

Talen Energy Corp
Form S-8
May 28, 2015

As filed with the Securities and Exchange Commission on May 28, 2015.

Registration No. 333-

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM S-8
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

Talen Energy Corporation
(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

835 Hamilton Street

47-1197305
(I.R.S. Employer
Identification No.)

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Allentown, Pennsylvania 18101

(610) 774-5151

(Address of Principal Executive Offices) (Zip Code)

Talen Energy 2015 Stock Incentive Plan

Talen Energy Directors Deferred Compensation Plan

(Full title of the plan)

Paul A. Farr

Executive Vice President

835 Hamilton Street

Allentown, Pennsylvania 18101

(610) 774-5151

(Name and address and telephone number, including area code, of agent for service)

Copies to:

Andrew R. Keller, Esq.

Simpson Thacher & Bartlett LLP

425 Lexington Avenue

New York, New York 10017

(212) 455-2000

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of large accelerated filer, accelerated filer and smaller reporting company in Rule 12b-2 of the Exchange Act.

Large accelerated filer

Accelerated filer

Non-accelerated filer (Do not check if a smaller reporting company)Smaller reporting company **CALCULATION OF REGISTRATION FEE**

| Title of securities to be registered | Amount to be registered (1) | Proposed maximum offering price per share (4) | Proposed maximum aggregate offering price (4) | Amount of registration fee |
|---|--|--|--|---------------------------------------|
| Common Stock, par value \$0.001 per share (2) | 5,630,000 | \$20.61 | \$116,034,300.00 | \$13,483.19 |
| Common Stock, par value \$0.001 per share (3) | 500,000 | \$20.61 | \$10,305,000.00 | \$1,197.44 |

- (1) Pursuant to Rule 416(a) under the Securities Act of 1933, as amended (the Securities Act), also covers an indeterminate number of additional shares of common stock that may be offered under the plan to prevent dilution resulting from stock splits, stock distributions or similar transactions.
- (2) Covers shares of common stock, par value \$0.001 per share (the Common Stock), of Talen Energy Corporation issuable under the Talen Energy 2015 Stock Incentive Plan.
- (3) Covers shares of Common Stock issuable under the Talen Energy Directors Deferred Compensation Plan.
- (4) Pursuant to Rule 457(c) and Rule 457(h) of the Securities Act, the proposed maximum offering price per share and the proposed maximum aggregate offering price are estimated solely for the purpose of calculating the registration fee and are based on the average of the high and low prices of Common Stock of Talen Energy Corporation in the when issued trading market as reported to the New York Stock Exchange on May 27, 2015.

PART I

INFORMATION REQUIRED IN THE SECTION 10(a) PROSPECTUS

The information specified in Item 1 and Item 2 of Part I of Form S-8 is omitted from this Registration Statement on Form S-8 (the Registration Statement) in accordance with the provisions of Rule 428 under the Securities Act of 1933, as amended (the Securities Act), and the introductory note to Part I of Form S-8. The documents containing the information specified in Part I of Form S-8 will be delivered to the participants in the plans covered by this Registration Statement as specified by Rule 428(b)(1) under the Securities Act. Such documents are not required to be, and are not, filed with the Securities and Exchange Commission (the Commission) either as part of this Registration Statement or as a prospectus or prospectus supplement pursuant to Rule 424 under the Securities Act.

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Documents by Reference.

The following documents filed with the Commission by Talen Energy Corporation (the Registrant) pursuant to the Securities Act and the Securities Exchange Act of 1934, as amended (the Exchange Act), are hereby incorporated by reference in this Registration Statement:

- (a) The Registrant's Prospectus filed with the Commission pursuant to Rule 424(b) of the Securities Act, relating to the Registration Statement on Form S-1 (File No. 333-199888);
- (b) The Registrant's Registration Statement on Form 8-A filed with the Commission pursuant to Section 12(b) of the Securities Act, relating to the Registrant's common stock, including all other amendments and reports filed for the purpose of updating such description; and
- (c) The Registrant's Current Reports on Form 8-K filed with the Commission on May 4, 2015 and May 18, 2015.

All documents that the Registrant subsequently files pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Exchange Act after the date of this Registration Statement (except for any portions of the Registrant's Current Reports on Form 8-K furnished pursuant to Item 2.02 or Item 7.01 thereof and any corresponding exhibits thereto not filed with the Commission) and prior to the filing of a post-effective amendment to this Registration Statement indicating that all securities offered have been sold or which deregisters all securities then remaining unsold, shall be deemed to be incorporated by reference into this Registration Statement and to be a part hereof from the date of filing of such documents.

Any statement contained in a document incorporated or deemed to be incorporated by reference herein shall be deemed to be modified or superseded for purposes of this Registration Statement to the extent that a statement contained herein or in any other subsequently filed document which also is or is deemed to be incorporated by reference herein modifies or supersedes such statement. Any such statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this Registration Statement.

Item 4. Description of Securities.

Not applicable.

Item 5. Interests of Named Experts and Counsel.

Not applicable.

Item 6. Indemnification of Directors and Officers.

The Delaware General Corporation Law (the "DGCL") authorizes corporations to limit or eliminate the personal liability of directors to corporations and their stockholders for monetary damages for breaches of directors' fiduciary duties, subject to certain exceptions. Our amended and restated certificate of incorporation includes a provision that eliminates the

personal liability of directors for monetary damages for any breach of fiduciary duty as a director, except to the extent such exemption from liability or limitation thereof is not permitted under the DGCL. The effect of these provisions is to eliminate the rights of us and our stockholders, through stockholders' derivative suits on our behalf, to recover monetary damages from a director for breach of fiduciary duty as a director, including breaches resulting from grossly negligent behavior. However, exculpation does not apply to any director if the director has acted in bad faith, knowingly or intentionally violated the law, authorized illegal dividends or redemptions or derived an improper benefit from his or her actions as a director.

Our amended and restated bylaws provide that we must indemnify and advance expenses to our directors and officers to the fullest extent authorized by the DGCL, subject to reimbursement in the event it is ultimately determined that the individual's conduct did not meet the applicable standard of conduct to entitle the individual to indemnification under the DGCL. We also are expressly authorized to carry directors' and officers' liability insurance providing indemnification for our directors, officers and certain employees for some liabilities. We believe that these indemnification and advancement provisions and insurance are useful to attract and retain qualified directors and executive officers.

The limitation of liability, indemnification and advancement provisions included in our amended and restated certificate of incorporation and amended and restated bylaws may discourage stockholders from bringing a lawsuit against directors for breach of their fiduciary duty. These provisions also may have the effect of reducing the likelihood of derivative litigation against directors and officers, even though such an action, if successful, might otherwise benefit us and our stockholders. In addition, your investment may be adversely affected to the extent we pay the costs of settlement and damage awards against directors and officers pursuant to these indemnification provisions.

Item 7. Exemption from Registration Claimed.

Not applicable.

Item 8. Exhibits.

The following exhibits are filed as part of this Registration Statement:

| Exhibit Number | Description of Document |
|-----------------------|--|
| 3.1 | Form of Amended and Restated Certificate of Incorporation of Talen Energy Corporation (incorporated by reference to Exhibit 3.1 filed with the Registrant's Form S-1 (Registration No. 333-199888) filed with the Commission on March 18, 2015). |
| 3.2 | Form of Amended and Restated Bylaws of Talen Energy Corporation (incorporated by reference to Exhibit 3.2 filed with the Registrant's Form S-1 (Registration No. 333-199888) filed with the Commission on March 18, 2015). |
| 4.1 | Form of Talen Energy 2015 Stock Incentive Plan (incorporated by reference to Exhibit 10.5 filed with the Registrant's Form S-1 (Registration No. 333-199888) filed with the Commission on March 18, 2015). |
| 4.2 | Form of Talen Energy Directors Deferred Compensation Plan (incorporated by reference to Exhibit 10.7 filed with the Registrant's Form S-1 (Registration No. 333-199888) filed with the Commission on |

April 16, 2015).

- 5.1 Opinion of Simpson Thacher & Bartlett LLP.
- 23.1 Consent of Ernst & Young LLP.
- 23.2 Consent of PricewaterhouseCoopers LLP.
- 23.3 Consent of Simpson Thacher & Bartlett LLP (included as part of Exhibit 5.1).
- 24.1 Powers of Attorney (included in the signature pages to this Registration Statement).

Item 9. Undertakings.

(a) The undersigned registrant hereby undertakes:

- (1) To file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement:
 - (i) To include any prospectus required by Section 10(a)(3) of the Securities Act;

(ii) To reflect in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than a 20% change in the maximum aggregate offering price set forth in the Calculation of Registration Fee table in the effective registration statement; and

(iii) To include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement; *provided, however*, that paragraphs (a)(1)(i) and (a)(1)(ii) above do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in reports filed with or furnished to the Commission by the registrant pursuant to section 13 or section 15(d) of the Exchange Act that are incorporated by reference in this Registration Statement.

(2) That, for the purpose of determining any liability under the Securities Act, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof.

(3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

(b) The undersigned registrant hereby undertakes that, for purposes of determining any liability under the Securities Act, each filing of the registrant's annual report pursuant to Section 13(a) or Section 15(d) of the Exchange Act (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Exchange Act) that is incorporated by reference in the registration statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof.

(c) Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the Commission such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, as amended, the registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8 and has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Allentown, Commonwealth of Pennsylvania, on this 28th day of May, 2015.

TALEN ENERGY CORPORATION

By: /s/ Paul A. Farr

Name: Paul A. Farr

Title: Director and Executive Vice President

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints Michael A. McGrail, Frederick C. Paine and Elizabeth Stevens Duane, and each of them, his or her true and lawful attorneys-in-fact and agents, with full power to act separately and full power of substitution and resubstitution, for him or her and in his or her name, place and stead, in any and all capacities, to sign any and all amendments (including post-effective amendments) to this registration statement and all additional registration statements pursuant to Rule 462(b) of the Securities Act of 1933, as amended, and all post-effective amendments thereto, and to file the same, with all exhibits thereto, and all other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorney-in-facts and agents, and each of them, full power and authority to do and perform each and every act and thing requisite and necessary to be done in and about the premises, as fully to all intents and purposes as they or he might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents or either of them or his or their substitute or substitutes may lawfully do or cause to be done by virtue hereof.

This Power of Attorney shall not revoke any powers of attorney previously executed by the undersigned. This Power of Attorney shall not be revoked by any subsequent power of attorney that the undersigned may execute, unless such subsequent power of attorney specifically provides that it revokes this Power of Attorney by referring to the date of the undersigned's execution of this Power of Attorney. For the avoidance of doubt, whenever two or more powers of attorney granting the powers specified herein are valid, the agents appointed on each shall act separately unless otherwise specified.

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed on May 28, 2015 by the following persons in the capacities indicated.

| Signature | Title |
|-----------------------|---|
| /s/ Paul A. Farr | Director and Executive Vice President (principal executive, financial and accounting officer) |
| Paul A. Farr | |
| /s/ William H. Spence | Director and President |
| William H. Spence | |

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/s/ Robert J. Grey

Director and Executive Officer

Robert J. Grey

/s/ Philip G. Cox

Director

Philip G. Cox