HOW DID YOU COMPUTE THE EXELON DEBT AND EQUITY PERCENTAGES?

1 A As shown on Exhibit No. NES-013 at 2 (Schedule CTC-2), the capital structure of Exelon
2 Corporation as of December 31, 2017 (the same time period used for ExGen), was
3 comprised of 52.17% debt. Applying this percentage to ExGen's reported equity of
4 67.28%, results in 35.10% of ExGen's capital structure being financed by Exelon debt.
5 The remainder of the 67.28% (67.28%-35.10%) is shown as equity as assumed to be
6 financed from equity issued by Exelon. As shown, a double leverage capital structure is
7 almost the reverse of what Dr. Olson has used in developing his recommended rate of
8 return.

9 **Q. IS THERE AN ALTERNATIVE TO USING A DOUBLE LEVERAGE CAPITAL**
10 **STRUCTURE FOR EXGEN IN DETERMINING THE APPROPRIATE RATE OF**
11 **RETURN TO BE USED DURING THE COS PERIOD?**

12 A Yes. Because the return on equity is being evaluated based on Exelon Corporation's risk,
13 the capital structure that also reflects that risk is the actual capital structure of Exelon
14 Corporation. If the Commission determines that the double leverage approach is not
15 warranted, I recommend that the capital structure of Exelon Corporation of 52.4%/47.6%
16 equity be used based on the June 2018 information.

17 **VIII. TRUE-UP MECHANISM**

18 **Q. DO YOU AGREE WITH THE BASIC METHODOLOGY AND PROTOCOLS OF**
19 **THE TRUE-UP MECHANISM AS PROPOSED BY MYSTIC?**

1 A No. Mystic's proposed true-up parameters, proposed filings and proposed protocols do
2 not provide sufficient transparency and opportunity for review by interested parties in
3 determining the prudence of capital expenditures, do not ensure the inclusion of only
4 reasonable O&M expenses, do not include any recognition of the flow back of EDIT
5 resulting from the passage of the TCJA, and do not provide for any contingencies for
6 significant changes in the financial markets. My recommended modifications to Mystic's
7 proposed Schedule 3A are contained in Exhibit No. NES-020. There I mark up the
8 public version of Mystic's Proposed Schedule 3A, Exhibit No. MYS-022. (My Exhibit
9 No. NES-020 does not include the true-up methodology template.)

10 **Q. PLEASE EXPLAIN YOUR CONCERNS ABOUT MYSTIC'S PROPOSED TRUE-**
11 **UP PROCEDURE AS IT RELATES TO DETERMINING THE PRUDENCY OF**
12 **CAPITAL EXPENDITURES.**

13 A Mystic requests consideration of capital expenditures that are made prior to the COS
14 Period with a [BEGIN CUI/PRIV-HC] [REDACTED]
15 [REDACTED] [END CUI/PRIV-HC]
16 See Exhibit No. MYS-020 at 4. In its original application, Mystic projected this amount
17 to be approximately \$78.3 million, or 7.6% of the 2017 gross plant in service. See
18 Exhibit No. MYS-010, Schedule C, page 1. The remainder of the period prior to the COS
19 Period [BEGIN CUI/PRIV-HC] [REDACTED]
20 [REDACTED] [END CUI/PRIV-HC]. See Exhibit No. MYS-020 at 4. Under Mystic's process,
21 interested parties will be given [BEGIN CUI/PRIV-HC] [REDACTED]

1

2

[REDACTED] [END CUI/PRIV-HC]. *See id.* at 7.

3

**Q. WHAT IS YOUR RECOMMENDATION WITH RESPECT TO PROVIDING
SUFFICIENT REVIEW TIME FOR CAPITAL EXPENDITURES FROM 2018
THROUGH 2021?**

4

5

6

A I recommend that Mystic be required to file an informational filing on April 1 of each
year, beginning with April 1, 2019, showing the capital expenditures made for Mystic
8&9 and EMT during the previous calendar year. Such regularly scheduled updates
during the period prior to the COS Period would provide interested parties with the
opportunity to review and begin to assess the prudence of capital in a timely fashion
instead of [BEGIN CUI/PRIV-HC] [REDACTED]

7

8

9

10

11

12

[REDACTED] [END CUI/PRIV-HC].

13

**Q. DOES YOUR RECOMMENDATION INCLUDE THE ABILITY OF
INTERESTED PARTIES TO POSE DISCOVERY TO MYSTIC CONCERNING
THE CAPITAL EXPENDITURES?**

14

15

16

A Yes. However, unlike a full review, I recommend that each interested party be limited to
no more than twenty (20) discovery questions per year, and that those questions be
limited to issues concerning the capital additions.¹²

17

18

¹² See e.g. *Rulemaking Related to Periodic Rate Adjustments*, Order Adopting New §25.243, Public Utility Commission of Texas, page 116 (Sept 2011).

1 **Q. WHAT OTHER RECOMMENDATIONS DO YOU HAVE WITH RESPECT TO**
2 **THE MANNER IN WHICH INVESTMENT IS TRUED-UP FOR THE COS**
3 **PERIOD?**

4 A As I have testified, I recommend that the proposed CWC not be allowed in the
5 determination of revenue requirements. Under Mystic's proposal, [BEGIN CUI/PRIV-
6 HC] [REDACTED]
7 [REDACTED] [END CUI/PRIV-HC]. See
8 CUI/PRIV-HC Exhibit No. MYS-020 at 5. Therefore, I recommend that each of the
9 components of rate base be trued-up and not merely those selected by Mystic.

10 **Q. WHAT DO YOU RECOMMEND WITH RESPECT TO THE TRUE-UP OF O&M**
11 **EXPENSES?**

12 A Based on my previous discussions concerning overtime labor expenses and incentive pay,
13 I recommend that the true-up parameters include a cap on the level of expenses that can
14 be considered for revenue requirements. For overtime, I recommend that any true-up
15 mechanism allow for actuals that are no greater than 21% of base pay for both Mystic
16 8&9 and EMT employees. For incentive pay, I recommend that the true-up allow for
17 direct incentive pay to Mystic 8&9 employees and EMT employees that is no greater than
18 13.3% of base pay. Additionally, the true-up should not allow for A&G allocable
19 expenses that reflect incentive pay based on the financial performance of Exelon or its
20 affiliates.

1 **Q. WHAT IS YOUR RECOMMENDATION WITH RESPECT TO A TRUE-UP OF**
2 **FEDERAL INCOME TAXES?**

3 A Based on Mystic's proposal, [BEGIN CUI/PRIV-HC] [REDACTED]
4 [REDACTED] [END
5 CUI/PRIV-HC]. Exhibit No. MYS-020 at 6. However, because I am recommending
6 that the amortization of EDIT during the COS Period be recognized as a deduction to
7 FIT, this component must also be included as part of the true-up methodology.

8 **Q. DO YOUR RECOMMENDATIONS WITH RESPECT TO THE TRUE-UP**
9 **MECHANISM ALSO INCLUDE A POTENTIAL CLAWBACK REGARDING**
10 **CAPITAL EXPENDITURES THAT ARE EXPENSED DURING THE COS**
11 **PERIOD?**

12 A Yes. As discussed in the testimony of Mr. Jeffrey W. Bentz, also sponsored by NESCOE
13 (Exhibit No. NES-001 at 27), I agree that the 2025 true-up computation can be used to
14 determine any clawback if Mystic 8&9 or EMT continues operations after the COS
15 Period. I concur with Mr. Bentz that this computation should be filed no later than three
16 months prior to the end of the COS Period.

17 **Q. WHAT ADDITIONAL RECOMMENDATIONS DO YOU HAVE WITH**
18 **RESPECT TO THE TRUE-UP MECHANISM PROPOSED BY MYSTIC?**

19 A I recommend that the Commission establish a cap on the amount of any true-up in excess
20 of the filing as currently projected. Mystic has already escalated its O&M costs to take

1 into account anticipated annual increases and has provided capital amounts that are based
2 on specific expected projects. True-up of these amounts should result in a revenue
3 requirement that is no greater than 2% of the revenue requirement already estimated in
4 this proceeding.

5 **Q. ARE YOU AWARE OF ANY FORMULA RATES THAT HAVE A LIMITATION**
6 **ON THE PERCENTAGE INCREASE THAT CAN BE APPLIED IN EACH**
7 **INSTANCE?**

8 A Yes. The Indiana Code Title 8, Utilities and Transportation provides for a transmission,
9 distribution and storage system improvement tracker (“TDSIC”) rate that can be updated
10 every six months. The purpose of the tracker is to provide a utility with the ability to
11 recover prudent costs related to investment not previously included in a base rate case.¹³
12 However, the statute limits the increase as follows:

13 (a) The commission may not approve a TDSIC that would result in an
14 average aggregate increase in a public utility’s total retail revenues of
15 more than two percent (2%) in a twelve (12) month period.¹⁴
16

17 **Q. WHY IS A 2% LIMITATION REASONABLE IN THIS PROCEEDING?**

18 A. The category of expense that is most likely to fluctuate, making it difficult to estimate, is
19 the total Production O&M. In response to NES-MYS-1-12, Mystic provided its
20 Production O&M for each of the last five years. See Exhibit No. NES-014, p. 6. As

¹³ See Indiana Code Title 8, Utilities and Transportation §8-1-39-2.

¹⁴ See Indiana Code Title 8, Utilities and Transportation §8-1-39-14.

1 shown on Schedule CTC-4, the average change over the five-year period was less than
2 1%. *See* Exhibit No. NES-013 at 4 (Schedule CTC-4).

3 **Q. DO YOU HAVE ADDITION RECOMMENDATIONS WITH RESPECT TO THE**
4 **SCHEDULE 3A AS PROPOSED BY MYSTIC?**

5 A. Yes; in addition to the issues discussed above, I have a number of concerns with the
6 overall process that should be addressed. More specifically, the annual process that
7 Mystic has proposed is generally too compressed for interested parties to effectively
8 engage in information exchange and challenge procedures. Other parts of the annual
9 process and procedures, as proposed, are unclear or fail to provide sufficient opportunity
10 for interested parties to obtain information relative to the annual filings and challenge the
11 inputs and calculations contained in those filings. As noted above, my recommended
12 changes throughout Schedule 3A are presented in Exhibit No. NES-020.

13 **Q. WHICH PROVISIONS GOVERNING THE ANNUAL TRUE-UP CALENDAR**
14 **HAVE YOU IDENTIFIED AS REQUIRING MODIFICATIONS?**

15 A. I recommend modifying Sections I.B, II.2.A, and II.4.G to add more time to the annual
16 information exchange and challenge process. Adding a month to the beginning and end
17 of the annual process and adjusting the annual meeting schedule would enhance
18 information exchange and facilitate the narrowing of issues for any subsequent challenge.

19 I also recommend adding a technical session to follow the annual meeting in
20 Section II.2A. The technical session would give interested parties the opportunity receive
21 technical details without having to submit discovery on issues that can be easier
22 explained during such a forum. These process modifications, considered together, would

1 help decompress the annual information exchange and lead to a better record in any
2 challenge process.

3 **Q. PLEASE DESCRIBE THE OTHER MODIFICATIONS YOU ARE PROPOSING**
4 **TO THE TRUE-UP.**

5 A. I recommend several other changes to improve the clarity, consistency, transparency, and
6 effectiveness of the true-up process.

7 **Q. PLEASE DESCRIBE THESE CHANGES.**

8 A. These changes, reflected in Exhibit No. NES-020 address the following:

- 9 • The scope of information and document requests in Sections II.3.A and II.3.B,
10 which, as currently proposed, could restrict the flow of information that interested
11 parties need to assess Mystic's filings and determine whether to pursue an
12 informal challenge;
- 13 • The current absence of a narrative in the annual filings to explain the impact of
14 any changes to accounting practices and procedures (*see* Section II.2);
- 15 • The lack of a requirement to compute interest each time a true-up calculation is
16 provided and the need to add such true-up to any remaining cost recovery during
17 the COS Period;
- 18 • The treatment of confidential information included in responses to information
19 and document requests (*see* Section II.4.B);
- 20 • The implications of an interested party failing to raise an informal or formal
21 challenge (*see* Section II.4.A). The current proposal would bar a party from
22 filing a formal challenge on any issue for which it did not submit an informal

1 challenge. This provision could unintentionally encourage multiple, duplicate
2 informal challenges from parties seeking to preserve the right to file a formal
3 challenge later.

- 4 • A potential avenue for resolving any disputes that may arise during the
5 information exchange process (*see* Section II.3.F); and
- 6 • The need for greater clarity regarding Mystic's burden of proof under Section 205
7 of the Federal Power Act regarding capital expenditures contained in the filing
8 (*see* Section II.4.H).

9 I also recommend the addition in Sections II.3.B.8 and II.4.C.1(e) of an item relating to
10 information about the recording and accounting of costs consistent with Commission
11 accounting practices and procedures.

12 **Q. ARE YOU PROPOSING ANY OTHER CHANGES TO THE TRUE-UP**
13 **PROCESS?**

14 A. Yes. I recommend several other changes that are intended, when considered together, to
15 improve the consistency of the provisions in Schedule 3A regarding the true-up
16 mechanism and process. Specifically, the requirements that Mystic provide support that
17 capital expenditures are necessary, the least-cost commercially reasonable option
18 consistent with Good Utility Practice, and were initiated and completed in a reasonable
19 timeframe should be consistently applied throughout Schedule 3A. Also, any required
20 public posting of the information and document requests and responses should be
21 consistently applied as well.

1 Therefore, I recommend clarifying that limitations on the scope of information
2 and document requests also include whether the capital expenditures are necessary, the
3 least-cost option, and initiated and completed in a reasonable timeframe be included in
4 II.3.B.6 and II.3.B.7. The formal challenge requirements should similarly include these
5 provisions on capital expenditures being necessary, the least-cost option, and initiated
6 and completed in a reasonable timeframe. I recommend adding them to II.4.C.1(c) and
7 II.4.C.1(d) for consistency. In turn, I recommend striking a general scope limitation in
8 the challenge procedures, Section II.4.D because it would be redundant and potentially
9 confusing after including the changes discussed above.

10 Lastly, I recommend other edits throughout the document that are intended to
11 provide enhanced clarity, transparency, and reflect my other recommendations with
12 respect to the investment and costs that should be included in the true-up process.

13 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

14 A. Yes, it does. However, depending on my review of responses to outstanding discovery
15 questions or additional information, the views expressed in my testimony may need to be
16 amended.

Exhibit No. NES-011

Resume of Connie T. Cannady

**Connie Cannady**Executive Consultant
ccannady@newgenstrategies.net

With over thirty years of financial and managerial consulting experience, Connie Cannady is an expert in the areas of utility regulation and franchising of utility services, both at the local and state level. Prior to joining NewGen Strategies and Solutions, Ms. Cannady was the Founder and President of C2 Consulting Services, Inc., a woman-owned business enterprise. Ms. Cannady's previous experience also includes serving as a Manager at Reed-Stowe & Co. Inc.; Manager of Accounting and Control for the Information Services Division of Blue Cross of California; Senior Consultant for Touché Ross & Co. (now Deloitte); and Management Auditor for the U.S. General Accounting Office.

EDUCATION

- Master of Public Affairs, University of Texas
- Bachelor of Arts in Political Science, Vanderbilt University

KEY EXPERTISE

- Expert Witness and Litigation Support
- Regulatory Proceedings
- Utility ROW Franchising and Compensation
- Cost Allocation Models

RELEVANT EXPERIENCE

Expert Witness and Litigation Support

Ms. Cannady serves as project manager and lead analyst for numerous regulatory proceedings for rates, assisting clients by providing expert testimony and litigation support regarding utility rate and regulatory issues before state and local regulatory bodies and courts. She frequently works with coalitions of cities served by investor-owned utilities and provides analyses and expert witness support related to the utilities' requests for rate increases. Ms. Cannady also provides support services to the U.S. Army Corp of Engineers concerning rate proceedings impacting utility rates at U.S. Army installations.

Her direct experience includes conducting analyses with respect to the reasonableness of various rate base issues, including the prudence of costs. Areas of analysis and provided testimony include:

- Reasonableness of certain rate based costs related to benefits and other operating reserves
- Calculation of Accumulated deferred income taxes
- Reasonableness of operations and maintenance expenses related to labor expense, benefits expense, including health and welfare, pension, deferred compensation, ESOPs and other savings plans, corporate overhead cost allocation methodologies, call center operations, bonuses and other long and short-term incentive pay programs, taxes other than income and federal income taxes.
- Reasonableness of affiliated transaction expenses
- Computation of fuel factors and purchase power factors to be used in the collection of power costs
- Reasonableness of certain advanced meter investments
- Reasonableness of requested inclusion of certain regulatory assets
- Analysis of the "used and useful" nature of requested plant additions
- Analysis of customer class cost allocation methodologies

Connie Cannady

Executive Consultant

She also assists counsel for the cities with cross examination during the hearings, preparation of briefs, review of various orders and decisions, and settlement negotiations.

Ms. Cannady's expert witness and litigation support clients include:

Maryland Public Service Commission

- U.S. Army Installations Served by Baltimore Gas & Electric; Case Nos. 9355 and 9406

New York Public Service Commission

- U.S. Army Installations Served by Orange & Rockland Utilities; Case Nos. 14-E-0493 and 14-G-0494

Public Utility Commission of Texas

- Cities Served by CenterPoint Energy Houston Electric; Dockets Nos. 48266, 45747 and 12065
- Cities Served by Southwestern Electric Power Company (SWEPCO), Texas; Docket Nos. 37364, 39708, 40443, 40446
- Cities Served by AEP Texas Central Company, Texas; Docket No. 33309
- Cities Served by AEP Texas North Company, Texas; Docket Nos. 33310, 4202 and 4716
- Cities Served by Sharyland Utilities, Texas; State Office of Administrative Hearings (SOAH); Docket No. 473-99-2566
- Cities Served by Texas-New Mexico Power Company, Texas; Docket Nos. 15560, 12900, 10200, 22636, 36025, 22745
- Cities served by Oncor Electric Delivery Company, Texas; Docket Nos. 48325, 48231, 5640
- Cities served by Entergy Texas; Docket No. 48371 and 4510
- Cities Served by General Telephone Company of the Southwest (Verizon); Docket Nos. 4300 and 5011
- Project No. 14400 - Integrated Resource Planning

North Carolina Utilities Commission

- Duke Energy Progress – Docket No. E-2 SUB 1142

Oklahoma Corporation Commission

- Arkansas Oklahoma Gas Corporation; Cause No. PUD 001346

Railroad Commission of Texas

- CenterPoint Energy Entex; Docket GUD Nos. 9654, 9902, 10038, 10182, 10432, 10567
- Atmos Energy; Docket GUD Nos. 9670, 10000, 10170, 10174, 10359 and 10580
- Texas Gas Services, Docket GUD Nos. 10488 and 10526
- TXU Gas; Docket No. GUD 9400
- TXU Gas Transmission; Docket No. GUD 8935
- Lone Star Gas Company Gate Rate; Docket No. GUD 8664
- Lone Star Gas Company Gate Rate; Docket No. GUD 3543

Arizona Corporation Commission

- Arizona Public Service Company, Arizona; Docket No. U-1345-82-266.

New Mexico State Corporation Commission

- Continental Telephone Company of the West; Docket No. 942
- General Telephone Company of the Southwest; Docket No. 990

Colorado Public Utilities Commission

- Southern Colorado Power - Cost Allocation Study

Alabama Public Service Commission

- Alabama Power Company - Fuel Procurement Review

Indiana Regulatory Commission

- Northern Indiana Public Service Company – Cause No. 44733-TDSIC-2
- Northern Indiana Public Service Company- Cause No. 44733-TDSIC-3

Connie Cannady
Executive Consultant

Cost Allocation Modeling

Ms. Cannady has conducted cost allocation modeling for municipal utility clients. She has developed a cost allocation model (CAM) for allocating all utility overhead as well as the city's general fund overhead to the functions of production, distribution and transmission. The objectives of these studies were to more accurately reflect the fully loaded transmission costs to be separated from distribution costs in deregulated utility markets. The CAM models also include functionalizing the aggregated capitalized interest so that the value of the utility assets can be more accurately reported. Ms. Cannady has also assisted municipal clients in developing a cost allocation model to be used by the city to allocate general fund costs to each of its enterprise operations, including the electric utility, water and wastewater, and solid waste. Finally, Ms. Cannady has reviewed the appropriateness of cost allocation methodologies used by utility operations when developing rates. Her cost allocation projects include:

- Develop CAM model for Garland Power & Light, Garland, Texas
- Develop Indirect Cost Allocation Model – City of Greenville, Texas
- Develop CAM model for Water and Wastewater Operations - City of Garland, Texas
- Develop Indirect Cost Allocation Model – City of Denton Texas
- Review of Overhead Cost Allocations – Lower Colorado River Authority
- Develop Indirect Cost Allocation Model – City of Terrell, Texas
- Review of Cost Allocation for Maintenance Activities – San Jacinto River Authority

Franchising of Utility Service in Municipal Right-of-Way

Ms. Cannady has assisted numerous municipalities/counties in negotiating franchises that allow utility service providers to construct in the municipalities' rights-of-way. In addition, Ms. Cannady has assisted in reviewing the actual payments made by the utilities to determine the accuracy of such payments in accordance with franchise terms or state and federal laws. She has assisted municipalities/counties in Texas, California, Washington, New York, Missouri, Illinois, and Kentucky. The majority of the projects concern the payment of cable services, but many of the projects have also involved review of franchising terms and payments from natural gas utility operations, electric service operations and telecommunications services.

Right-of-Way Costs

Ms. Cannady has conducted analysis of the costs incurred by municipalities in allowing utilities to have ubiquitous access to the Right-of-Way. Her clients include:

- City of Durham, North Carolina
- City of Tucson, Arizona
- City of Atlanta, Georgia
- Texas Municipal League, Texas

WORKSHOPS AND PRESENTATIONS

Ms. Cannady is an instructor on behalf of Electric Utility Consultants, Inc. (EUCI), co-authoring and presenting witness preparation materials at multiple conferences and speaking on related topics at industry forums. Her experience includes:

NARUC Staff Subcommittee on Accounting & Finance

Connie Cannady

Executive Consultant

- *Expert Witness Techniques*

Electric Utility Consultants, Inc. (EUCI)

- *EUCI Witness Preparation Training Conferences*
(five conferences in 2013, 2014, 2016, and 2017)

Government Finance Officers Association of Texas

- *Franchise Fees – Accuracy and Compliance*
- *Franchise Fees, Identifying the Issues*

Texas Association of Telecommunications Officers and Advisors

- *Effective Competition: A Case Study - The City of Denton*
- *Issues Regarding Cable Television Franchise Payments*
- *Customer Service Issues*

National Association of Telecommunications Officers and Advisors

- *Hooray for Competition*
- *Prime Real Estate: Managing the Public Rights-of-Way*

The ABC's of Energy Conference

- *Rate Making Issues*

Oklahoma Municipal League

- *Cable Rights*

Federal Bar Association

- *Basics of Cable Television Regulation*

Exhibit No. NES-012

Record of Testimony of
Connie T. Cannady

Record of Testimony Submitted by Connie Cannady

Utility	Proceeding	Subject of Testimony	Before	Client	Date
1. Entergy Texas, Inc.	Docket No. 48371	Post Test Year Adjustment, Storm Regulatory Assets, Retired Plant, Employee Benefits, Treatment of Excess Deferred Income Taxes	Public Utility Commission of Texas	Office of Public Utility Counsel	2018
2. Oncor Electric Service Company	Docket No. 48325	Proposed amortization of excess deferred income taxes, refund of income tax overcharges since January 1, 2018 and appropriate carrying charges	Public Utility Commission of Texas	Alliance of Oncor Cities	2018
3. Oncor Electric Service Company	Docket No. 48231	Proposed CIS Depreciation Rate and treatment of Corporate Tax Rate Change in Distribution Cost Recovery Tracker Rate	Public Utility Commission of Texas	Alliance of Oncor Cities	2018
4. CenterPoint Energy Houston Electric	Docket No. 48226	Treatment of Corporate Tax Rate Change in Distribution Cost Recovery Tracker Rate	Public Utility Commission of Texas	Texas Coast Utilities Coalition	2018
5. CenterPoint Energy Entex South Division	GUD No. 10669	Rate Base and Operating Income Issues, Affiliated Charges, Treatment of Excess Deferred Income Taxes (Settled)	Railroad Commission of Texas	Alliance of CenterPoint Municipalities	2018
6. Northern Indiana Public Service Company	Cause No. 44733-TDSIC-3	Treatment of Corporate Tax Rate Change and EDIT	Indiana Utility Regulatory Commission	U.S. Steel Corporation	2018
7. Duke Energy Progress	Docket No. E-2 SUB 1142	Cancelled Plant Prudence, Deferred Asset Treatment, Benefits	North Carolina Utilities Commission	U.S. Dept. of Defense and Other Federal Agencies	2017
8. Northern Indiana Public Service Company	Cause No. 44733-TDSIC-2	Tax Gross-Up Treatment in Investment Tracker	Indiana Utility Regulatory Commission	U.S. Steel Corporation	2017
9. Atmos Pipeline Texas	GUD No. 10580	Rate Base and Operating Income Issues, ADIT NOL	Railroad Commission of Texas	Atmos Cities Steering Committee	2017
10. CenterPoint Energy Entex Texas Gulf Division	GUD No. 10567	Rate Base and Operating Income Issues, Affiliated Charges	Railroad Commission of Texas	Gulf Coast Coalition of Cities	2017
11. CenterPoint Energy Houston Electric	Docket No. 45747	Allocation of Certain Corporate Costs included in DCRF rate adder	Public Utility Commission of Texas	Texas Coast Utilities Coalition	2016

Record of Testimony Submitted by Connie Cannady

12. CenterPoint Energy Entex	GUD No. 10432	Rate Base and Operating Income Issues, Affiliated Charges	Railroad Commission of Texas	Texas Coast Utilities Coalition	2015
13. Baltimore Gas and Electric	Case No. 9355	Rate Base and Operating Income Issues, Cost Allocation Issues	Maryland Public Service Commission	U.S. Dept. of Defense and Other Federal Agencies	2014
14. Atmos Energy	Docket No. 10359	Rate Base and Operating Income Issues	Railroad Commission of Texas	Atmos Cities Steering Committee	2014
15. SWEPCO	Docket No. 40443	Rate Base and Operating Income Issues	Public Utility Commission of Texas	Cities Served by SWEPCO	2012
16. CenterPoint Energy Entex	GUD No. 10182	Rate Base and Operating Income Issues	Railroad Commission of Texas Case Settled Before Hearing	East Texas Cities	2012
17. Atmos Energy	GUD No. 10174	Rate Base and Operating Income Issues	Railroad Commission of Texas	West Texas Cities Steering Committee	2012
18. Atmos Energy	GUD No. 10170	Rate Base and Operating Income Issues	Railroad Commission of Texas	Atmos Cities Steering Committee	2012
19. CenterPoint Energy Entex	GUD No. 10038	Rate Base and Operating Income Issues	Railroad Commission of Texas	Steering Committee of Cities Served by CenterPoint South Texas Division	2011
20. Atmos Energy	GUD No. 10000	Rate Base and Operating Income Issues	Railroad Commission of Texas	Atmos Cities Steering Committee	2010
21. Texas-New Mexico Power Company	Docket No. 38480	Rate Base and Operating Income Issues	Public Utility Commission of Texas	Cities Served by TNMP	2010
22. CenterPoint Energy Entex	GUD No. 9902	Labor Costs, Group Benefits, and Valorem Taxes	Railroad Commission of Texas	Gulf Coast Coalition of Cities Served by CenterPoint Houston Division	2009
23. AEP – Texas Central Company	Docket No. 33309	Labor Costs, Group Benefits, and Energy Efficiency Program Costs	Public Utility Commission of Texas	Cities Served by AEP Texas Central Company	2007
24. AEP – Texas North Company	Docket No. 33310	Labor Costs, Group Benefits, and Energy Efficiency Program Costs	Public Utility Commission of Texas	Cities Served by AEP Texas North Company	2007
25. Atmos Energy	Docket No. GUD 9670	Operations and Maintenance Expenses and Summary Schedules	Railroad Commission of Texas	Atmos Cities Steering Committee	2006
26. TXU Gas	Docket No. GUD 9400	Rate Base and Present Revenue Computation	Railroad Commission of Texas	Allied Coalition of Cities	2003

Record of Testimony Submitted by Connie Cannady

27. Texas-New Mexico Power Company	Docket No. 22745	Fuel Costs and Recovery	Public Utility Commission of Texas	Cities Served by TNMP	2001
28. Lone Star Gas Company	Docket No. GUD 8935	Purchased Gas Adjustment Clause	Railroad Commission of Texas Case Settled Before Hearing	Allied Coalition of Cities	1999
29. Garland Independent School District v. Lone Star Gas Company	Cause No. 97-00070-A	Natural Gas Billings based on Contractual Rates	Texas State District Court	Garland Independent School District	1997
30. Houston Lighting & Power Company	Docket No. 12065	Appropriate Rate Treatment of Fuel Inventories and Fuel Expense	Public Utility Commission of Texas	Gulf Coast Coalition of Cities	1994
31. Texas Electric Utilities Company	Docket No. 5640	Appropriate Rate Base to be Included in Rates	Public Utility Commission of Texas	Cities Steering Committee	1985

Exhibit No. NES-013

Workpapers of Connie T. Cannady

Schedule CTC -1

CONSTELLATION MYSTIC POWER, LLC
DOCKET NO. ER18-1639
IMPACT OF PROPOSED CASH WORKING CAPITAL
TEST YEAR ENDED DECEMBER 31, 2017

Mystic 8&9	2022	2023	2024	Total
Proposed CWC Balance Based on One-Eighth of O&M ⁽¹⁾	\$ 7,388,001	\$ 6,582,429	\$ 6,746,989	
Amount Related to COS Period ⁽²⁾⁽³⁾	12,665,145	6,582,429	2,811,245	
Before Tax Rate of Return ⁽⁴⁾	11.06%	11.06%	11.06%	
Impact to Revenue Requirements	\$ 1,400,765	\$ 728,017	\$ 310,924	\$ 2,439,705
EMT	2022	2023	2024	Total
Proposed CWC Balance Based on One-Eighth of O&M ⁽⁵⁾	\$ 6,572,482	\$ 6,683,729	\$ 6,797,729	
Amount Related to COS Period ⁽²⁾⁽³⁾	11,267,112	6,683,729	2,832,387	
Before Tax Rate of Return ⁽⁴⁾	11.06%	11.06%	11.06%	
Impact to Revenue Requirements	\$ 1,246,143	\$ 739,220	\$ 313,262	\$ 2,298,625
EMT Fuel Lag	2022	2023	2024	Total
Proposed CWC Balance Based on 15 Day Fuel Lag ⁽⁵⁾	\$ 11,407,409	\$ 11,407,409	\$ 11,409,409	
Amount Related to COS Period ⁽²⁾⁽³⁾	19,555,558	11,407,409	4,753,920	
Before Tax Rate of Return ⁽⁴⁾	11.06%	11.06%	11.06%	
Impact to Revenue Requirements	\$ 2,162,845	\$ 1,261,659	\$ 525,784	\$ 3,950,288

Recommended Reduction to Proposed Revenue Requirement for the COS Period

\$ 8,688,618

Sources:

(1) Mystic Application, Attachment D, Exhibit No. MYS-008, Schedule A, page 1

(2) Based on 7 months of 2022 CWC

(3) Based on 5 months of 2024 CWC

(4) Mystic Application, Attachment D, Exhibit No. MYS-008, Schedule B, page 1

(5) Mystic Application, Attachment D, Exhibit No. MYS-008, Schedule K, page 1

Schedule CTC-2

CONSTELLATION MYSTIC POWER, LLC
DOCKET NO. ER18-1639
ANALYSIS OF OVERTIME PERCENTAGES FOR SELECTED REGULATED UTILITIES
TEST YEAR ENDED DECEMBER 31, 2017

Southwestern Electric Power Company ⁽¹⁾	2012	2013	2014	2015	
Total Regular Payroll	\$ 97,268,432	\$ 99,896,119	\$ 103,454,785	\$ 110,952,126	
Overtime Payroll	19,461,202	17,873,299	17,343,002	17,945,324	
Overtime as a % of Regular Payroll	20.01%	17.89%	16.76%	16.17%	
Southwestern Public Service Company ⁽²⁾	2013	2014	2015	2016	
Total Regular Payroll	\$ 132,120,370	\$ 138,484,137	\$ 142,755,211	\$ 143,219,208	
Overtime Payroll	15,670,494	16,085,840	18,739,384	18,811,416	
Overtime as a % of Regular Payroll	11.86%	11.62%	13.13%	13.13%	
Entergy Texas, Inc. ⁽³⁾	2014	2015	2016	2017	
Total Regular Payroll	\$ 45,696,280	\$ 46,320,291	\$ 48,508,767	\$ 49,703,252	
Overtime Payroll	8,835,794	9,531,187	9,157,351	10,681,296	
Overtime as a % of Regular Payroll	19.34%	20.58%	18.88%	21.49% ⁽⁴⁾	
Average					
Total Regular Payroll	275,085,082	284,700,547	294,718,763	303,874,586	1,158,378,978
Overtime Payroll	43,967,490	43,490,326	45,239,737	47,438,036	180,135,589
Overtime as a % of Regular Payroll	15.98%	15.28%	15.35%	15.61%	15.55%

Sources:

(1) Rate Filing Package, PUCT Docket No. 46449, Schedule G-1.1

(2) Rate Filing Package, PUCT Docket No. 47527, Schedule G-1.1

(3) Rate Filing Package, PUCT Docket No. 48371, Schedule G-1.1

Schedule CTC-3

CONSTELLATION MYSTIC POWER, LLC
DOCKET NO. ER18-1639
EXELON CORPORATION HISTORICAL CAPITAL STRUCTURE
TEST YEAR ENDED DECEMBER 31, 2017

Exelon Corporation Capital Structure

	2nd Q 2018 ⁽¹⁾	%	2017 ⁽²⁾	%	2016 ⁽²⁾	%	2015 ⁽²⁾	%	2014 ⁽²⁾	%	2013 ⁽²⁾	%
Long Term Debt	<u>\$ 33,568</u>	<u>52.38%</u>	<u>\$ 32,565</u>	<u>52.17%</u>	<u>\$ 32,216</u>	<u>55.49%</u>	<u>\$ 24,286</u>	<u>48.50%</u>	<u>\$ 19,853</u>	<u>46.76%</u>	<u>\$ 18,165</u>	<u>44.42%</u>
Shareholder Equity	<u>30,515</u>	<u>47.62%</u>	<u>29,857</u>	<u>47.83%</u>	<u>25,837</u>	<u>44.51%</u>	<u>25,793</u>	<u>51.50%</u>	<u>22,608</u>	<u>53.24%</u>	<u>22,732</u>	<u>55.58%</u>
Total	<u><u>\$ 64,083</u></u>	<u><u>100.00%</u></u>	<u><u>\$ 62,422</u></u>	<u><u>100.00%</u></u>	<u><u>\$ 58,053</u></u>	<u><u>100.00%</u></u>	<u><u>\$ 50,079</u></u>	<u><u>100.00%</u></u>	<u><u>\$ 42,461</u></u>	<u><u>100.00%</u></u>	<u><u>\$ 40,897</u></u>	<u><u>100.00%</u></u>

Sources:

(1)Exelon Corporation Form 10Q, for the Quarterly Period Ended June 30, 2018 at 14

(2)Exelon Corporation Form 10K, for the Calendar Year Ended December 31, 2017 at 76.

UNITED STATES SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549
FORM 10-K

☒ ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934
For the Fiscal Year Ended December 31, 2017
or

☐ TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

Commission File Number	Name of Registrant; State or Other Jurisdiction of Incorporation; Address of Principal Executive Offices; and Telephone Number	IRS Employer Identification Number
1-16169	EXELON CORPORATION (a Pennsylvania corporation) 10 South Dearborn Street P.O. Box 805379 Chicago, Illinois 60680-5379 (800) 453-3220	23-2930190
333-85496	EXELON GENERATION COMPANY, LLC (a Pennsylvania limited liability company) 300 Exelon Way Kennett Square, Pennsylvania 19348-2473 (610) 765-5959	23-3064219
1-1839	COMMONWEALTH EDISON COMPANY (an Illinois corporation) 440 South LaSalle Street Chicago, Illinois 60605-1028 (312) 394-4321	36-0938600
000-16844	PECO ENERGY COMPANY (a Pennsylvania corporation) P.O. Box 8699 2301 Market Street Philadelphia, Pennsylvania 19101-8699 (215) 841-4000	23-0970240
1-1910	BALTIMORE GAS AND ELECTRIC COMPANY (a Maryland corporation) 2 Center Plaza 110 West Fayette Street Baltimore, Maryland 21201-3708 (410) 234-5000	52-0280210
001-31403	PEPCO HOLDINGS LLC (a Delaware limited liability company) 701 Ninth Street, N.W. Washington, District of Columbia 20068 (202) 872-2000	52-2297449
001-01072	POTOMAC ELECTRIC POWER COMPANY (a District of Columbia and Virginia corporation) 701 Ninth Street, N.W. Washington, District of Columbia 20068 (202) 872-2000	53-0127880
001-01405	DELMARVA POWER & LIGHT COMPANY (a Delaware and Virginia corporation) 500 North Wakefield Drive Newark, Delaware 19702 (202) 872-2000	51-0084283
001-03550	ATLANTIC CITY ELECTRIC COMPANY (a New Jersey corporation) 500 North Wakefield Drive Newark, Delaware 19702 (202) 872-2000	21-0398280

[Table of Contents](#)
ITEM 6. SELECTED FINANCIAL DATA
Exelon

The selected financial data presented below has been derived from the audited consolidated financial statements of Exelon. This data is qualified in its entirety by reference to and should be read in conjunction with Exelon's Consolidated Financial Statements and ITEM 7, MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS.

(In millions, except per share data)	For the Years Ended December 31,				
	2017	2016 (a)	2015	2014 (b)	2013
Statement of Operations data:					
Operating revenues	\$ 33,531	\$ 31,360	\$ 29,447	\$ 27,429	\$ 24,888
Operating income	4,260	3,112	4,409	3,096	3,669
Net income	3,849	1,204	2,250	1,820	1,729
Net income attributable to common shareholders	3,770	1,134	2,269	1,623	1,719
Earnings per average common share (diluted):					
Net income	\$ 3.97	\$ 1.22	\$ 2.54	\$ 1.88	\$ 2.00
Dividends per common share	\$ 1.31	\$ 1.26	\$ 1.24	\$ 1.24	\$ 1.46

(a) The 2016 financial results include the activity of PHI from the merger effective date of March 24, 2016 through December 31, 2016.

(b) On April 1, 2014, Generation assumed operational control of CENG's nuclear fleet. As a result, the 2014 financial results include CENG's results of operations on a fully consolidated basis.

(In millions)	December 31,				
	2017	2016	2015	2014	2013
Balance Sheet data:					
Current assets	\$ 11,834	\$ 12,412	\$ 15,334	\$ 11,853	\$ 9,562
Property, plant and equipment, net	74,202	71,555	57,439	52,170	47,330
Total assets	116,700	114,904	95,384	86,416	79,243
Current liabilities	10,796	13,457	9,118	8,762	7,686
Long-term debt, including long-term debt to financing trusts	32,565	32,216	24,286	19,853	18,165
Shareholders' equity	29,857	25,837	25,793	22,608	22,732

CONSTELLATION MYSTIC POWER, LLC
DOCKET NO. ER18-1639
MYSTIC HISTORICAL O&M EXPENDITURES
TEST YEAR ENDED DECEMBER 31, 2017

	2013		2014		2015		2016		2017		Average
Mystic Production O&M (MUSD)	\$	37.2	\$	32.4	\$	28.0	\$	39.3	\$	34.7	
Annual Change				-12.90%		-13.58%		40.36%		-11.70%	0.54%

Source:

Mystic Response to RFI NES-MYS-1-12

Schedule CTC-5

CONSTELLATION MYSTIC POWER, LLC
DOCKET NO. ER18-1639
EXECUTIVE INCENTIVE PAY AWARDED IN 2017
TEST YEAR ENDED DECEMBER 31, 2017

	SHORT TERM INCENTIVE			LONG TERM INCENTIVE			
	Base Salary	Non-Equity Incentive Plan Compensation	% of Base Salary	Equity Incentive Plan at Target	Equity Stock Awards	% of Target	% of Base Salary
Exelon Corporation Executives							
President and CEO, Exelon	\$ 1,261,000	\$ 1,585,531	126%	\$ 6,766,820	\$ 10,099,755	149%	
Senior Executive Vice President and Chief Financial Officer, Exelon	\$ 804,339	\$ 742,331	92%	\$ 1,810,096	\$ 2,701,654	149%	
Senior Executive Vice President and Chief Strategy Officer, Exelon	\$ 882,696	\$ 857,520	97%	\$ 1,958,949	\$ 2,920,829	149%	
Senior Executive Vice President and Chief Commercial Officer, Exelon; President and Chief Executive Office, Exelon Generation	\$ 878,865	\$ 854,618	97%	\$ 1,955,617	\$ 2,918,832	149%	332%
Senior Executive Vice President, Exelon;; Chief Executive Officer, Exelon Utilities	\$ 820,293	\$ 757,767	92%	\$ 1,655,465	\$ 2,470,846	149%	301%

Source:

Exelon Corporation Notice of Annual Meeting and 2017 Proxy Statement, page 70

Exhibit No. NES-014

Mystic Data Responses

NES-014, p. 1	Mystic Response to NES-MYS-1-46
NES-014, p. 2	Mystic Response to NES-MYS-1-51 (CUI/PRIV-HC)
NES-014, p. 3	Mystic Response to NES-MYS-1-19
NES-014, p. 4	Mystic Response to NES-MYS-1-20
NES-014, p. 5	Mystic Response to NES-MYS-1-9
NES-014, p. 6	Mystic Response to NES-MYS-1-12

Exhibit No. NES-014
Docket No. ER18-1639-000

NES-MYS-1-46: Regarding Everett, provide a copy of the most recent lead lag study conducted by the current Everett owner and/or an anticipated lead lag study for the Everett facility.

RESPONSE: Mystic does not have such a study in our possession custody, or control. 18 C.F.R. § 385.407.

Prepared by Counsel
July 31, 2018

Exhibit No. NES-014
Docket No. ER18-1639-000

NES-MYS-1-51: Regarding Everett, provide the percentage that overtime labor costs are to base labor the period January 2017 through the most current month available.

OBJECTION: Mystic objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. 18 C.F.R. § 385.402. The Commission ordered that prudently incurred capital expense, operations and maintenance expense, and administrative and general expense be recovered on a formulary basis subject to true-up, with the prudence of such costs to be reviewed in a future Commission proceeding when the costs are actually known. Accordingly, the Commission directed the participants to present evidence regarding the appropriate design of a true-up mechanism. Mystic proposed in supplemental direct to update the projected amount for capital expense, operations and maintenance expense, administrative and general expense, and taxes other than income taxes prior to the Term. The information requested does not seek information regarding the appropriate design of a true-up or requests information related to the prudence of the costs before they are incurred, and therefore, is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Subject to this objection, Mystic responds as follows:

RESPONSE: Exelon only has a [REDACTED]

Prepared by or under the supervision of William Berg
July 31, 2018

NES-MYS-1-19: Regarding Mystic 8 & 9, please provide overtime labor costs as a percentage of total base labor costs on an annual basis for each of the last five years.

OBJECTION: Mystic objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. 18 C.F.R. § 385.402. The Commission ordered that prudently incurred capital expense, operations and maintenance expense, and administrative and general expense be recovered on a formulary basis subject to true-up, with the prudence of such costs to be reviewed in a future Commission proceeding when the costs are actually known. Accordingly, the Commission directed the participants to present evidence regarding the appropriate design of a true-up mechanism. Mystic proposed in supplemental direct to update the projected amount for capital expense, operations and maintenance expense, administrative and general expense, and taxes other than income taxes prior to the Term. The information requested does not seek information regarding the appropriate design of a true-up or requests information related to the prudence of the costs before they are incurred, and therefore, is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Subject to this objection, Mystic responds as follows:

RESPONSE:

Mystic 8&9	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>
OT/Base Payroll	27.6%	33.3%	35.0%	38.6%	35.8%	37.4%

Prepared by or under the supervision of William Berg
July 31, 2018

NES-MYS-1-20: Regarding Mystic 8 & 9, please provide incentive pay (bonus) as a percentage of total base labor costs on an annual basis for each of the last five years.

OBJECTION: Mystic objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. 18 C.F.R. § 385.402. The Commission ordered that prudently incurred capital expense, operations and maintenance expense, and administrative and general expense be recovered on a formulary basis subject to true-up, with the prudence of such costs to be reviewed in a future Commission proceeding when the costs are actually known. Accordingly, the Commission directed the participants to present evidence regarding the appropriate design of a true-up mechanism. Mystic proposed in supplemental direct to update the projected amount for capital expense, operations and maintenance expense, administrative and general expense, and taxes other than income taxes prior to the Term. The information requested does not seek information regarding the appropriate design of a true-up or requests information related to the prudence of the costs before they are incurred, and therefore, is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Subject to this objection, Mystic responds as follows:

RESPONSE:

	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>
Mystic 8&9 Incentive/Base Payroll	11.6%	8.1%	13.7%	19.0%	15.3%	12.3%

Prepared by or under the supervision of William Berg
July 31, 2018

Exhibit No. NES-014
Docket No. ER18-1639-000

NES-MYS-1-9: Does Mystic anticipate any deferred regulatory liability for excess deferred income taxes related to the Mystic units? If so, how much will be recognized as protected and unprotected components?

RESPONSE: No.

Prepared by or under the supervision of Alan C. Heintz
July 31, 2018

NES-MYS-1-12: Regarding Mystic 8 & 9, please provide the last five years of direct operation expenses and capital improvement program investments.

OBJECTION: Mystic objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. 18 C.F.R. § 385.402. The Commission ordered that prudently incurred capital expense, operations and maintenance expense, and administrative and general expense be recovered on a formulary basis subject to true-up, with the prudence of such costs to be reviewed in a future Commission proceeding when the costs are actually known. Accordingly, the Commission directed the participants to present evidence regarding the appropriate design of a true-up mechanism. Mystic proposed in supplemental direct to update the projected amount for capital expense, operations and maintenance expense, administrative and general expense, and taxes other than income taxes prior to the Term. The information requested does not seek information regarding the appropriate design of a true-up or requests information related to the prudence of the costs before they are incurred, and therefore, is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Subject to this objection, Mystic responds as follows:

RESPONSE:

Amounts in MUSD

<u>CAPITAL</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>Jan-Jun 2018</u>
MYSTIC 8&9 Non-LTSA Capital	15.5	14.6	12.3	7.8	9.0	3.2

<u>PRODUCTION O&M</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>Jan-Jun 2018</u>
MYSTIC 8&9						
Labor/Labor Other	10.3	11.2	11.2	11.7	11.3	6.0
Contracting & Materials	24.7	18.0	13.6	24.7	20.8	9.1
Other O&M	2.2	3.2	3.2	2.9	2.6	1.6
TOTAL	37.2	32.4	28.0	39.3	34.7	16.7

<u>MAJOR MAINTENANCE (LTSA)</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>Jan-Jun 2018</u>
LTSA Capital	11.2	6.1	-	12.5	8.6	7.7
LTSA O&M (Expense)	8.5	5.5	0.7	8.0	2.0	4.7

Note that "Major Maintenance (LTSA)" costs shown represent capital and O&M dollars booked by Exelon associated with work performed by Mitsubishi under the Mitsubishi Long-Term Service Agreement ("LTSA") for gas/steam turbine maintenance.

These amounts are not included in the baseline capital and production O&M numbers which are shown separately.

Prepared by or under the supervision of William Berg
July 31, 2018

Exhibit No. NES-015

Mystic Response to ENC-CM-2-4 0000003135 2.4-2.3.15

Distrigas and Everett 2017 financials (excerpt)

REDACTED

Exhibit No. NES-016

ENC-CM-3-10

Exelon Business Service Company Associate
Transaction Procedures Manual

REDACTED

Exhibit No. NES-017

**Excerpt from Exelon Notice of Annual Meeting
and 2018 Proxy Statement**



NOTICE OF THE ANNUAL MEETING AND 2018 PROXY STATEMENT



POWERING A CLEANER
AND BRIGHTER FUTURE
FOR OUR CUSTOMERS
AND COMMUNITIES

Executive Compensation Data

Summary Compensation Table

Year	Salary (\$)	Stock Awards (\$) (Note 1)	Non-Equity Incentive Plan Compensation (\$) (Note 2)	Change in Pension Value and Nonqualified Deferred Compensation Earnings (\$) (Note 3)	All Other Compensation (\$) (Note 4)	Total (\$)
Christopher M. Crane						
President and Chief Executive Officer, Exelon						
2017	\$1,261,000	\$10,099,755	\$1,585,531	\$1,524,765	\$386,808	\$14,857,859
2016	1,255,515	10,099,718	1,639,300	1,836,211	400,958	15,231,702
2015	1,224,808	9,821,055	2,072,777	2,462,551	380,054	15,961,245
Jonathan W. Thayer						
Senior Executive Vice President and Chief Financial Officer, Exelon						
2017	804,339	2,701,654	742,331	144,688	119,146	4,512,158
2016	784,802	2,701,035	1,071,368	225,160	60,504	4,842,869
2015	794,556	2,700,466	947,006	229,066	90,194	4,761,288
William A. Von Hoene Jr.						
Senior Executive Vice President and Chief Strategy Officer, Exelon						
2017	882,696	2,920,829	857,520	202,125	374,057	5,237,227
2016	831,350	3,700,342	1,237,642	216,271	198,770	6,184,375
2015	755,296	2,296,821	835,753	163,284	111,890	4,163,044
Kenneth W. Cornew						
Senior Executive Vice President and Chief Commercial Officer, Exelon; President and Chief Executive Officer, Exelon Generation						
2017	878,865	2,918,832	854,618	235,324	87,667	4,975,306
2016	857,477	2,918,043	1,233,350	231,669	93,848	5,334,387
2015	836,558	2,918,046	1,090,185	191,460	93,485	5,129,734
Denis P. O'Brien						
Senior Executive Vice President, Exelon; Chief Executive Officer, Exelon Utilities						
2017	820,293	2,470,846	757,767	295,787	134,243	4,478,936
2016	800,378	2,470,066	1,093,660	325,832	95,567	4,785,503
2015	780,874	2,469,294	994,688	239,970	86,431	4,571,257

Notes to the Summary Compensation Table

- ⁽¹⁾ The amounts shown in this column include the aggregate grant date fair value of restricted stock unit and performance share unit awards for the 2017-2019 performance period granted on January 30, 2017. The grant date fair values of the stock awards have been computed in accordance with FASB ASC Topic 718 using the assumptions described in Note 20 of the Combined Notes to Consolidated Financial Statements included in Exelon's 2017 Annual Report on Form 10-K. The performance share unit awards are subject to performance conditions. For the 2017-2019 performance share unit award, the grant date fair value and the value assuming the highest level of performance, including the maximum total shareholder return multiplier, is as follows:

	Performance Share Unit Value	
	At Target	At Maximum
Crane	\$6,766,820	\$13,533,640
Thayer	1,810,096	3,620,192
Von Hoene Jr.	1,956,949	3,913,898
Cornew	1,955,617	3,911,234
O'Brien	1,655,465	3,310,930

Exhibit No. NES-018

Excerpt from Entergy Texas Response to OPUC-RFI-1-9

ENTERGY TEXAS, INC.
PUBLIC UTILITY COMMISSION OF TEXAS
DOCKET NO. 48371

Response of: Entergy Texas, Inc.
to the First Set of Data Requests
of Requesting Party: Office of Public Utility
Counsel

Prepared By: Lesli Brown
Sponsoring Witness: Jennifer A. Raeder
Beginning Sequence No. TH58

Ending Sequence No. TH369

Question No.: OPUC 1-9

Part No.:

Addendum:

Question:

Please provide copies of all Annual Incentive Plans for 2014-2018.

Response:

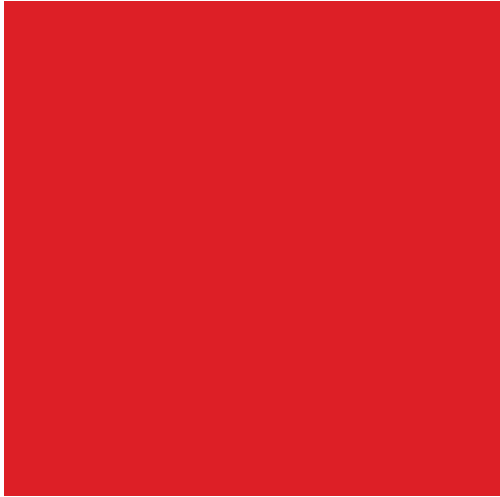
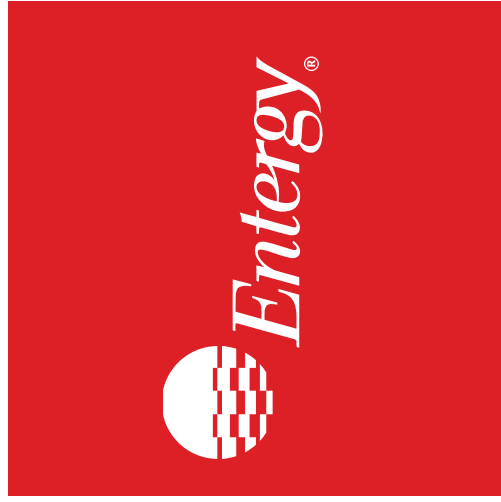
Please see attached the funded and teamshare compendiums for years 2014-2018.

Clear Vision Clear Progress

Executive (Funded¹) Annual Incentive Awards Compendium

2017 Program

¹ Funded – There is no account or trust set aside to fund these programs. The use of the term “funded” refers to the fact that these incentive programs are funded only if the Entergy Achievement Multiplier is achieved at least at the minimum level established by the Personnel Committee prior to the start of the incentive year.



Incentive Awards

48371

- EAIP Incentive Target range:
 - Officer Code 4: 40%-50%
 - Officer Code 3: 50%-60%
 - Officer Code 2: 60%-70%
 - Officer Code 1: 135%
- All EAIP Awards are 100% discretionary

ee

- Non-OCE executives' awards are based on their leadership's discretion
- Individuals generally receive an award within the range of 0%-200% of target
- While it is an unusual occurrence, a non-OCE executive may receive an award up to a maximum of 300% of target (subject to funding limits)
- EAIP participants have the option to defer their incentive award. Deferral elections must be made a full twelve months prior to the year the incentive payment is made

OPUC 1-9 TH184

Determination of EAIP Awards: EAM & Total Incentive Pool

Illustrative

- The total Incentive Pool available for EAIP Awards will range from 0% to 200% of target
 - Minimum achievement will result in funding at 25% of target
 - Achievement at target will result in funding at 100% of target
 - Maximum achievement will result in funding at 200% of target

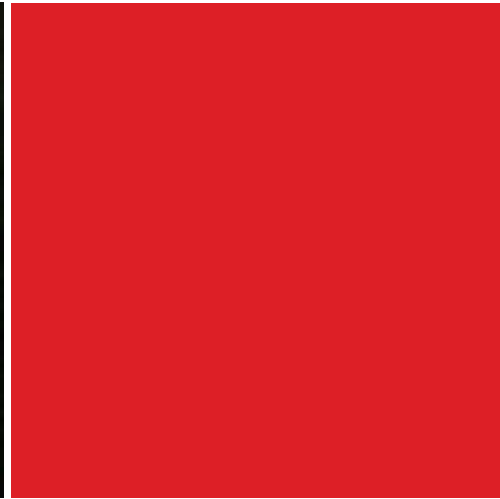
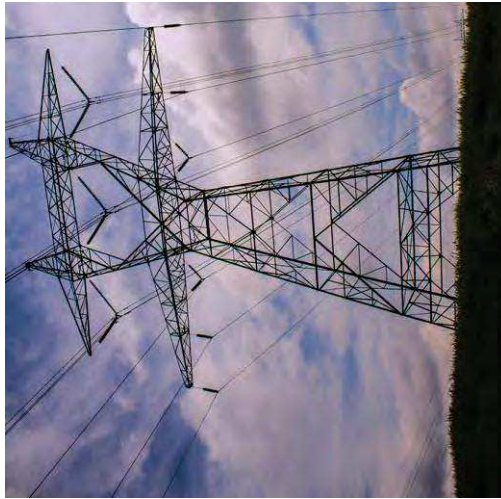
				ax
Assumes incentive target is 40%				0%
f Target)				200%

Clear Vision Clear Progress

SMIP & EXIP (Funded¹) Annual Incentive Awards Compendium

2017 Program

¹ Funded – There is no account or trust set aside to fund these programs. The use of the term “funded” refers to the fact that these incentive programs are funded only if the Entergy Achievement Multiplier is achieved at least at the minimum level established by the Personnel Committee prior to the start of the incentive year.



Funded Incentive Plan Award Targets

48371

- Exempt Incentive Plan (EXIP)
 - Target 7% of base salary
 - r 1.75%
ry)
lan (SMIP)
 - and Market Data
 - 200% of Target
- heir Incentive
 - e Plan
heir Incentive
 - ual’s aw
 - Plan Target with OCE approval (subject to funding limits)
- Awards are based on an employee’s incentive plan, incentive target, and base pay as of December 31st of the Plan Year

OPUC 1-9 TH297



Exhibit No. NES-019

Excerpt of Exelon Corporation
Form 10-Q for the Quarterly Period Ended June 30, 2018

8/22/2018

☒ QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934For the Quarterly Period Ended June 30, 2018
or☐ TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

Commission File Number	Name of Registrant, State or Other Jurisdiction of Incorporation, Address of Principal Executive Offices, and Telephone Number	ISS Employer Identification Number
1-16199	EXELON CORPORATION (a Pennsylvania corporation) 10 South Dearborn Street P.O. Box 805379 Chicago, Illinois 60689-5379 (800) 483-3229	23-2990190
333-85496	EXELON GENERATION COMPANY, LLC (a Pennsylvania limited liability company) 300 Exelon Way Kennel Square, Pennsylvania 19348-2473 (610) 765-5959	23-3064219
1-1839	COMMONWEALTH EDISON COMPANY (an Illinois corporation) 440 South LaSalle Street Chicago, Illinois 60605-1028 (312) 394-4321	36-0336600
000-16844	PECO ENERGY COMPANY (a Pennsylvania corporation) P.O. Box 8699 2301 Market Street Philadelphia, Pennsylvania 19101-8699 (215) 841-4000	23-0970240
1-1910	BALTIMORE GAS AND ELECTRIC COMPANY (a Maryland corporation) 2 Center Plaza 110 West Fayette Street Baltimore, Maryland 21201-3708 (410) 234-5000	52-0280210
001-31403	PEPCO HOLDINGS LLC (a Delaware limited liability company) 701 Ninth Street, N.W. Washington, District of Columbia 20068 (202) 872-2000	52-2297449
001-01672	POTOMAC ELECTRIC POWER COMPANY (a District of Columbia and Virginia corporation) 701 Ninth Street, N.W. Washington, District of Columbia 20068 (202) 872-2000	53-0127880
001-01405	DELMARVA POWER & LIGHT COMPANY (a Delaware and Virginia corporation) 500 North Walesfield Drive Newark, Delaware 19702 (202) 872-2000	51-0684283
001-03559	ATLANTIC CITY ELECTRIC COMPANY (a New Jersey corporation) 500 North Walesfield Drive Newark, Delaware 19702 (202) 872-2000	21-0398280

EXELON CORPORATION AND SUBSIDIARY COMPANIES
CONSOLIDATED BALANCE SHEETS
(Unaudited)

(In millions)

LIABILITIES AND SHAREHOLDERS' EQUITY

	June 30, 2018	December 31, 2017
Current liabilities		
Short-term borrowings	\$ 1,282	\$ 929
Long-term debt due within one year	1,158	2,095
Accounts payable	3,113	3,532
Accrued expenses	1,665	1,837
Payables to affiliates	\$ 5	5
Regulatory liabilities	791	523
Mark-to-market derivative liabilities	268	232
Unamortized energy contract liabilities	171	231
Renewable energy credit obligation	267	352
PIH merger related obligation	63	87
Other	973	982
Total current liabilities	9,628	10,798
Long-term debt	33,178	32,176
Long-term debt to financing trusts	389	389
Deferred credits and other liabilities		
Deferred income taxes and unamortized investment tax credits	11,494	11,235
Asset retirement obligations	10,222	10,029
Pension obligations	3,412	3,736
Non-pension postretirement benefit obligations	2,132	2,093
Spent nuclear fuel obligation	1,157	1,147
Regulatory liabilities	9,677	9,865
Mark-to-market derivative liabilities	597	409
Unamortized energy contract liabilities	538	609
Other	2,087	2,097
Total deferred credits and other liabilities	41,216	41,220
Total liabilities (a)	84,410	84,583
Commitments and contingencies		
Shareholders' equity		
Common stock (No par value, 2,000 shares authorized, 966 shares and 953 shares outstanding at June 30, 2018 and December 31, 2017, respectively)	19,006	18,964
Treasury stock, at cost (2 shares at June 30, 2018 and December 31, 2017)	(123)	(123)
Retained earnings	14,561	14,061
Accumulated other comprehensive loss, net	(2,921)	(3,029)
Total shareholders' equity	30,515	29,896
Noncontrolling interests	2,334	2,231
Total equity	32,849	32,127
Total liabilities and shareholders' equity	\$ 117,249	\$ 116,770

(a) Exelon's consolidated assets include \$9,612 million and \$9,597 million at June 30, 2018 and December 31, 2017, respectively, of certain VIEs that can only be used to settle the liabilities of the VIE. Exelon's consolidated liabilities include \$3,544 million and \$3,618 million at June 30, 2018 and December 31, 2017, respectively, of certain VIEs for which the VIE creditors do not have recourse to Exelon. See Note 3 — Variable Interest Entities for additional information.

See the Combined Notes to Consolidated Financial Statements
14

Exhibit No. NES-020

Mark-up of Schedule 3A

**SCHEDULE 3A
RESOURCE COMPENSATION TRUE-UP**

I. Projected Cost Update, Capital Expense Support, and True-Up

The projections of certain components of the Annual Fixed Revenue Requirement and the Monthly Fuel Supply Cost as detailed below will be updated prior to the Term and are subject to true-up under the methodology outlined in ~~section~~ Section III- (“Methodology”). The estimate or forecast identified in the “Mystic 8&9 True-Up” and “EMT True-Up” tabs provided in ~~section- H~~ the Methodology will be updated prior to the Term and are subject to a true-up adjustment to the actual costs incurred by Owner for maintaining and operating the Resources for the components of cost specified below.

Capital expenditures that will be incurred during the Term will be supported prior to their incurrence and are subject to a true-up adjustment to the actual costs in accordance with the protocols as detailed below and the ~~methodology outlined in section- H~~ Methodology.

Actual costs may be larger or smaller than estimated or forecast costs, so the true-up adjustment may be made in either a positive or negative direction- subject to the following limitations:

1. Cash Working Capital shall be set at \$0 for both Resource and LNG Terminal for purposes of true-up of the return;
2. Overtime Labor Expenses. The true-up adjustment relative to Overtime Labor Expenses shall not exceed 21% of base pay for either Resource or LNG Terminal employees;
3. Incentive Pay. The true-up adjustment relative to Incentive Pay shall not exceed 13.3% of base pay for either Resource or LNG Terminal employees and shall not include incentive pay based on the financial performance of Owner or its affiliates; and
4. Total Operations and Maintenance Expenses. The true-up adjustment relative to

Total Operations and Maintenance shall not exceed 2% of projected amounts.

A. Costs and Formula Rate Inputs Subject to Updated Projection and True-Up

The Annual Fixed Revenue Requirement and the Maximum Monthly Fixed Cost Payment set forth in Schedule 3 of the Agreement shall be updated prior to the Term and subject to true-up as detailed herein and in accordance with ~~section III~~the Methodology for ~~the following~~(1) all components of rate base, including excess deferred income taxes; cost-~~and only the following components: 1) capital expenditures; 2) operations and maintenance expenses; 3) administrative and general expenses; and 4) taxes other than income taxes;~~ and (5) federal income taxes.

B. Administrative Filings

On or before March 1st of each year prior to the first True-Up Filings, beginning with March 1, 2019, Owner shall file an Administrative Filing that details the capital expenditures for Mystic 8&9 and the LNG Terminal for the previous calendar year. In connection with the True-Up Filings detailed in Section I.C, Interested Parties may use information and data provided in an Administrative Filing and responses to interrogatory requests as part of the Information Exchange and Challenge Procedures detailed in Section II.

1. 2019 Administrative Filing:

i. Update to Net Plant for Capital Expenditures in 2018

On or before March 1, 2019, Owner shall file an Administrative Filing that details capital expenditures incurred during calendar year 2018. The Administrative Filing will include net plant updated to include actual capital expenditures and depreciation incurred between January 1, 2018 and December 31, 2018. Interested parties shall have to right to submit no more than twenty (20) interrogatories related specifically to the capital expenditures. Owner shall respond to these interrogatories within fifteen (15) calendar days. For projected capital projects for the next calendar year, Owner will provide a description of the project(s), the need for the project(s), the alternatives considered with respect to the least-cost alternatives, the expected start and completion

date(s), and the project costs.

2. 2020 Administrative Filing:

i. Update to Net Plant for Capital Expenditures in 2019

On or before March 1, 2020, Owner shall file an Administrative Filing that details capital expenditures incurred during calendar year 2019. The Administrative Filing will include net plant updated to include actual capital expenditures and depreciation incurred between January 1, 2018 and December 31, 2019. Interested parties shall have to right to submit no more than twenty (20) interrogatories related specifically to the capital expenditures. Owner shall respond to these interrogatories within fifteen (15) calendar days. For projected capital projects for the next calendar year, Owner will provide a description of the project(s), the need for the project(s), the alternatives considered with respect to the least-cost alternatives, the expected start and completion date(s), and the project costs.

C. True-Up Filings

Each of the ~~filings~~True-Up Filings detailed below (collectively “Filings”) are subject to and will be made in accordance with the Information Exchange and Challenge Procedures detailed in ~~section~~Section II. Each of the Filings may increase or decrease the Annual Fixed Revenue Requirement and Maximum Monthly Fixed Cost Payment so each adjustment may be made in either a positive or negative direction. In connection with the Filings, Interested Parties may use information and data provided in an Administrative Filing and responses to interrogatory requests as part of the Information Exchange and Challenge Procedures detailed in Section II.

1. 2021 Filing:

i. Support for Capital Expenditures that will be incurred between June 1, 2022 and December 31, 2022.

Owner shall file on or before ~~April~~March 1, 2021, in accordance with the Informational Exchange and Challenge Procedures detailed below, appropriate support for the capital expenditures and costs that will be incurred during the Term in calendar year 2022 (June 1, 2022 to December 31, 2022). The Annual Fixed Revenue Requirement and the Maximum Monthly Fixed

Cost Payment for the relevant period of the Term in Schedule 3 will be updated in accordance with the ~~methodology in section III~~Methodology and shall exclude true-up of investment and expense items disallowed by the Commission. The filing will include a description of the project(s), the need for the project(s), the alternatives considered with respect to the least-cost alternatives, the expected start and completion date(s), and the project costs.

2. 2022 Filing:

i. Support for Capital Expenditures that will be incurred in calendar year 2023

Owner shall file on or before ~~April~~March 1, 2022, in accordance with the Informational Exchange and Challenge Procedures detailed below, appropriate support for the capital expenditures and costs that will be incurred during calendar year 2023 (January 1, 2023 to December 31, 2023). The Annual Fixed Revenue Requirement and the Maximum Monthly Fixed Cost Payment for the relevant period of the Term in Schedule 3 will be updated in accordance with the ~~methodology in section III~~Methodology.

ii. Update to Net Plant for Capital Expenditures incurred prior to the Term, and Updated Projected Capital Expenditures, Operations and Maintenance Expense, Administrative and General Expense, and Taxes Other Than Income Taxes that will be incurred during the Term

The Owner shall also file on or before ~~April~~March 1, 2022, in accordance with the Informational Exchange and Challenge Procedures detailed below, to update the Annual Fixed Revenue Requirement and the Maximum Monthly Fixed Cost Payment for the Resource and LNG Terminal provided for and calculated in accordance with Schedule 3 above with updated projections for capital expenditures incurred prior to the Term, and other costs including operations and maintenance expense, administrative and general expense, and taxes other than income taxes and federal income taxes that Owner is estimated and projected to incur to maintain and operate the Resource and LNG Terminal during the Term based upon information contained in Owner's books and records. At this time, net plant will be updated to include actual capital expenditures and depreciation incurred between January 1, 2018 and December

31, 2021.

3. 2023 Filing:

i. Support for Capital Expenditures that will be incurred between January 1, 2024 and May 31, 2024.

Owner shall file on or before ~~April~~March 1, 2023, in accordance with the Informational Exchange and Challenge Procedures detailed below, appropriate support for the capital expenditures and costs that will be incurred during the Term in calendar year 2024 (January 1, 2024 to May 31, 2024). The Annual Fixed Revenue Requirement and the Maximum Monthly Fixed Cost Payment for the relevant period of the Term in Schedule 3 will be updated in accordance with the ~~methodology in section III~~Methodology.

ii. True-Up to Actual Costs for Capital Expenditures incurred prior to the Term and Capital Expenditures, Operations and Maintenance Expense, Administrative and General Expense, and Taxes Other Than Income Taxes incurred during calendar year 2022

The Owner shall also file on or before ~~April~~March 1, 2023, in accordance with the Informational Exchange and Challenge Procedures detailed below, to true-up the Annual Fixed Revenue Requirement and the Maximum Monthly Fixed Cost Payment for the Resource and LNG Terminal provided for and calculated in accordance with Schedule 3 above as updated prior to the Term in the 2022 Filings (sections ~~BC~~BC(2)(i) and ~~BC~~BC(2)(ii)) to the costs actually incurred, as adjusted for certain exclusions or limitations identified herein, for capital expenditures incurred prior to the Term (i.e., between January 1, 2018 and May 31, 2022), including all attendant impacts, capital expenditures incurred during the Term in 2022 (June 1, 2022 to December 31, 2022), ~~and~~including all attendant impacts, and other costs including operations and maintenance expense, administrative and general expense, and taxes other than income taxes and federal income taxes incurred by Owner for maintaining and operating the Resource and LNG Terminal during the Term in 2022 (June 1, 2022 to December 31, 2022) based upon information contained in Owner's books and records. Owner shall submit in accordance with the Informational Exchange and Challenge Procedures below the information

necessary to true-up 2022 estimated and projected costs to actual costs. The

~~methodology~~ Methodology includes the mechanism for determining the actual costs incurred by the Owner ~~is provided below in section III.~~ Actual costs may increase or decrease the Annual Fixed Revenue Requirement and Maximum Monthly Fixed Cost Payment, so the true-up adjustment may be made in either a positive or negative direction, subject to the limitations in Section I. The difference between the Annual Fixed Revenue Requirement and the Maximum Monthly Fixed Cost Payment for the Resource and LNG Terminal provided for and calculated in accordance with Schedule 3 above, as adjusted prior to the Term in the 2022 Filing, and the actual costs in accordance with ~~section III~~ the Methodology, plus interest determined in accordance with the Commission's interest rate on refunds (18 C.F.R § 35.19a), will be added to or subtracted from the 2024 calendar year Annual Fixed Revenue Requirement and Maximum Monthly Fixed Cost Payment.

4. 2024 Filing:

i. True-Up to Actual Costs for Capital Expenditures, Operations and Maintenance Expense, Administrative and General Expense, and Taxes Other Than Income Taxes incurred during calendar year 2023

The Owner shall file on or before ~~April~~ March 1, 2024, in accordance with the Informational Exchange and Challenge Procedures detailed below, to true-up the Annual Fixed Revenue Requirement and the Maximum Monthly Fixed Cost Payment for the Resource and LNG Terminal provided for and calculated in accordance with Schedule 3 above as updated and modified in the 2022 Filing (section BC(2)(ii)), the 2023 capital expense Filing (section BC(3)(i)), and the 2023 true-up Filing (section BC(3)(ii)), ~~to the including all attendant impacts, and other~~ costs ~~actually incurred for capital expenditures incurred prior to the Term, capital expenditures incurred during the Term in 2023 (January 1, 2023 to December 31, 2023), and including~~ operations and maintenance expense adjusted for certain exclusions or limitations, administrative and general expense, as adjusted for certain exclusions or limitations, and taxes other than income taxes and federal income taxes incurred by Owner for maintaining and

operating the Resource and LNG Terminal during the Term in 2023 (January 1, 2023 to December 31, 2023) based upon information contained in Owner's books and records. Owner shall submit in accordance with the Informational Exchange and Challenge Procedures below the information necessary to true-up 2023 estimated and projected costs to actual costs. The ~~methodology~~ Methodology includes the mechanism for determining the actual costs incurred by the Owner ~~is provided below in section III.~~ Actual costs may increase or decrease the Annual Fixed Revenue Requirement and Maximum Monthly Fixed Cost Payment, so the true-up adjustment may be made in either a positive or negative direction, subject to the limitations in Section I. The difference between the Annual Fixed Revenue Requirement and the Maximum Monthly Fixed Cost Payment for the Resource and LNG Terminal provided for and calculated in accordance with Schedule 3 above, as adjusted prior to the Term in the 2022 Filing, and the actual costs in accordance with the Methodology, plus interest determined in accordance with the Commission's interest rate on refunds (18 C.F.R § 35.19a), will be added to or subtracted from the 2024 calendar year Annual Fixed Revenue Requirement and Maximum Monthly Fixed Cost Payment. The difference between the Annual Fixed Revenue Requirement and the Maximum Monthly Fixed Cost Payment for the Resource and LNG Terminal provided for and calculated in accordance with Schedule 3 above, as adjusted and the actual costs in accordance with ~~section III~~ the Methodology, plus interest determined in accordance with the Commission's interest rate on refunds (18 C.F.R § 35.19a), will be settled within 60 days of the Informational Filing detailed below, unless otherwise ordered by the Commission. allocation among Interested Parties for resettling of refunds or surcharges will be in accordance with the ISO Tariff, unless another manner of collection is directed by FERC. ~~Any~~

5. 2025 Filing:

- i. **True-Up to Actual Costs for Capital Expenditures, Operations and Maintenance Expense, Administrative and General Expense, and Taxes Other Than Income Taxes incurred between January 1, 2024**

and May 31, 2024

The Owner shall file on or before ~~April~~March 1, 2025, in accordance with the Informational Exchange and Challenge Procedures detailed below, to true-up the Annual Fixed Revenue Requirement and the Maximum Monthly Fixed Cost Payment for the Resource and LNG Terminal provided for and calculated in accordance with Schedule 3 above and updated and modified in the 2022 Filing (section BC(2)(ii)) and the 2023 capital expense Filing (section BC(3)(i)) to the costs actually incurred for capital expenditures incurred prior to the Term, capital expenditures incurred during the Term in 2024 (January 1, 2024 to May 31, 2024), including all attendant impacts, and other costs including operations and maintenance expense adjusted for certain exclusions or limitations, administrative and general expense, as adjusted for certain exclusions or limitations, and taxes other than income taxes and federal income taxes incurred by Owner for maintaining and operating the Resource and LNG Terminal during the Term in 2024 (January 1, 2024 to May 31, 2024) based upon information contained in Owner's books and records. Owner shall submit in accordance with the Informational Exchange and Challenge Procedures below the information necessary to true-up 2024 estimated and projected costs to actual costs. The ~~methodology~~Methodology includes the mechanism for determining the actual costs incurred by the Owner ~~is provided below in section III.~~ Actual costs may increase or decrease the Annual Fixed Revenue Requirement and Maximum Monthly- Fixed Cost Payment, so the true-up adjustment may be made in either a positive or negative direction. subject to the limitations in Section I. The difference between the Annual Fixed Revenue Requirement and the Maximum Monthly Fixed Cost Payment for the Resource and LNG Terminal provided for and calculated in accordance with Schedule 3 above, as adjusted prior to the Term in the 2022 Filing, and the actual costs in

~~accordance with section III~~ accordance with the Methodology, plus interest determined in accordance with the Commission's interest rate on refunds (18 C.F.R § 35.19a), will be added to or subtracted from the 2024 calendar year Annual Fixed Revenue Requirement and Maximum Monthly Fixed Cost Payment. The difference between the Annual Fixed Revenue Requirement and the Maximum Monthly Fixed Cost Payment for the Resource and LNG Terminal provided for and calculated in accordance with Schedule 3 above, as adjusted and the actual costs in accordance with the Methodology, plus interest determined in accordance with the Commission's interest rate on refunds (18 C.F.R § 35.19a), will be settled within 60 days of the Informational Filing detailed below, unless otherwise ordered by the Commission. Any allocation among Interested Parties for resettling of refunds or surcharges will be in accordance with the ISO Tariff, unless another manner of collection is directed by FERC.

II. Informational Exchange and Challenge Procedures for each True-Up

Section 1. Applicability

The following Information Exchange and Challenge Procedures shall apply to the finalization for each True-Up.

Section 2. Informational Posting

- A. On or before ~~April~~March 1 of each Filing year as provided above, Owner shall submit to ISO its Filing as detailed above, in accordance with the ~~methodology provided below in section III~~Methodology. If the date for submission of the Filing falls on a weekend or a holiday recognized by FERC, then the posting shall be due on the next business day. Within two (2) business days of such ~~Informational~~ Filing, ISO shall provide notice of the ~~Informational~~ Filing via a posting on its website and OASIS. The date on which such posting occurs shall be that year's "Publication Date." ISO shall provide notice of such posting via an email exploder list. Interested Parties can subscribe to the ISO exploder list on the ISO website. Any delay in the Publication

Date will result in an equivalent extension of time for the submission of Information Requests discussed in section 3 of these protocols. If the Filing will support the capital expenditures that will be incurred during the Term it shall:

1. Provide an explanation of need that explains why the capital expenditure is necessary in order to meet the obligations of the Agreement;
2. Demonstrate that the expenditure is reasonably determined to be the least-cost commercially reasonable option consistent with Good Utility Practice to meet the obligations of the ~~Mystie~~ Agreement; and
3. Demonstrate that the timing of the initiation and completion of the project was reasonable.

If the Filing provides for an update of projected costs or a true-up it shall:

1. Include a workable data-populated template and underlying workpapers in native format with all formulas and links intact;
2. Provide the template rate calculations and all inputs thereto, as well as supporting documentation and workpapers for data that are used in the formula rate that are not otherwise available in the methodology provided below in ~~section III~~ the Methodology;
3. Provide sufficient information to enable Interested Parties to replicate the calculation of the formula results from the methodology provided below in ~~section III~~ the Methodology;
4. Identify any changes in the formula references (page and line numbers) to the methodology provided below in ~~section III~~ the Methodology;
5. Include the information that is reasonably necessary to determine that Owner has applied the methodology provided below in ~~section III~~ the Methodology, the extent of any accounting or other changes that affect the inputs into that methodology, and any corrections or adjustments made in the calculation;

6. With respect to any change in accounting that affects inputs to the methodology provided below in ~~section III~~the Methodology or the resulting charges billed:

- a. Identify any ~~Accounting Changes~~accounting changes, including
 - i. The initial implementation of an accounting standard or policy;
 - ii. the initial implementation of accounting practices for unusual or unconventional items;
 - iii. correction of errors and prior period adjustments that impact the Annual Fixed Revenue Requirement;
 - iv. the implementation of new estimation methods or policies that change prior estimates; and
 - v. changes to income tax elections;
- b. Identify items included in the formula rate at an amount other than on a historic cost basis (e.g., fair value adjustments); ~~and~~
- c. Identify any reorganization or merger transaction during the previous year and explain the effect of the accounting for such transaction(s) on inputs to the formula rate in the methodology provided below in ~~section III~~the Methodology; and
- d. Provide a narrative explanation of the impact of accounting changes on input to the methodology provided below in the Methodology.

The Owner shall hold an open meeting among Interested Parties (“Annual Meeting”) between the Publication Date and ~~June~~May 1 at its offices, with the option for participants to access the meeting by remotely (remote access options may include telephone, video conferencing, webinar, internet conferencing, or other appropriate remote access options as determined by Owner). No less than thirty (~~30~~20) days prior to such Annual Meeting, the Owner shall provide notice on ISO’s internet website and OASIS of the time, date, and location

of the Annual Meeting and ISO shall provide notice of such meeting to an email exploder list.

The Owner will also host a Technical Session (“Technical Session”) by June 1 of each year. The Technical Session shall provide (1) the Owner the opportunity to explain the Filing in more detail than at the Annual Meeting and (2) Interested Parties an opportunity to seek additional information and clarifications and otherwise discuss the components of the Filing. The Owner shall make available to Interested Parties remote access to this Technical Session. No less than seven (7) days prior to such Technical Session, the Owner shall provide a notice of the Technical Session and request that ISO-NE distribute such notice to the Interested Parties and post it to the ISO-NE website. Interested Parties may receive notice of such posting by subscribing to the associated webpage on the ISO-NE website. For purposes of these procedures, the term Interested

Party includes, but is not limited to, customers subject to charges under the Agreement, parties to the FERC proceeding in which this Agreement is submitted, state utility regulatory commissions, the ISO, the ISO Participants Committee, consumer advocacy agencies, and state attorneys general. The Annual Meeting and Technical Session shall (i) permit the Owner to explain and clarify its Filing and (ii) provide Interested Parties an opportunity to seek information and clarifications from the Owner about the Filing.

Section 3. Information Exchange Procedures

The Filing shall be subject to the following information exchange procedures (“Information Exchange Procedures”):

- A. Interested Parties shall have until June 1 to serve reasonable information and document requests on Owner (“Information Exchange Period”). If June 1 falls on a weekend or a holiday recognized by FERC, the deadline for submitting all information and document requests shall be extended to the next business day. If the Filing will substantiate the capital expenditures that will be incurred during the Term such information and document requests shall be limited to what ismay be reasonably necessary to determine:
 - a. Whether the capital expenditure is necessary in order to meet the obligations of

the ~~Mystic~~ Agreement; ~~and~~

- b. Whether the expenditure is reasonably determined to be the least-cost commercially reasonable option consistent with Good Utility Practice to meet the obligations of the ~~Mystic~~ Agreement; ~~and~~

c. Whether the timing of the initiation and completion of the project was reasonable.

- B. If the Filing provides for an update of projected costs or a true-up such information and document requests shall be limited to what ~~is~~may be reasonably necessary to determine:

- (1) the extent or effect of an ~~Accounting Change~~accounting change;
- (2) whether the Filing fails to include data properly recorded in accordance with these protocols;
- (3) the proper application of the ~~methodology~~Methodology provided below and procedures in these protocols;

~~section III and procedures in these protocols;~~

(4) the accuracy of data and consistency with the ~~methodology provided~~

~~below in section III Methodology~~ of the charges shown in the Filing;

(5) the prudence of actual costs and expenditures;

~~(5)(6) whether a capital expenditure incurred during the Term (or before in the case of the 2021 Filing) is necessary in order to meet the obligations of the Agreement;~~

~~(7) whether a capital expenditure incurred during the Term (or before in the case of the 2021 Filing) is reasonably determined to be the least-cost commercially reasonable option consistent with Good Utility Practice to meet the obligations of the Agreement;~~

~~(8) whether the timing of initiation and completion of the project was justified;~~

~~(9) The recording and accounting of costs pursuant to Commission accounting practices and procedures; or~~

~~(6)(10) any other information that may reasonably have substantive effect on the calculation of the charge pursuant to the methodology provided below in section III Methodology.~~

The information and document requests shall not otherwise be directed to ascertaining whether the ~~methodology provided below in section III Methodology~~ is just and reasonable.

- C. The Owner shall make a good faith effort to respond to information and document requests pertaining to the Filing within five (15) business days of receipt of such requests. The Owner shall respond to all information and document requests by no later than July 10.

- D. The Owner will cause to be posted publicly on the ISO website and OASIS all information requests from Interested Parties and the Owner's response(s) to such requests; except, however, if responses to information and document requests include material deemed by the Owner to be confidential information, such information will not be publicly posted but will be made available to requesting parties pursuant to a confidentiality agreement to be executed by the Owner and the requesting party.
- E. Owner shall not claim that responses to information and document requests provided pursuant to these protocols are subject to any settlement privilege in any subsequent FERC proceeding addressing an Owner's Filing.
- F. To the extent the Owner and applicable Interested Parties are unable to resolve disputes related to information requests, the Owner or applicable Interested Parties may avail themselves of the on-call settlement judge or the Commission's Office of Administrative Law Judges and Dispute Resolution to resolve such matters.

Section 4. Challenge Procedures

- A. Interested Parties shall have until July 31 following the Publication Date to review the inputs, supporting explanations, allocations, and calculations and to notify the Owner in writing, which may be made electronically, of any specific Informal Challenges. The period of time from the Publication Date until July 31 shall be referred to as the Review Period. If July 31 falls on a weekend or a holiday recognized by FERC, the deadline for submitting all Informal Challenges shall be extended to the next business day. Failure to pursue an issue through an Informal Challenge ~~or to lodge~~ shall not bar pursuit of that issue as part of a Formal challenge with respect to the same Filing as long as the Interested Party has submitted an Informal Challenge on any issue with respect to that Filing. Failure to submit a Formal Challenge regarding any issue as to

a given Filing shall bar pursuit of such issue with respect to that Filing same Filing but shall not bar pursuit of such issue or the submission of a Formal Challenge as to such issue as it relates to a subsequent Filing or changes to filings in Section II.5 below.

- B. A party submitting an Informal Challenge must specify the inputs, supporting explanations, allocations, calculations, or other information to which it objects, and provide an appropriate explanation and documents, as applicable, to support its challenge. The Owner shall make a good faith effort to respond to any Informal Challenge within fifteen (15) business days of notification of such challenge. The Owner shall appoint a senior representative to work with the party that submitted the Informal Challenge (or its representative) toward a resolution of the challenge. If the Owner disagrees with such challenge, the Owner will provide the Interested Party(ies) with ~~an~~ a written explanation supporting the inputs, supporting explanations, allocations, calculations, or other information. Subject to the confidentiality provisions in Section II.3D above, the Owner shall not claim that responses to information and document requests pursuant to these Protocols are subject to any settlement privilege in any subsequent Commission proceeding addressing the Owner's Filing, or any other FERC proceeding and in any proceeding before an Article III court to review a FERC decision. No Informal Challenge may be submitted after July 31, and the Owner must respond to all Informal Challenges by no later than August 31, unless the Review Period is extended by the Owner or FERC. The Owner shall cause to be posted publicly all Informal Challenges from Interested Parties and the Owner's response(s) to such Informal Challenges; except, however, if Informal Challenges or responses to Informal Challenges include material deemed by the Owner to be confidential information, such information will not be publicly posted but will be provided by the Owner to requesting parties pursuant to a confidentiality agreement to be executed by the Owner and the requesting party. In such a case, there will be a notice posted that

the information requested is available pursuant to a confidentiality agreement.

- C. Informal Challenges shall be subject to the resolution procedures and limitations in this section. Formal Challenges shall be filed pursuant to these protocols and shall satisfy all of the following requirements.

(1) A Formal Challenge shall, as applicable:

- (a) Clearly identify the action or inaction which is alleged to violate the ~~methodology provided below in section III~~ Methodology or protocols;
- (b) Explain how the action or inaction violates the ~~methodology provided below in section III~~ Methodology or protocols;
- (c) Provide an explanation of why the capital expenditure is not necessary in order to meet the obligations of the Agreement;
- (d) Demonstrate that the expenditure is not reasonably determined to be the least-cost commercially reasonable option consistent with Good Utility Practice to meet the obligations of the Agreement;
- (e) Demonstrate that the initiation or completion of the project was unreasonably delayed prior to the Term;
- (e)(f) Set forth the business, commercial, economic or other issues presented by the action or inaction as such relate to or affect the party filing the Formal Challenge, ~~including~~ which may include:
 - (i) The extent or effect of an ~~Accounting Change~~ accounting change;
 - (ii) Whether the Filing fails to include data properly recorded in accordance with these protocols;
 - (iii) The proper application of the ~~methodology provided below in section III~~ Methodology and procedures in these protocols;
 - (iv) The recording and accounting of costs pursuant to

Commission accounting practices and procedures;

~~(iv)~~(v) The accuracy of data and consistency with the ~~methodology~~
~~provided below in section HH~~Methodology of the charges
 shown in the Filing;

~~(v)~~(vi) The prudence of actual costs and expenditures; or

~~(vi)~~(vii) Any other information that may reasonably have substantive
 effect on the calculation of the charge pursuant to the
~~methodology provided below in section HH~~Methodology.

~~(d)~~(g) Make a good faith effort to quantify the financial impact or burden (if
 any) created for the party filing the Formal Challenge as a result of the
 action or inaction;

~~(e)~~(h) State whether the issues presented are pending in an existing
 Commission proceeding or a proceeding in any other forum in which the
 filing party is a party, and if so, provide an explanation why timely
 resolution cannot be achieved in that forum;

~~(f)~~(i) State the specific relief or remedy requested, including any request for
 stay or extension of time, and the basis for that relief;

~~(g)~~(j) Include all documents that support the facts in the Formal Challenge
 in possession of, or otherwise attainable by, the filing party,
 including, but not limited to, contracts and affidavits; and

~~(h)~~(k) State whether the filing party utilized the Informal Challenge
 procedures described in these protocols to dispute the action or
 inaction raised by the Formal Challenge, and, if not, describe why not.

- (2) Service. Any person filing a Formal Challenge must serve a copy of the Formal Challenge on the Owner. Service to the Owner must be simultaneous with filing at the Commission. Simultaneous service can be accomplished by

electronic mail in accordance with § 385.2010(f)(3). The party filing the Formal Challenge shall serve the individual listed as the contact person on the Owner's Informational Filing required under ~~section 2~~Section II.6 of these protocols.

~~D. Informal and Formal Challenges shall be limited to all issues that may be necessary to determine: (1) the extent or effect of an Accounting Change; (2) whether the Filing fails to include data properly recorded in accordance with these protocols; (3) the proper application of the methodology provided below in section III and procedures in these protocols; (4) the accuracy of data and consistency with the methodology provided below in section III of the charges shown in the Filing; (5) the prudence of actual costs and expenditures; (6) whether a capital expenditure incurred during the Term is necessary in order to meet the obligations of the Mystic Agreement; (7) whether a capital expenditure incurred during the Term is reasonably determined to be the least cost commercially reasonable option consistent with Good Utility Practice to meet the obligations of the Mystic Agreement; or (8) any other information that may reasonably have substantive effect on the calculation of the charge pursuant to the methodology provided below in section III.~~

E. The Owner will cause to be posted all Informal Challenges from Interested Parties and the Owner's response(s) to such Informal Challenges; except, however, if Informal Challenges or responses to Informal Challenges include material deemed by the Owner to be confidential information, such information will not be publicly posted but will be made available to requesting parties pursuant to a confidentiality agreement to be executed by the Owner and the requesting party.

F. Any changes or adjustments to the Filing resulting from the Information Exchange and Informal Challenge processes that are agreed to by the Owner will be reported in the Informational Filing required pursuant to ~~section~~Section II.6 of these protocols and

- will be addressed as discussed in ~~section V~~Section II.5 of these protocols.
- G. An Interested Party shall have until ~~October~~November 15 following the Review Period to make a Formal Challenge with FERC, which shall be served on the Owner on the date of such filing as specified in Section ~~IV~~II.4.C(2) above. A Formal Challenge shall be filed in the same docket as the Owner's Informational Filing discussed in ~~section~~Section II.6 of these protocols. The ~~Transmission~~ Owner shall respond to the Formal Challenge by the deadline established by FERC. A party may not pursue a Formal Challenge if that party did not submit an Informal Challenge on any issue during the applicable Review Period.
- H. In any proceeding initiated by FERC concerning the Filing or in response to a Formal Challenge, the Owner shall bear the burden, consistent with section 205 of the Federal Power Act, of proving that (i) it has correctly applied the terms of the ~~methodology provided below in section III~~Methodology consistent with these protocols, and (ii) in the case of capital expenditures in any Filing, that the capital expenditure is necessary in order to meet the obligations of the Agreement, that the expenditure is reasonably determined to be the least-cost commercially reasonable option consistent with Good Utility Practice to meet the obligations of the Agreement, and that the timing of the initiation and completion of the project was reasonable. Nothing herein is intended to alter the burdens applied by FERC with respect to prudence challenges.
- I. Except as specifically provided herein, nothing herein shall be deemed to limit in any way the right of the Owner to file unilaterally, pursuant to Federal Power Act section 205 and the regulations thereunder, to change the ~~methodology provided below in section III~~Methodology or any of its inputs (including, but not limited to, rate of return), or the right of any other party to request such changes pursuant to section 206 of the Federal Power Act and the regulations thereunder.
- J. No party shall seek to modify the ~~methodology provided below in section~~

~~HH~~Methodology under the Challenge Procedures set forth in these protocols and Filings shall not be subject to challenge by anyone for the purpose of modifying the methodology provided below in section ~~HH~~Methodology. Any modifications to the methodology provided below in section ~~HH~~Methodology will require, as applicable, a Federal Power Act section 205 or section 206 filing. ~~Section 5.—Changes to Filings~~

Section 5. Changes to the True-Up Filings

Any changes to the data inputs, or as the result of any FERC proceeding to consider a Filing, or as a result of the procedures set forth herein, shall be settled by ISO-NE within 60 days of ~~its~~ effective date. Any allocation among Interested Parties for resettling of refunds or surcharges will be in accordance with the ISO Tariff, unless another manner of collection is directed by FERC. Interest on any refund or surcharge shall be calculated in accordance with 18 C.F.R. § 35.19a (“FERC’s Interest Rate”).

Section 6. Informational Filing

- A. By September 15 following the Publication Date, the Owner shall submit to FERC an informational filing (“Informational Filing”) of its Filing. This Informational Filing must include, if applicable, the information that is reasonably necessary to determine:
- (1) that input data under the methodology provided below in section ~~HH~~Methodology are properly recorded in any underlying workpapers; (2) that the Owner has properly applied the methodology provided below in section ~~HH~~Methodology and these procedures; (3) the accuracy of data and the consistency with the methodology provided below in section ~~HH~~Methodology of the Annual Fixed Revenue Requirement; (4) the extent of accounting changes that affect inputs; (5) whether a capital expenditure incurred during the Term is necessary in order to meet the obligations of the ~~Mystic~~ Agreement; and (6) whether a capital expenditure incurred during the Term

is reasonably determined to be the least-cost commercially reasonable option consistent with Good Utility Practice to meet the obligations of the ~~Mystic Agreement~~Agreement; and (7) whether the timing of the initiation and completion of the project was reasonable. The Informational Filing must also describe any corrections or adjustments made during that period, and must describe all aspects of the ~~methodology provided below in section III~~Methodology or its inputs that are the subject of an ongoing dispute under the Informal or Formal Challenge procedures. Within five (5) days of such Informational Filing, ISO shall provide notice of the Informational Filing by posting the docket number assigned to each Owner's Informational Filing on the ISO website and OASIS and via an email exploder list.

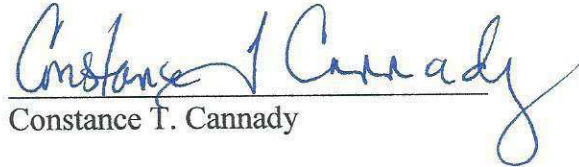
- B. Any challenges to the implementation of the ~~methodology provided below in section III~~Methodology must be made through the Challenge Procedures described in ~~section~~Section II.⁴ of these protocols or in a separate complaint proceeding, and not in response to the Informational Filing.

III. Methodology

The true-up methodology template is provided below.

VERIFICATION

Pursuant to 28 U.S.C. § 1746, I, Constance T. Cannady, state under penalty of perjury that the foregoing testimony is true and correct to the best of my knowledge, information and belief.


Constance T. Cannady

Executed this 21st day of August, 2018