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In this issue:

Scott Strauss and Peter Hopkins complete successful representation of the State of Maryland before the MD PSC concerning proposed \$4.5 billion purchase by Électricité de France of 49.99% of Constellation Energy's nuclear plant subsidiary



Scott Strauss and Peter Hopkins stand to the right of Governor O'Malley

In an October 30th decision, the Maryland Public Service Commission approved, with substantial conditions, the proposed acquisition by EDF, a French utility, of a nearly 50 percent interest in Constellation Energy's nuclear subsidiary. The two companies completed the transaction a week later, ending a six month struggle over the scope of the PSC's authority, as well as the propriety of the proposed acquisition. In June, at the urging of our clients – the State and the Maryland Energy Administration (and supported by other parties) – the PSC determined, in a decision of first impression,

that it had jurisdiction over the proposed transaction. In the October 30 decision, the PSC approved the deal, but only upon the imposition of conditions that both provide substantial consumer benefits and also protect against potential consumer harms, including:

- a \$110.5 million rate credit for customers of Baltimore Gas and Electric (BGE),
- an obligation on the part of Constellation to "infuse" BGE with \$250 million in new equity,
- a prohibition on BGE making dividend payments to Constellation if doing so would result in BGE's common equity dropping below 48%, and
- the imposition of stringent "ring-fencing" conditions to insulate BGE from any future Constellation bankruptcy filing, and to provide "credit separation" for BGE (i.e., a credit rating for BGE



Scott Strauss speaks at news conference on this matter

independent of Constellation).

This work was conducted jointly with the Office of the Maryland Attorney General. To read the two PSC decisions, select [Order No. 82719](#) or [Order No. 82986](#). For more information on the attorneys who litigated this matter, click on [Scott H. Strauss](#) and [Peter J. Hopkins](#).

SPIEGEL & MCDIARMID LLP

From the firm's founding in 1967, the lawyers of Spiegel & McDiarmid LLP have sought to practice law in accordance with three very basic propositions:

- ▶ *Public sector and consumer-owned entities are entitled to legal representation of the highest quality, at a cost they can afford. No public agency or consumer-owned enterprise should be forced to operate from a position of weakness because of its legal representation.*
- ▶ *In any technical area, lawyers should be conversant with more than just the fine points of the law. We must be able to communicate effectively with clients, expert witnesses, judges, and others about highly technical matters.*
- ▶ *Our clients are entitled to lawyers who approach problems with a broad perspective. Narrow thinking leads to narrow solutions, and narrow solutions are usually poor solutions.*