

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549  
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AMENDMENT NO. 2  
TO  
FORM U-1 APPLICATION-DECLARATION  
UNDER  
THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935  
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Exelon Corporation  
10 South Dearborn Street  
37/th/ Floor  
Chicago, IL 60603

(Name of company filing this statement and address of principal executive offices)

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## Executive Summary

This Amendment No. 2 to Application-Declaration amends and restates in its entirety the Application-Declaration filed March 16, 2000, as amended June 16, 2000, and seeks approvals under the Public Utility Holding Company Act of 1935 (the "Act") relating to the proposed acquisition by Exelon Corporation ("Exelon") directly or indirectly of all the common stock of the following electric utility companies:

- . Commonwealth Edison Company ("ComEd"), an electric utility company, and currently a subsidiary of Unicom Corporation ("Unicom");
- . PECO Energy Company ("PECO"), an electric and gas utility company;
- . Exelon Generation Company, LLC ("Genco"), to which the generating assets of ComEd and PECO will be transferred; and
- . the electric utility subsidiaries of ComEd and PECO.

Following the transaction (referred to as the "Merger"), Exelon will register as a holding company under the Act. Accordingly, Exelon must establish, among other things, that combining ComEd and PECO will result in a "single integrated public-utility system." To satisfy this "integration" test, Exelon must show that it is "interconnected" in a way that will allow it to conduct coordinated utility operations economically in a "single area or region." The combined electric utility systems of ComEd and PECO, including particularly the Genco subsidiary, will clearly meet the integration and all other requirements of the Act.

All of Exelon's generating capacity, nuclear and other, will be owned or controlled by a single entity -- Genco. Genco will coordinate, through the interconnected system, the efficient use of the generation formerly held by ComEd and PECO for the benefit of the Exelon system. Genco will supply power to its affiliates and to non-affiliated customers. Exelon will be interconnected through the transmission facilities of ComEd and PECO and the extensive, available interstate open access transmission. Exelon will have the legal right under Federal Energy Regulatory Commission ("FERC") mandated Open Access Transmission Tariffs ("OATTs") to move power economically to customers as needed and in amounts sufficient to meet -- under normal conditions -- its operating needs throughout the Exelon system. In addition, Exelon will acquire a 100 MW firm contract path (the "Contract Path") and commit to keep such path for 3 years following the Merger or until the Commission determines that an alternative path or arrangement constitutes interconnection under the Act. Finally, Exelon Business Services Company ("Exelon Services") will be formed to oversee centralized corporate and administrative services.

Given the operating and regulatory structure of today's industry, Exelon will operate within a single area or region within the meaning of the Act. ComEd and PECO have an extensive five-year history of successful power exchanges with each other. In addition, they both buy and sell power in the same markets. The ability to transfer power economically, taking into account transmission cost, demonstrates that ComEd and PECO are in the same area or region. Combining ComEd and PECO's businesses will not lead to any anticompetitive

concerns. Further, Exelon's distribution areas -- surrounding Chicago, Illinois and Philadelphia, Pennsylvania -- are homogeneous and have similar operating characteristics. Illinois and Pennsylvania have enacted customer choice utility restructuring legislation. Finally, Exelon will in fact operate all of its utility facilities as a single, coordinated system.

Although the United States is now largely interconnected electrically, -----  
only those utilities, such as Exelon, which can and will operate their separate utilities economically and in a coordinated manner within the meaning of the -----  
Act, can be considered to be in the same area or region. Exelon, with corporate -----  
headquarters in Chicago, will coordinate utility operations functions with facilities in Chicago and Philadelphia. ComEd and PECO will maintain the benefits of localized management through local offices throughout their service areas. Exelon's utility subsidiaries will remain fully subject to applicable State and Federal public utility regulation, which will not be adversely affected by the Merger. Thus, this is not a case involving "scattered" properties or the impairment of local management, efficient operation or effective regulation.

This Application-Declaration will show that the Merger fits within existing Commission precedent and is made possible, applying the standards of the Act, by reason of significant legislative, regulatory and technological changes that have occurred in the electric utility industry in recent years. Approving the Merger as requested will not result in any of the harms Congress sought to prevent by adopting the Act and will be consistent with the requirements of the Act.

The foregoing executive summary focused on the integration requirement -- the keystone of the Act. This Application-Declaration will also demonstrate that the other requirements of the Act are met in this case as well./1/ In order to permit timely consummation of the Merger and the realization of the substantial benefits it is expected to produce, the Applicant requests that the Commission's review of this Application-Declaration commence and proceed as expeditiously as practicable.

#### Item 1. Description of Proposed Transaction

##### A. Introduction -- Benefits of the Merger

The Merger is in response to changes in the utility industry described in this Application-Declaration. Unicom and PECO believe that the Merger will join two well-managed companies of similar market capitalization, operating in States that have adopted comprehensive customer choice utility restructuring laws, and that share a commitment to developing an energy company responsive to increased competition and other changes in the industry. The Merger will provide substantial strategic and financial benefits to PECO Energy's and Unicom's shareholders, employees and customers. The Merger will significantly improve the companies' competitive

/1/ Exelon has filed two additional applications-declarations under the Act with respect to financing and related activities, File No. 70 9693 (the "Financing U-1") and with respect to investments in non-utility subsidiaries, File No. 70-9691 (the "Investment U-I").

positions and create an enhanced platform for growth for all segments of their businesses. These benefits of the Merger expected to include:

- . Expanded and Coordinated Generation Capacity
- . Integrated Power Marketing and Trading Business
- . Broadened, More Efficient Distribution System
- . Foundation for Future Growth
- . Cost Savings

B. Overview of the Transaction

The Agreement and Plan of Exchange and Merger, dated September 22, 1999 (the "Original Merger Agreement"), as amended and restated January 7, 2000 (the "Merger Agreement"), provides for a "merger-of-equals" business combination of Unicom and PECO. The transaction will be accomplished through a mandatory share exchange whereby Exelon, a Pennsylvania corporation, will exchange its common stock for the outstanding common stock of PECO (the "First Step Exchange"), followed by the merger of Unicom Corporation ("Unicom"), the current parent of ComEd, with and into Exelon, with Exelon as the surviving corporation (the "Second Step Merger"). The First Step Exchange and the Second Step Merger are referred to collectively as the "Merger."

After the Merger, Unicom and PECO's non-utility subsidiaries will be realigned. At or about the time of the Merger, ComEd and PECO will transfer their generating facilities (including PECO's existing subsidiaries that own and operate the Conowingo hydroelectric project) to Genco (the "Restructurings"). As part of the Merger and Restructurings, one or more service companies and/or operating companies will be formed and the other corporate organizational changes described herein will be made.

Pursuant to the Merger Agreement, each outstanding share of Unicom common stock will be exchanged for 0.875 shares of Exelon common stock and \$3.00 in cash and each outstanding share of PECO common stock will be exchanged for one share of Exelon common stock. Upon completion of the Merger and the Restructurings, Exelon will have the following direct or indirect public-utility subsidiary companies: ComEd, Commonwealth Edison Company of Indiana (the "Indiana Company"), PECO and Genco. Exelon will also hold, as subsidiaries of Genco, PECO's existing electric utility subsidiaries that own or operate the Conowingo hydroelectric project. In addition, one or more subsidiaries of Exelon will act as service companies for the Exelon system under Section 13 of the Act.<sup>2</sup> Finally, Exelon will continue to

<sup>2</sup> In the U-1 Application/Declaration filed March 16, 2000 (the "Original U-1") Exelon indicated that companies might use one or more operating companies to perform some utility functions. Exelon has now determined that it will not use any "Opco" to own or operate facilities that are electric or gas facilities within the meaning of Section 2(a)(3) or 2(a)(4) of the Act. References to Opco's are therefore deleted. Exelon now expects that all service functions for the holding company system will be performed by a single service company -- Exelon Business Services Company ("Exelon Services") except with respect to certain services between and among ComEd, PECO

own all of Unicom's existing non-utility subsidiaries and will acquire, directly or indirectly, all of the outstanding capital stock of the non-utility subsidiaries of PECO and certain of the operating divisions of PECO engaged in nonregulated businesses. The current subsidiaries of ComEd will remain ComEd subsidiaries. A copy of the Merger Agreement is incorporated by reference as Exhibit B-1. The Merger transaction was overwhelmingly approved by the shareholders of PECO and Unicom at meetings held June 27 and 28, 2000.

Various aspects of the Merger and the transactions relating thereto have been submitted for review and/or approval by: (i) the Pennsylvania Public Utility Commission (the "Pennsylvania Commission"), (ii) the Illinois Commerce Commission (the "Illinois Commission"), (iii) the FERC and (iv) the Nuclear Regulatory Commission (the "NRC"). Further, the Merger cannot proceed until the waiting period under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (the "HSR Act"), has expired or been terminated by the regulators. Approval will also be necessary from the Federal Communications Commission (the "FCC") in connection with various licenses. Apart from the approval of the Commission under the Act, the foregoing approvals are the only major governmental approvals required for the Merger.

The Restructurings also require regulatory approval by the Pennsylvania Commission, the Illinois Commission, FERC and the NRC as well as private letter rulings from the Internal Revenue Service. The completion of the Merger is not conditioned on the completion of the Restructurings. The approvals sought herein assume that the Restructurings will be consummated concurrently with, or shortly after, the Merger and accordingly, the corporate structure described herein to be in effect for Exelon following the Merger assumes that the Restructurings and the realignment of non-utility subsidiaries have also been completed./3/

C. Description of the Parties to the Merger

1. Exelon Corporation

Exelon Corporation, a Pennsylvania corporation, currently a subsidiary of PECO, has no assets and has conducted no business operations to date. Pursuant to the Merger, Exelon will

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(continued...)

and Genco as described below and certain services provided to ComEd, PECO and GENCO from non-utility subsidiaries. Further, for federal and state income tax reasons, it may be desirable to have a separate service company as a subsidiary of Genco which would provide services to Genco and others. See Item 3.C. below

/3/ Exelon believes that substantially all conditions to the Restructurings and the realignment of non-utility subsidiaries will be satisfied at or about the time of the Merger. However, it is possible that private letter rulings from the Internal Revenue Service as to the tax-free nature of the Restructurings or certain regulatory approvals or requirements may not be received at the time the Merger is otherwise ready to close. Exelon expects that such tax rulings and other requirements would be received within a period not more than several months following the Merger. Accordingly, Exelon requests authority to effectuate the Merger, with or without the Restructurings. Exelon will file with the Commission a Certification under Rule 24 upon completion of the Merger and, if it occurs later, upon completion of the Restructurings. If the Restructurings are not completed within one year of the completion of the Merger, Exelon will file a post-effective amendment hereto to describe what steps it will take in this regard and seek any necessary further approvals of the Commission.



become the parent holding company of ComEd, PECO, Genco and the other subsidiaries described herein. Exelon will have its principal executive office in Chicago, Illinois.

## 2. Unicom and its Subsidiaries

Unicom, incorporated in January 1994, is the parent of its principal subsidiary, ComEd, a regulated electric utility, and Unicom Enterprises, an unregulated subsidiary engaged, through its subsidiaries, in energy service activities. Unicom is a public utility holding company exempt from registration pursuant to Commission order under Section 3(a)(1) of the Act.<sup>4/</sup> Unicom's principal executive offices are located at 10 South Dearborn Street, 37<sup>th</sup>/Floor, Chicago, Illinois 60603.

### ComEd's Utility Business

ComEd is an Illinois corporation with its principal office in Chicago, Illinois. ComEd is a majority-owned subsidiary (greater than 99%) of Unicom.<sup>5/</sup> ComEd is engaged in generating, transmitting and distributing electric energy to the public in northern Illinois. In 1998 and 1999 ComEd sold all of its fossil-fired generating capacity. ComEd retains 10 nuclear generating units totaling 9,550 MW of generating capacity located at five stations in Illinois. ComEd serves approximately 3.4 million retail electric customers in an 11,300 square mile service area including the City of Chicago in Illinois.

ComEd has 5,300 miles of transmission facilities and has an open access transmission tariff ("OATT") on file with FERC. ComEd is a participant in the Mid-America Interconnected Network ("MAIN") as well as the Midwest Independent System Operator, Inc. ("MISO"). MISO has been approved by FERC to act as a regional transmission operator for its member utilities in the Midwest and adjacent areas.<sup>6/</sup> On December 13, 1999, ComEd and other unaffiliated transmission providers in the Midwest submitted to FERC a joint petition for a declaratory order regarding a proposed plan or template for an independent transmission company ("ITC") that would operate under the oversight of the MISO.<sup>7/</sup> ComEd plans to transfer control of its transmission assets to an ITC.<sup>8/</sup>

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<sup>4/</sup> Unicom Corporation, Holding Co. Act Release No. 35-26090 (July 22, 1994).  
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<sup>5/</sup> At December 31, 1999, 4,859 of the 231,973,810 shares of common stock of ComEd were not owned by Unicom but were in the hands of the public as a result of exercises of warrants or convertible preferred stock into ComEd common stock not followed by an exchange of such stock for Unicom common stock. The rights under the ComEd warrants and convertible preferred stock to acquire or convert into ComEd common stock will not be changed by the Merger. Following the Merger, Exelon will offer to exchange any such ComEd common stock issued on exercise of such warrants or convertible preferred stock for Exelon common stock. However, ComEd intends to redeem the convertible preferred stock in full on August 1, 2000.

<sup>6/</sup> 84 FERC(P) 61,231, order on reconsideration, 85 FERC(P) 61,250, order on reh'g, 85 FERC(P) 61,372 (1998).

<sup>7/</sup> See Docket No. EL00-25-000. FERC has provided guidance on this petition.  
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Commonwealth Edison Company, 90 FERC(P) 61,192 (Feb. 24, 2000, order denying  
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reh'g, 91 FERC(P) 61,178 (May 22, 2000).

<sup>8</sup> ComEd recognizes that a transfer of utility assets may require approval of the Commission. Any required approval will be sought at a future date.

Maps of the electric service area and transmission system of ComEd are filed as Exhibit E-1.

ComEd is an electric utility and a holding company exempt from registration pursuant to a Commission order under Section 3(a)(1) of the Act pursuant to order and pursuant to Rule 2./9/ ComEd is subject to regulation as a public utility under the Illinois Public Utilities Act ("Illinois PUA") as to retail electric rates and charges, issuance of most of its securities, service and facilities, classification of accounts, transactions with affiliated interests, as defined in the Illinois PUA, and other matters. In addition, the Illinois Commission in certain of its rate orders has exercised jurisdiction over ComEd's environmental control program. ComEd is also subject to regulation by FERC pursuant to the Federal Power Act with respect to the classification of accounts, rates for wholesale sales of electricity, the interstate transmission of electric power and energy, interconnection agreements and acquisitions and sales of certain utility properties. ComEd is also subject to the jurisdiction of the NRC with respect to the operation of its nuclear generating stations.

ComEd's only utility subsidiary is the Indiana Company. The Indiana Company was formed many years ago to hold a generating station built on the Indiana side of the Illinois-Indiana border near Chicago. The generating station was sold in 1997. The Indiana Company now has no retail customers and its only business is holding a small amount of electric transmission property in Indiana. The Indiana Company has no securities outstanding held by anyone other than ComEd. /10/

The Illinois legislature has enacted a retail access program in Illinois. Since October 1, 1999, (a) customers with peak loads of four MW or greater, (b) a percentage of commercial customers with ten or more locations with peak loads of 9.5 MW or greater, and (c) a percentage of other non-residential customers have been eligible via direct access to choose their electricity supply. The balance of ComEd's non-residential customers will become eligible for direct access by December 31, 2000, and all of its residential customers by May 1, 2002. ComEd will continue to provide delivery service to all customers. As a part of the Illinois retail access program, ComEd's retail rates are capped through 2005.

#### Unicom's Other Businesses

Unicom, directly or indirectly, owns all the outstanding common stock of the non-utility subsidiary companies identified and described in Exhibit I-1 hereto. These companies are

/9/ Commonwealth Edison Co., Holding Co. Act Release No. 35-26090 (July 22, 1994)

/10/ ComEd does not wish to make any change to the Indiana Company or its assets at this time because it is unclear what the ultimate disposition of the transmission facilities will be. ComEd is exploring establishing an independent transmission company and/or transferring control of its transmission facilities to an ISO. Further, it would not be desirable to transfer the Indiana Company's facilities to ComEd because that would likely subject ComEd to the jurisdiction of the Indiana Utility Regulatory Commission which could increase administrative burdens on ComEd and that commission without any benefit to consumers because ComEd would have no retail customers in Indiana.

organized under Unicom Enterprises Inc. or Unicom. In addition, ComEd has the subsidiaries identified on that Exhibit which relate to its utility operations. Unicom's non-utility businesses are all utility related, and include mechanical services businesses, special purposes financing and tax advantaged transaction subsidiaries, energy management and marketing, district cooling and energy companies, captive insurance and small investments in various other utility related or community or economic development businesses and small passive investments.

As described in detail herein, the non-utility operations of Unicom and ComEd will qualify as additional businesses of Exelon under the Act pursuant to Rule 58 or otherwise. Exelon requests that the investment in the Unicom Enterprises activities which it will acquire at consummation of the merger be disregarded for purposes of calculating the dollar limitation upon investment in energy-related companies under Rule 58./11/

#### Unicom's Financial Position

The authorized capital stock of Unicom consists of 400,000,000 shares of common stock. As of the close of business on December 31, 1999, 217,835,570 shares of Unicom common stock were issued and outstanding./12/ The Unicom common stock is listed on the New York Stock Exchange, Inc. ("NYSE"), the Chicago Stock Exchange and the Pacific Stock Exchange.

The consolidated assets of Unicom, as of December 31, 1999, were approximately \$23.4 billion, representing \$12.1 billion in net electric utility property, plant and equipment; \$521.3 million in non-utility subsidiary property, plant and equipment; and \$10.8 billion in other corporate assets. For the year ended December 31, 1999, Unicom had electric utility revenues of \$6.8 billion.

Unicom and ComEd are financially strong companies. Following the announcement of the revised Merger Agreement on January 7, 2000, Duff & Phelps Credit Rating Co. reaffirmed its ratings of Unicom and ComEd. At that date, Unicom's implied senior unsecured debt was rated "BBB;" ComEd's first mortgage bonds were rated "A-" and its unsecured debt was rated "BBB+."

#### Further Information

More detailed information concerning Unicom and its subsidiaries, including the utility assets and operations of ComEd, is contained in the Unicom and ComEd combined Annual Report on Form 10-K and the Quarterly Reports on Form 10-Q, which are filed as exhibits hereto and incorporated by reference.

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/11/ See SCANA Corporation, Holding Company Act Release No. 35-27133 (Feb. 9, 2000); New Century Energies, Inc., Holding Company Act Release No. 35-26748 (August 1, 1997). Conectiv, Inc., Holding Company Release Act No. 35-26832 (February 25, 1998); Ameren Corp., Holding Company Release Act No. 35-26809 (December 30, 1997).

/12/ Under the Merger Agreement, Unicom has agreed to repurchase \$1.0 billion of its common stock prior to the merger. At June 30, 2000 Unicom had acquired about 14 million shares. This amount is in addition to the 26.3 million shares of common stock purchased in January, 2000 upon settlement of certain forward purchase contracts. Unicom outstanding common shares at June 30, 2000 was 176,642,670 shares.

3. PECO and its Subsidiaries.

PECO is an investor-owned public utility company that was incorporated in Pennsylvania in 1929 as the successor to various companies dating back as early as 1881. PECO is made up of several unincorporated divisions, including PECO Energy Distribution, PECO Nuclear, the Power Team and the Power Generation Group. PECO provides electric and gas utility service in southeastern Pennsylvania. PECO owns and operates a variety of nuclear and non-nuclear power generation plants, and also participates in the national wholesale electricity market and in retail access programs. PECO's principal executive offices are located at 2301 Market Street, P.O. Box 8699, Philadelphia, Pennsylvania 19101.

PECO's Utility Business

PECO provides retail electric service to customers in the City of Philadelphia and five nearby counties. PECO serves approximately 1.5 million electric retail customers in its 1,972 square-mile service territory. PECO also owns interests in three nuclear generating facilities (six units), seven fossil fuel facilities (including coal-fired, oil-fired, and combination gas-oil units), a pumped-storage hydro facility, a landfill gas facility, and thirty-three distributed generation units that are primarily gas-fired. Through subsidiaries, PECO owns and operates the 514 MW Conowingo Hydroelectric Project ("Conowingo Project"), located on the Susquehanna River in Pennsylvania and Maryland. These generation facilities have an estimated aggregate net installed electric generating capacity (summer rating) of 9,262 MW./13/

PECO owns transmission facilities located in the Pennsylvania-New Jersey-Maryland ("PJM") control area. The PJM independent system operator offers transmission service over those PECO transmission facilities and the transmission facilities of other PJM members under the PJM open access transmission tariff on file with FERC./14/ PECO also has an open access transmission tariff on file with FERC./15/

PECO also provides natural gas distribution service to over 400,000 retail customers in a 1,475 square-mile area of southeastern Pennsylvania adjacent to Philadelphia. The electric and gas service territories substantially overlap, with the major exception of the City of Philadelphia. In 1999, 8.8% of PECO's operating revenues and 6.6% of its operating income were from its gas operations. Maps of the electric and gas service areas of PECO are filed as Exhibit E-2.

Regulation as a Utility

PECO is currently a public utility holding company exempt from the provisions of the Act, except Section 9(a)(2), by reason of the annual exemption statements filed by it pursuant to Rule 2 of the Commission's rules and regulations.

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/13/ PECO is in the process of acquiring additional ownership interests in the Peach Bottom Atomic Power Station which would increase its ownership share to 50%, an additional 80 MW.

14 Pennsylvania-New Jersey-Maryland Interconnection, et al., 81 FERC(P) 61,257 (1997), reh'g pending.

15 PECO Energy Co., 74 FERC(P) 61,336 (1996).

PECO currently has three wholly owned subsidiaries that are public utility companies within the meaning of the Act. These companies are exclusively engaged in owning and operating the Conowingo Project. The Conowingo Project is a pondage hydroelectric generating facility located on the Susquehanna River near Elkton, Maryland with a maximum capacity of about 514 MW. The Conowingo Project is owned and operated as follows:

- . PECO Energy Power Company ("PEPCO") owns the Pennsylvania portion (direct, 100% sub of PECO); /16/
- . Susquehanna Power Company owns the Maryland portion ("SPCO") (direct, 100% sub of PEPCO and indirect sub of PECO); and
- . Susquehanna Electric Company ("SECO" and together with PEPCO and SPCO, the "Conowingo Companies") (direct, 100% sub of PECO) leases and operates the Conowingo Project.

The book value of the Conowingo Project is \$142 million. Net income from the Conowingo Project in 1999 was about \$9.9 million. Susquehanna Electric Company operates the Conowingo Project and sells all of the output to PECO at wholesale at a price based on actual operating expenses. PECO's wholesale power marketing division is responsible for marketing the energy generated at the Conowingo Project.

Typically, electricity is generated at the Conowingo Project when the PJM system operator determines that it is economic to do so. PJM makes its economic decision in part based on the dispatch of several hydroelectric facilities located upstream of the Conowingo Project, which dispatch determines the level of water available in the pond located at the Conowingo Dam. The reason PJM controls the dispatch of the Conowingo Project is that the Conowingo Project's dispatch is a function of the dispatch of these upstream hydroelectric facilities.

None of the Conowingo Project companies have retail customers, nor are they engaged in any business other than power generation at the dam. None of the companies have any securities outstanding in the hands of persons other than PECO or its subsidiaries.

Exelon proposes to change the affiliation of these companies so that they are subsidiaries of Genco instead of PECO. The Conowingo Project's output will be sold to Genco at wholesale

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/16/ PEPCO is currently a registered holding company, with one wholly owned subsidiary, SPCO, a public utility company within the meaning of the Act and an indirect subsidiary of PECO. In addition to the companies identified above, SPCO also owns The Proprietors of the Susquehanna Canal, an inactive entity incorporated in 1783 and acquired in connection with the development of the Conowingo Project. See Holding Company Act Release No. 35-6718, June 18, 1946;

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Holding Company Act Release No. 35-16636, March 12, 1970; Holding Company Act Release No. 35-14782, January 2, 1963; Susquehanna Power Co., 19 FERC (P) 61,

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348, order on reh'g, 13 FERC (P) 61,132 (1980) (the initial order was inadvertently omitted from the proper volume of FERC's reports).

and it will have no other customers./17/ There will be no other substantive changes to the operating relationships of the Conowingo Project companies.

PECO is subject to regulation by the Pennsylvania Commission with respect to retail rates, accounting, service standards, service territory, issuance of securities, certification of generation and transmission projects, and various other matters. PECO is also subject to the jurisdiction of FERC under the Federal Power Act for some phases of its business, including regulation of its rates relating to wholesale sales of energy and interstate transmission, licensing its hydroelectric stations, accounting, and certain other matters. PECO is also subject to the jurisdiction of the NRC with respect to the ownership and operation of its nuclear generating stations.

The Pennsylvania Electricity Generation Customer Choice and Competition Act (the "Competition Act"), enacted in 1996, mandated the restructuring of the electric utility industry in Pennsylvania, including retail competition for generation beginning in 1999. The Competition Act unbundled electric service into separate generation, transmission and distribution services with open retail competition for generation. Electric distribution service remains regulated by the Pennsylvania Commission. The Competition Act required utilities to submit restructuring plans to the Pennsylvania Commission, including quantification of their stranded costs (the loss in value of a utility's electric generation-related assets which resulted from competition). The Competition Act authorizes the recovery of stranded costs through charges to distribution customers during a transition period. During the stranded cost recovery period, the utility is subject to a rate cap which provides that total charges to customers cannot exceed rates in place as of December 31, 1996, subject to certain exceptions. In PECO's case, the stranded cost recovery period will last until the end of 2010, during which time PECO's generation rates are capped in accordance with a schedule approved by the Pennsylvania Commission. In addition, PECO's transmission and distribution rates are capped through June 30, 2005, subject to certain exceptions.

Pursuant to the Competition Act, PECO filed with the Pennsylvania Commission a comprehensive restructuring plan detailing its proposal to implement full customer choice of electric generation supplier. On May 14, 1998 the Pennsylvania Commission issued its Final Order accepting a "Joint Petition for Settlement of PECO's Restructuring Plan and Related Appeals and Application for a Qualified Rate Order and Application of Transfer of Generation Assets" (hereinafter referred to as "Restructuring Settlement"). Pursuant to the terms of the Restructuring Settlement, PECO's retail electric customers received an 8% rate reduction in 1999 and are receiving a 6% rate reduction in 2000. Pursuant to the Restructuring Settlement, PECO is authorized to, among other things, recover from its retail electric customers

/17/ The Federal hydroelectric license for the Conowingo Project has been issued to the owners. If the license were amended or transferred in connection with the Merger, additional FERC proceedings and state regulatory determinations or approvals could be necessary which could delay the consummation of the Merger. PECO also examined other options for simplifying the current corporate structure of the Conowingo Project and eliminating the need for an intermediate registered holding company. In this regard, PECO examined merging some or all of the companies, seeking exemptions under section 3(a)(1) or 3(a)(2) of the Act, or formally converting the project to an exempt wholesale generator. These other options were either unavailable or would involve additional costs, delays, regulatory approvals, or potentially adverse tax complications.

approximately \$5.3 billion of stranded assets and costs and transfer its generation assets and liabilities and wholesale power contracts to a separate corporate affiliate. Under the Restructuring Settlement, transactions between and among certain PECO affiliates are subject to safeguards to ensure fair dealing. PECO's was the first restructuring plan approved in Pennsylvania and, on a percentage and absolute numbers basis, PECO has the highest number of customers exercising their retail choice by buying electricity from alternative suppliers.

#### PECO's Other Businesses

In addition to its regulated distribution businesses, PECO actively competes in deregulated retail markets for electricity and natural gas. Although its utility property and operations are generally confined to Pennsylvania,<sup>/18/</sup> PECO markets or brokers electricity to retail customers in Massachusetts and New Jersey as well.<sup>/19/</sup> PECO markets or brokers natural gas to a small number of retail commercial and industrial customers in New Jersey and to customers in areas of Pennsylvania outside its gas franchise territory. In these retail choice programs, PECO acts as a marketer or broker. It does not own any utility distribution property or operate any utility distribution facilities in states other than Pennsylvania. PECO also engages in wholesale marketing of electricity through its Power Team division. PECO PowerLabs is a division which calibrates and verifies the accuracy of laboratory measuring and testing equipment.

PECO has multiple subsidiaries that support its utility operations. A complete list of PECO's subsidiaries and affiliated business interests is contained in Exhibit I-2 hereto. These businesses are all utility related, and include special purposes financing subsidiaries, EWGs, telecommunications companies, real estate companies, investments in various utility related businesses or funds, infrastructure services businesses, and other businesses and small passive investments.

In addition to PECO's utility and retail competition operations, PECO is also engaged in certain non-utility businesses either directly, through subsidiaries or through affiliated business ventures. In addition to the information given on Exhibit I-2, the following describes certain of these non-utility businesses.

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<sup>/18/</sup> The only utility property located outside Pennsylvania is the Conowingo Project, which is located in both Pennsylvania and Maryland, and a 42.6% interest (which will increase to 50%) in Salem Nuclear Generating Station Unit Nos. 1 and 2, located in New Jersey. The Salem station is directly interconnected with PECO's system through the PJM operated transmission system. The Commission has previously recognized that joint participation in the construction of large generating facilities (particularly nuclear facilities) is appropriate and does not controvert the integration requirement of Section 2(a)(29)(A) of the Act. See Electric Energy, Inc., Holding Co. Act Release No. 13871 (November 28, 1958); Yankee Atomic Electric Co., Holding Co. Act Release No. 13048 (November 25, 1955); Mississippi Valley Generating Co., Holding Co. Act Release No. 12794 (February 9, 1955).

<sup>/19/</sup> Exelon's electricity and natural gas brokering and marketing activities are permissible under the Act. The Commission and the SEC Staff have both recognized, on numerous prior occasions, that marketing activities are not utility activities under the Act. See UNITIL, Holding Company Act Release No. 26650 (January 21, 1997); SEI Holdings, Inc., Holding Co. Act Release No. 26581 (September 26, 1996); PP&L Resources, Inc., Holding Co. Act Release No. 26905 (August 12, 1998); Enron Capital & Trade Resources Corp., SEC No-Action Letter, 1997 SEC No-Act. LEXIS 287 (February 13, 1997); LG&E Power Marketing, Inc., SEC No-Action Letter, 1996 SEC No-Act. LEXIS 510 (April 26, 1996). In SEI Holdings the Commission stated "[i]ndustry trends and competitive pressures make it important for registered system companies to be poised to compete in new markets as they are created. Such participation would appear to promote the goals of United States energy policy, including increased competition and lower rates."

PECO, British Energy, plc of Edinburgh, Scotland, and BE, Inc., a U.S. subsidiary of British Energy, have formed AmerGen Energy Company, L.L.C. ("AmerGen") to pursue opportunities to acquire and operate nuclear generating stations in the United States. PECO and BE, Inc. each own a 50% equity interest in AmerGen. As of the date of this Application-Declaration, AmerGen has acquired Three Mile Island Unit 1 ("TMI-1") in Pennsylvania, Clinton Power Station in Illinois and the Oyster Creek nuclear plant in New Jersey./20/ AmerGen has also entered into an Asset Purchase Agreement with Vermont Yankee Nuclear Power Corporation to acquire the Vermont Yankee nuclear plant./21/ AmerGen has been granted exempt wholesale generator ("EWG") determinations from the FERC in connection with TMI-1 and Clinton and will apply for EWG determination with respect to the others./22/ PECO's 50% interest in AmerGen is authorized by section 32(e) of the Act./23/

In accordance with the provisions of the Telecommunications Act of 1996, PECO entered the telecommunications business through undertakings with experienced operators. PECO Hyperion Telecommunications is a general partnership with Adelphia Business Solutions, Inc. that provides "competitive local exchange carrier" services such as local dial tone, long distance, Internet service and point-to-point (voice and data) communications for businesses and institutions in eastern Pennsylvania. Through its subsidiary PECO Wireless, LLC, PECO holds a 49% interest in a company which offers personal communications services in the Philadelphia "Major Trading Area." PECO's interests in these businesses are authorized by section 34 of the Act. Other telecommunications related entities in which PECO holds an interest are described in Exhibit I-2./24/

As discussed below under Item 3.B.3(a)(v), "Retention of Other Businesses," the non-utility operations of PECO will qualify as additional businesses of Exelon under the Act pursuant to Rule 58 and other applicable provisions. Exelon requests that the investment in the PECO activities which it will acquire at consummation of the merger be disregarded for purposes of calculating the dollar limitation upon investment in energy-related companies under Rule 58./25/

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/20/ An agreement with Niagara Mohawk Power Company and New York State Electric and Gas Company regarding Nine Mile Point Unit 1 has been terminated by the parties.

/21/ AmerGen is assigning its rights and obligations under the Asset Purchase Agreement for Vermont Yankee to AmerGen Vermont, LLC, its wholly owned subsidiary formed for the purpose of owning and operating Vermont Yankee.

/22/ Letter Orders, reported at 90 FERC(P) 62,061 (2000) and 91 FERC(P) 62,049  
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(2000).

/23/ Exelon's compliance with Rule 53 is discussed in the Financing U-1.

/24/ To the extent that the companies identified above have not registered with the Federal Communications Commission ("FCC") as Exempt Telecommunications Companies on the date of the filing of this Application-Declaration, Exelon submits that it will act to ensure their registration with the FCC under Section 34 of the Act. To the extent such registration is not completed prior to the entry by the Commission of an order approving the Merger, Exelon requests that the Commission reserve its jurisdiction over these entities until Exelon makes a filing identifying the companies that have registered or explaining why they may otherwise be retained in accordance with the Act and the Commission's Rules.

/25/ See SCANA Corporation, Holding Company Act Release No. 35-27133 (Feb. 9,  
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2000); New Century Energies, Inc., Holding Company Act Release No. 35-26748  
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(August 1, 1997). Conectiv, Inc., Holding Company  
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A list of Rule 58 non-utility businesses and the basis for their retention is contained in Exhibit I-2 hereto.

#### PECO Financial Position

PECO's authorized capitalization consists of 500 million shares of common stock, 15 million shares of cumulative preferred stock and 100 million shares of series preference stock. As of the close of business on December 31, 1999, there were 181,271,692 shares of PECO common stock and 1,930,920 shares of PECO cumulative preferred stock of various series issued and outstanding./26/ PECO common stock is listed on the NYSE and the Philadelphia Stock Exchange. Consolidated assets of PECO and its subsidiaries as of December 31, 1999 were approximately \$13 billion, consisting of \$4 billion in net electric utility property, plant and equipment; \$931 million in net gas utility property, plant and equipment; and \$138 million in non-utility subsidiary assets, and \$8 billion in other corporate assets. For the year ended December 31, 1999, PECO had electric utility revenues of \$4.85 billion and gas utility revenues of \$481 million./27/

Like Unicom and ComEd, PECO is a financially strong company. Following the announcement of the revised Merger Agreement on January 7, 2000, Duff & Phelps Credit Rating Co reaffirmed its ratings of PECO. At that date, PECO's first mortgage bonds were rated "A-" and its implied senior unsecured debt was rated "BBB+."

#### Further Information

More detailed information regarding the utility assets and operations of PECO is included in its Annual Report on Form 10-K and Quarterly Reports on Form 10-Q which are filed as exhibits hereto and incorporated by reference.

#### D. Exelon Services

Exelon Services will enter into a service agreement with ComEd, PECO, Genco and other affiliates (the "General Services Agreement"). (A copy of the form of the General Services

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(continued...)

Release Act No. 35-26832 (February 25, 1998); Ameren Corp., Holding Company

Release Act No. 35-26809 (December 30, 1997).

/26/ Under the Merger Agreement, PECO has agreed to repurchase \$500 million of its common stock prior to the Merger. At May 5, 2000, PECO had completed such repurchases and had 169,570,844 shares outstanding.

/27/ PECO and ComEd currently have pending before the IRS requests for private letter rulings that their respective Restructurings will be tax-free reorganizations. If required by the IRS to satisfy the Internal Revenue Code (S) 368(c) control test, PECO will take steps prior to the Merger to either amend the terms of its outstanding series of preferred stock so that the stockholders have voting rights or issue to Exelon a new series of non-voting preferred stock so that Exelon owns 80% of the resulting total class of preferred stock. Neither arrangement will have a material effect on PECO's balance sheet. The arrangement that is ultimately adopted will either be covered by the existing restructuring/merger orders issued by the Pennsylvania Commission, or PECO will seek further approvals from the Pennsylvania Commission.

Agreement is filed as Exhibit B-2.) The General Services Agreement will include non-utility subsidiaries of Exelon as client companies. In this Application-Declaration, Applicant seeks certain exemptions from or waiver of the Commission's rules regarding the provision of service at cost to certain affiliates of Exelon as described herein. Exelon may create a service company as a subsidiary of Genco to achieve tax savings and efficiencies. If created, this service company would perform some but not all of the services contemplated in the General Services Agreement and would conduct business pursuant to a service agreement substantially the same as the General Services Agreement and pursuant to the allocation methods approved for Exelon Services./28/

E. Exelon Ventures, Exelon Enterprises, Exelon Energy Delivery and Genco

For a variety of tax, regulatory and business reasons, Exelon has determined that the best way to organize its non-utility subsidiaries is through the creation of Exelon Ventures Company ("Ventures"). Ventures will be a first tier subsidiary of Exelon. It will own all of Exelon Enterprises Company, LLC ("Enterprises"). Enterprises, in turn, will hold the existing non-utility investments of Unicom and PECO. In addition to Enterprises, Ventures will also own all of the voting interest in Genco./29/ This structure allows Exelon to align its non-utility enterprises and its non-State regulated electric generating business in an efficient and simple manner.

Likewise, for a variety of regulatory and business reasons, Exelon has determined that it wishes to include another intermediate holding company -- Exelon Energy Delivery Company ("Exelon Delivery") in its corporate organization. This company would serve as parent for ComEd and PECO./30/

Following the transactions, Exelon Delivery and Ventures will register as holding companies under the Act. Genco will be a holding company for PEPCO and SECO and will also register as a holding company. Finally, PEPCO will remain a holding company for SPCO and will remain a registered holding company as it is currently.

A chart showing the post-merger organization of the Exelon system, assuming the Restructurings are complete, and including Exelon Delivery and Ventures, is included as Exhibit E-5 hereto.

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/28/ Exelon will file a pre-effective or post-effective amendment to this Application-Declaration seeking approval of the service company subsidiary of Genco if it is determined to create that company. Such filing would include all the information necessary for the Commission to make the determination required under Rule 88. Exelon requests that if a post-effective amendment is filed, any further order be entered without the necessity for further publication of notice of the filing.

/29/ It is currently contemplated that Genco will be organized as a limited liability company as will Enterprises, although Enterprises may be a business corporation.

/30/ Exelon believes that substantially all conditions to the completion of steps necessary to achieve the corporate structure shown in Exhibit E-5 will be satisfied at or about the time of the Merger. However, including Exelon Delivery as a holding company for ComEd and PECO will require approval of the Pennsylvania Commission, a notice filing with the Illinois Commission and notice to and authorization and/or jurisdictional disclaimer of FERC. In the event such regulatory approvals are not obtained or other impediments develop, Exelon Delivery would not be put in place. Accordingly, Exelon requests authority to effectuate the Merger, with or without Exelon Energy Distribution Company. An analysis of how Exelon Delivery and Ventures comply with the Act is included in Item 3.B.3.a.(vi). Exelon will file with the Commission a Certification under Rule 24 upon completion of the Merger and, if it occurs later, upon completion of the transfer of common stock of ComEd and PECO from Exelon to Exelon Delivery. As indicated in Note 3 above, Exelon also requests authority to effectuate the Merger, with or without the Restructurings. Exelon will file with the Commission a Certification under Rule 24 upon completion of the Merger and, if it occurs later, upon completion of the Restructurings.

#### F. Description of the Merger

The Merger is structured as a merger of equals. Following the Merger, Unicom shareholders will own about 46% and PECO shareholders will own approximately 54% of Exelon. The Merger is subject to customary closing conditions, including the receipt of the requisite shareholder approvals of Unicom and PECO and all necessary governmental approvals, including the approval of the Commission.

The Merger Agreement provides that through a transition period beginning with the closing of the merger and ending December 31, 2003, the Board of Directors of Exelon will consist of 16 members initially, 50% of the directors will be recommended by Unicom from among the members of its board at the time of closing and 50% of the directors will be recommended by PECO from among the members of its board at the time of closing. The Board of Directors will be divided into three classes, as nearly equal in number as possible, with equal numbers (as nearly as possible) of Unicom and PECO directors in each class. In addition to the executive committee, which shall include the two Co-CEO's, two PECO independent directors and two Unicom independent directors, initially there will be other committees of the board, with the chairmen to be equally divided between PECO designated directors and Unicom designated directors. For the first half of the transition period, Mr. Corbin A. McNeill, Jr., current Chairman and CEO of PECO, will be Chairman and Co-CEO of Exelon, and Mr. John W. Rowe, current Chairman and CEO of Unicom, will be Chairman of the Executive Committee of the Board, President and Co-CEO of Exelon. For the second half of the transition period, Mr. McNeill will be Chairman of the Executive Committee of the Board and Co-CEO of Exelon and Mr. Rowe will be Chairman and Co-CEO of Exelon. At the expiration of the transition period, Mr. McNeill will retire as an officer and employee of Exelon but will remain a director. The bylaws of Exelon will provide that during the transition period the terms of employment of Messrs. McNeill and Rowe and the succession process described above can be changed only by a vote of at least two-thirds of the directors.

The Merger is structured to be tax-free to holders of PECO common stock and Unicom common stock for United States Federal income tax purposes, except for that portion of Merger consideration (\$3.00 per share) received by Unicom shareholders in cash, including any cash received instead of any fractional shares in Exelon common stock.

The Merger will be accounted for using purchase accounting with PECO being deemed to have acquired Unicom. Exelon will acquire Unicom by exchanging .875 shares of Exelon Common stock for each share of Unicom common stock. In addition, Exelon will pay each Unicom shareholder \$3.00 per Unicom share, in cash. No new long-term debt is expected to be issued to finance the approximately \$500 million cash payment to Unicom shareholders.

An adjustment to recognize goodwill will be made in connection with the Merger. Goodwill represents the excess of the purchase price consideration of \$5.766 billion, including PECO's estimated transaction costs, over the net book value of assets acquired (which at June 30, 2000 were \$3.459 billion). The adjustment reflects the merger consideration including approximately 145.8 million shares of Exelon common stock at a price of \$35.89 based on the average closing price of PECO common stock between January 3 and 12, 2000. The estimated goodwill based on these factors and pro forma adjustments at June 30, 2000 is \$2.217 billion.

Actual goodwill recorded upon consummation of the Merger will consider the fair value of Unicom's assets and liabilities at that future date, including the fair value determination of nuclear generating stations, and may differ significantly from the amounts recorded in the pro forma financial statements included in the Joint Proxy Statement/Prospectus dated May 15, 2000 (the "Joint Proxy Statement"). Substantially all of the goodwill will be reflected on the balance sheet of ComEd. Goodwill will be amortized over a 40-year period. See pages 85-96 of the Joint Proxy Statement of Unicom and PECO (a copy of which is included as Exhibit C-2) for details regarding the pro forma financial statements of Exelon.

The Merger Agreement contains certain covenants relating to the conduct of business by the parties pending the consummation of the Merger. Generally, the parties must carry on their businesses in the ordinary course consistent with past practice, may not increase common stock dividends beyond specified levels and may not issue capital stock except as specified. The Merger Agreement also contains restrictions on, among other things, charter and bylaw amendments, capital expenditures, acquisitions, dispositions, incurrence of indebtedness, and certain increases in employee compensation and benefits. Under the Merger Agreement, Unicom is to use commercially-reasonable efforts to purchase in the open market, or otherwise, its common stock in an amount of \$1.0 billion prior to the closing of the Merger. Under the Merger Agreement, PECO is to use commercially-reasonable efforts to purchase in the open market, or otherwise, its common stock in an amount of \$500 million prior to the closing of the Merger.

The Merger Agreement provides that, after the effectiveness of the Merger, Exelon's principal corporate office will be located in Chicago, Illinois. Exelon will maintain corporate offices in Philadelphia as the headquarters of PECO Energy and the combined entity's generation business will be headquartered in southeastern Pennsylvania.

#### Item 2. Fees, Commissions and Expenses

The fees, commissions and expenses to be paid or incurred, directly or indirectly, in connection with the Merger, including the solicitation of proxies, registration of securities of Exelon under the Securities Act of 1933, and other related matters, are estimated as follows:

Commission filing fee for the Joint Registration Statement on Form S-4.....	\$ 4,024,224
Accountants' fees.....	500,000
Legal fees and expenses relating to the Act.....	690,000
Other legal fees and expenses.....	4,686,000
Shareholder communication and proxy solicitation.....	343,000
NYSE listing fee.....	536,000
Exchanging, printing, and engraving of stock certificates.....	1,745,000
Investment bankers' fees and expenses.....	68,000,000
Consulting fees related to the Merger.....	6,600,000
Miscellaneous.....	275,776
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TOTAL.....	\$ 87,400,000
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#### Item 3. Applicable Statutory Provisions

The following sections of the Act and the Commission's rules thereunder are or may be directly or indirectly applicable to the Merger:

Section of the Act	Transactions to which section or rule may be applicable:
2(a)(7), 2(a)(8)	Declaration that Ventures, Exelon Delivery and Genco are not holding companies or subsidiary companies solely for purposes of Section 11(b)(2)
4, 5	Registration of Exelon as a holding company following consummation of the Merger.
6(a), 7	Issuance of Exelon common stock in exchange for shares of Unicom and PECO common stock.
9(a)(1), 10	Acquisition by Exelon of stock of Exelon Services and of non-utility subsidiaries of Unicom and PECO.
9(a)(2), 10(a), (b), (c) and (f), 11(b)	Acquisition by Exelon of common stock of ComEd, the Indiana Company, PECO, Genco and the Conowingo Companies; creation of Ventures and Exelon Delivery and transfer of ComEd and PECO stock to Exelon Delivery
8, 9(c)(3), 11(b)	Retention by Exelon of the retail gas utility operations of PECO; investment in and retention of other businesses of Unicom and PECO and their direct and indirect subsidiaries.
11(b)(2)	Declaration that Ventures, Exelon Delivery and Genco are not subsidiary companies or holding companies solely with respect to the "great-grandfather" provisions of Section 11(b)(2).
12	Transfer of generating assets of ComEd and PECO to Genco in the Restructuring; transfer of assets to Exelon Services in connection with establishment of service company; transfer of common stock of ComEd and PECO from Exelon to Exelon Delivery.
13	Approval of the services to be provided by Exelon Services to utility subsidiaries in accordance with the General Services Agreement; approval of services to be provided thereunder by Exelon Services to the direct and indirect non-utility subsidiaries of Unicom and PECO; approval of the performance of certain services between Exelon system companies; and exemption from at-cost standards with respect to certain services between Exelon system companies.

Section of the Act                      Transactions to which section or rule may be applicable:  
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Rules  
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43-44                                      Transfers of utility assets and securities of public utility subsidiaries

80-92                                      Affiliate transactions, generally.

To the extent that other sections of the Act or the Commission's rules thereunder are deemed to be applicable to the Merger, such sections and rules should be considered to be set forth in this Item 3.

A. Application of the Act in Light of the Evolving "State of the Art" of the Electric Utility Industry

To approve the Merger, the Commission must find that Section 10 of the Act is satisfied. The Section 10 analysis is presented in detail below in section B "Section by Section Analysis" in this Item 3. The highlight of the analysis is whether the Merger will tend toward the economical and the efficient development of an integrated public-utility system under Sections 11 and 2(a)(29) of the

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Act. Applicant believes that it will. Before setting forth in detail how the Merger satisfies each requirement of the Act, this Application-Declaration will first describe some of the recent changes in the utility industry that have resulted in the current "state of the art."

The Act directs the Commission to consider the "state of the art" in determining whether the requirements of the Act are satisfied.<sup>/31/</sup> The Commission has long recognized that as the industry changes -- by means of technological development and by reason of new laws and regulations -- the Commission faces the task of applying the requirements of the Act in light of these changing conditions. Such changes since 1935 have made it possible for ever larger and geographically more diverse companies to satisfy the standards of the Act. Systems that would have been unlikely to receive approval in an earlier era have proven to be not only permitted, but in fact made necessary, by the evolving state of the art.<sup>/32/</sup>

In recent years the Commission has emphasized that the Act "creates a system of pervasive and continuing economic regulation that must in some measure at least be fashioned from time to time to keep pace with changing economic and regulatory climates."<sup>/33/</sup> In recent decisions, the Commission has cited U.S. Supreme Court and Circuit Court of Appeals cases that

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<sup>/31/</sup> See the definition of "integrated public-utility system" in Section 2(a)(29).

<sup>/32/</sup> See, e.g., American Electric Power Company, Inc., Holding Co. Act Release No. 20633 (July 21, 1978).

<sup>/33/</sup> Union Electric Co., Holding Co. Act Release No. 18368, n. 52( April 10, 1974), quoted in Consolidated Natural Gas Co., Holding Co. Act Release No. 26512 (April 30, 1996) (authorizing international joint venture to engage in energy marketing activities); Eastern Utilities Associates, Holding Co. Act Release No. 26232 (Feb. 15, 1995) (removing restrictions on energy management activities); and Southern Co., Holding Co. Act Release No. 25639 (Sept. 23, 1992) (approving acquisition of foreign public-utility subsidiary company).

recognize that an agency is not required to "establish rules of conduct to last forever,"/34/ but must "adapt [its] rules and policies to the demands of changing circumstances"/35/ and to "treat experience not as a jailer but as a teacher."/36/ Consequently, the Commission has attempted to "respond flexibly to the legislative, regulatory and technological changes that are transforming the structure and shape of the utility industry," as recommended by Division of Investment Management (the "Staff") in its report issued in June 1995 entitled "The Regulation of Public Utility Holding Companies" (the "1995 Report"). Indeed, with specific reference to the integration requirements of the Act, the 1995 Report explains:

The statute recognizes... that the application of the integration standards must be able to adjust in response to changes in "the state of the art." As discussed previously, the Division believes the SEC must respond realistically to the changes in the utility industry and interpret more flexibly each piece of the integration equation./37/

The current state of the art is characterized by the development of competitive wholesale electric supply markets resulting from changes in Federal law and regulations and the adoption by States of utility restructuring laws leading to retail customer choice and other changes. Increasingly, electric utilities no longer rely solely on acquiring their own, more efficient generation to achieve efficiencies and economies.

Because of these changes, the electric utility industry today is much different from what it was -- even in the recent past. The utility market model, with generation functionally unbundled from transmission and distribution, is supplanting the vertically integrated monopoly model throughout the country.

Developments in Federal law and regulations have led to a wholesale competitive electric generating market. The access for all eligible parties to interstate transmission is a critical component of this market. The market model has evolved further in some States, like Illinois and Pennsylvania. Unlike many recent or pending merger cases at the Commission, in this case the legislatures of the States where the companies operate have enacted State utility restructuring legislation. In Illinois and Pennsylvania, pursuant to this recent legislation, retail customers have a choice in determining who will supply their electric power. Customer choice -- the elimination of the traditional monopoly over the generation aspects of electric service -- fundamentally changes the nature of regulation. In this case, each State has adopted laws and policies seeking to provide consumers the benefits of competition. Further, technological developments are changing the nature of the industry. So called "distributed generation" and other developments have fundamentally changed how electricity is produced and distributed and have accelerated the movement to the market model.

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/34/ Rust v. Sullivan, 500 U.S. 173 (1991); American Trucking Assns., Inc. v. Atchison, T.&S.F.R. Co., 387 U.S. 397 (1967); Shawmut Assn. v. SEC, 146 F.2d, 791 (1st Cir. 1945).

/35/ NIPSCO Industries, Inc., Holding Co. Act Release No. 26975 (Feb. 10, 1999) [hereinafter "NIPSCO"], citing Rust v. Sullivan at 186-187. Accord, Sempra Energy, Holding Co. Act Release No. 26971 n.23 (Feb. 1, 1999) (interpreting the integration standards of the 1935 Act in light of developments in the gas industry).

/36/ NIPSCO, supra, citing Shawmut Assn. v. SEC at 796-97.

/37/ 1995 Report at 71.

The Merger is one of the first to take full advantage of the developing market model of achieving integrated and coordinated operations -- yet it fully complies with all the requirements of the Act in substantially the same manner as was the case in similar mergers recently approved by the Commission.<sup>/38/</sup> Unlike many registered holding companies, Exelon will consolidate all of its generating assets in a single entity: Genco. Genco will control and coordinate the efficient use of all these generating assets by supplying the generation needs of ComEd and PECO as well as supplying Exelon's other wholesale customers. Exelon will obtain its power supply not just from its owned facilities -- the facilities formerly owned by ComEd and PECO and transferred to Genco -- but from a variety of market sources. Further, Exelon will coordinate the dispatch of these generation sources not only through the use of the ComEd and PECO transmission systems, but by using the Contract Path and a portion of the open access transmission grid. The entire working model of the industry has shifted from "build and own all generation necessary to serve your load" to "consider all supply options available in the market -- both local and distant." Likewise, the transmission grid has developed physically, but more importantly in the legal and operational manner discussed below, to accommodate this new working model.

Development of the competitive model for electric generation began with the Public Utility Regulatory Policies Act of 1978 ("PURPA"), which encouraged the development of new sources of generation. The development of the market for non-traditional generation for the wholesale market accelerated significantly after adoption of the Energy Policy Act of 1992 ("EPACT"). This progress has been facilitated by FERC's willingness to permit the sale of electric capacity and energy at market-based rates. The regulatory policy fostering market based rates for the commodity of electricity applies not only to non-utility generators and independent power producers ("IPPs"), which developed in the wake of PURPA, but also to traditional integrated utilities, like ComEd and PECO, who have increasingly focused on their own wholesale marketing efforts.<sup>/39/</sup> The increasing number of wholesale sellers has also led to the development of power marketers (many of which are affiliated with utilities) -- a relatively new class of wholesale market participant that purchases and sells power produced by third parties, not from their own resources.

The increase in the number of, and capacity controlled by, non-traditional generators, and the volume of trading by power marketers has been dramatic. Nationwide, plans to build new plants by non-utility entities have expanded dramatically. For example, PJM makes public requests received by it for interconnection to the PJM transmission grid by new generating sources. As of January, 2000, the "queue" of applications for connection with the PJM grid included about 100 active projects with a total of about 40,000 MW.<sup>/40/</sup> Similar plant additions

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<sup>/38/</sup> American Electric Power Company, Inc., Holding Co. Act Release No. 27186  
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(June 14, 2000).

<sup>/39/</sup> ComEd and PECO have each been granted market rate authority and participate in wholesale markets. PECO's wholesale power marketing operation division (the Power Team) is one of the most active power marketers in the country. It ranked 14<sup>th</sup> out of the top 45 wholesale power sellers in 1998. Power Markets Week, at 16 (June 28, 1999).  
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<sup>/40/</sup> Current information can be found at <http://www.pjm.com/>. For reference, the PJM ISO has a peak load of about 51,000 MW.



have been announced by IPPs in the Midwest as well. By the first quarter of 1999, power traded by marketers exceeded 400 million MWh, with over 100 entities engaged in the business./41/

The increased capacity of non-traditional generators, and the number of suppliers, as well as the liquidity created by power marketers has had an impact on energy pricing. Energy marketers commonly arbitrage energy price differentials by buying in one market and selling in another. The effect of these trading strategies is to minimize margins to be gained in interregional sales and therefore to drive electric supply market prices closer to a regional-wide marginal (or incremental) cost. As prices move to marginal cost, rate differentials arising from historical embedded cost begin to disappear. Non-traditional generators operating in the national energy markets also are becoming a more significant factor in the electric utility industry. Their significant plant additions lessen the impact of historical embedded utility-specific price differentials by changing the cost structure of the industry as a whole.

At the same time as these developments were occurring, many States began implementing integrated resource planning requirements that mandate that utilities focus on both supply-side and demand-side resources and that require local utilities to competitively bid their resource requirements to obtain the lowest cost resources possible. Under these resource procurement requirements, utilities typically must purchase power from third parties (rather than provide for their own generation) if to do so would result in lower costs to consumers. Thus, State regulators have widely recognized that the economic operation of a utility system must include the benefits of integration through the marketplace and not just the effects of vertically-integrated ownership structure. Illinois and Pennsylvania have moved beyond these steps, however, and have acted to fully open the generation supply function to competition.

For various reasons, including State utility restructuring laws, utilities have been selling large amounts of generating assets. From August 1997, through early 1999 approximately 80,000 MW of generating capacity was sold (or was under contract to be sold) by utilities. In total, this represents more than 10 percent of U.S. generating capacity./42/ ComEd itself has sold 11,272 MW of capacity (about 55% of its total capacity before the sales) to unaffiliated purchasers. These sales contribute to the development of the market for generation by increasing the capacity in the hands of non-traditional generators and bringing new competitors into most local markets.

These developments make it clear -- the old model of "generating all you use" no longer prevails. The traditional means of achieving economies and efficiencies -- acquiring additional generation -- no longer apply. Utilities -- to the extent they provide retail bundled service -- will have to shop from a number of sources to obtain the most economical generation. The development of the open access transmission grid enables the utility to expand the region in which they can find supplies. Further, in states such as Illinois and Pennsylvania, which have opened the generating function to competition, the traditional utility will no longer be the only

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/41/ Order No. 2000 at 15.

/42/ RTO NOPR at 33,690.

source of generation. All customers will rely a wide-spread, increasingly national market to provide generation at a market driven price.

The Merger is in direct response to these developments. ComEd and PECO will use Genco to coordinate their "shopping" efforts. Further, Genco will use its marketing abilities to sell the generation output of facilities controlled by Exelon in the most efficient manner possible -- to ComEd and PECO and to other customers. Importantly, and as described in the following paragraphs, Genco will be able to arrange for the delivery of this power to where it is needed by relying on the Contract Path and open access transmission.

Following the enactment of EPACT, FERC recognized that the full development of a vigorous and competitive wholesale generation market would not be possible without a means for these new classes of generators and power marketers to move power from the generating facility to distant customers. Seeking to foster the wholesale generation markets, FERC has mandated changes in the legal framework of the interstate transmission grid to enable these generators to market electricity to an expanding number of customers. As a result, traditional utilities may also use the transmission grid to coordinate the activities of their own generation and distribution functions.

EPACT changed the legal framework for the interstate transmission of electricity. Under this law, utilities could request transmission service over the systems of others. This expanded the circumstances in which a non-traditional generator, or two remote generation owning utilities, could economically move power from one place to another. FERC initially implemented EPACT on a case-by-case basis, ordering individual utilities to enter into specific transactions to transmit another entity's power over the transmission owner's system. Later it used its authority under EPACT, and its authority to remedy discriminatory conduct under the Federal Power Act (FPA), to require all

utilities under its jurisdiction to open their transmission systems and allow

any qualified entity to use their system on a regular basis to deliver electricity at a fair and non-discriminatory rate. The new requirements, known simply and descriptively as "open access" came about in 1996 in FERC's Order No. 888 and its progeny. /43/ Order No. 888's key provision was the requirement that utilities file standard transmission tariffs (called "OATTS" -- open access transmission tariffs) under which a transmission provider must offer service to any qualified user. OATTS provided utilities, other generation owners and power marketers for the first time with a generally available right to use the transmission systems of others to move power at tariffed rates.

In Order No. 889, /44/ a companion 1996 ruling, FERC also mandated that transmission owners establish a comprehensive information system regarding the availability and price of

/43/ Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Service by Public Utilities; Recovery of Stranded Costs by Public Utilities, FERC Stats. and Regs., Regulations Preambles, (P) 31,036 (1996) ("Order No. 888"), order on rehearing, FERC Stats. & Regs., Regulations Preambles, (P) 31,048 (1997) ("Order No. 888-A"), order on rehearing, 81 FERC (P) 61,248 (1997) ("Order No. 888-B"), order on rehearing, 82 FERC (P) 61,046 (1998) ("Order No. 888-C").

/44/ Open Access Same-Time Information System (formerly Real-Time Information Network) and Standards of Conduct, Order No. 889, [1991-1996 Transfer Binder] FERC Stats. & Regs., Regs. Preambles (P). 31,035, at 31,585 (1996), order on reh'g, Order No. 889-A, III FERC Stats. & Regs., Regs. Preambles (P). 61,253 (1997).

their transmission service on an Internet site called Open Access Same-Time Information System ("OASIS"). The OASIS provides a practical and efficient means for distant utilities to use the interstate transmission grid to coordinate their operations. Because of these changes it is now possible for utilities that are not adjacent to gain the advantages of coordinated operation, to jointly use their various generating assets on an economic basis and otherwise act as an integrated public utility company through the use of the OATTs and OASIS. Importantly, "open access" as dictated by Order Nos. 888 and 889, provides an easy to use, day-to-day means of coordinating electric operations. Unlike in the past, when inter-company transmission required complex, separately negotiated agreements, open access is available to all on minimal notice and at standard terms.

These legal and practical circumstances have only become available in recent years -- in fact only since about 1997.<sup>45/</sup> Although Exelon believes that its electric facilities are "interconnected" and, therefore, that it is an integrated system, through the use of OATTs and OASIS, Exelon is not relying solely on this method to establish interconnection. Rather, Exelon is proposing its Contract Path, which is fully consistent with the most recent Commission precedent, in addition to other interconnections through OATTs.<sup>46/</sup>

Unicom and PECO recognize and embrace the changes in the industry and believe that the Merger will result in an integrated public-utility system positioned for competition in the utility industry of the future. Open access to transmission, retail electric competition and technological changes are promoting the growth of larger and more competitive regional wholesale power markets. As more buyers and sellers participate in broader bulk power markets, increased competition will tend to produce lower and more stable electricity prices for the benefit of consumers. Although open access transmission is fully developed to enable Exelon to coordinate its utility operations (including the Contract Path), the transmission markets will become even more liquid and seamless, as a result of FERC's policy of promoting regional transmission organizations ("RTOs"), as most recently evidenced by its issuance of Order No.

<sup>45/</sup> The requirement to file an OATT was effective in 1996. OASIS went into operation in 1997.

<sup>46/</sup> See, American Electric Power Company, Inc., Holding Co. Act Release No.

27186 (June 14, 2000). Exelon has prepared an Analysis of How the

Interconnection Requirement of PUHCA is Satisfied by OATTs and OASIS

("Interconnection Analysis"). This Interconnection Analysis, filed as Exhibit K-

1 to this Application-Declaration and incorporated by reference herein, describes in detail the historical development of the interstate transmission grid in the United States referred to in the preceding paragraphs of this Application-Declaration. The Interconnection Analysis also traces the development of the competitive generating sector of the electric utility industry and demonstrates how that development, spurred by EPACK and FERC Order Nos. 888 and 889, has led to a system which, when coupled with the Contract Path, will enable Exelon to operate efficiently, under normal conditions, as a coordinated and integrated public-utility system. Finally, the Interconnection

Analysis includes a practical guide to moving power describing in detail exactly

how the OATT and OASIS system will work, in conjunction with the Contract Path, to effectively and economically interconnect the parts of the Exelon system. The Interconnection Analysis does not attempt a legal analysis of how Exelon meets

the integrated public-utility system requirement of the Act -- that analysis follows in Part B, "Section by Section Analysis" to this Item 3. Rather, the Interconnection Analysis gives a description, too detailed to include here, of

the factual basis for the conclusion that open access transmission constitutes "interconnection" within the meaning of the Act. However, as noted elsewhere, it is not necessary for the Commission to find that open access is sufficient to establish "interconnection" within the meaning of the Act because Exelon will also obtain the Contract Path which is sufficient alone to meet the standards of the Act.

2000 on December 15, 1999./47/ The development of RTOs will further streamline the currently robust market for the interstate movement of electricity and provide the tools for meeting the ever increasing demand for capacity on the interstate grid. State and Federal policy makers have recognized that the economic operation of utility systems can be achieved, and indeed is perhaps best achieved, through contractual relations in a competitive marketplace, and not simply through ownership of generation, transmission and distribution facilities.

To summarize the current state of the art described in this section, the ongoing corporate restructuring of the U.S. utility industry reflects the effects of emerging FERC policy on market-based power pricing and on transmission, including Order Nos. 888, 889 and 2000 requiring open access transmission on comparable terms and the functional unbundling of the transmission and wholesale merchant functions, the formation of ISOs and the development of RTOs. It is also the product of many recent State laws mandating competitive resource procurement, retail electric competition and the functional separation (and in some States, divestiture) of generation from transmission and distribution operations. Layered on these changes are both rapid developments in technology and the emergence and growth of the power marketing and energy trading industry, both of which facilitate efficient and competitive low-cost electric markets. The cumulative effect of these regulatory, technological and economic changes has dramatically altered the "state of the art" that Congress directed the Commission to consider more than sixty years ago. The Commission must "respond realistically to the changes in the utility industry and interpret more flexibly each piece of the integration equation."/48/ The SEC Staff in its 1995 Report advised the SEC that "open access under FERC Order No. 636, wholesale wheeling under the Energy Policy Act and the development of an increasingly competitive and interconnected market for wholesale power have expanded the means for achieving the

/47/ Order No. 2000, Docket No. RM99-2-000, Final Rule Regional Transmission Organizations (December 15, 1999), 89 FERC (P). 61,285 (1999); order on reh'g, Order No. 2000-A, FERC Stats and Regs (P). 31,092 (Feb. 25, 2000). FERC defines an RTO as an entity that satisfies the minimum characteristics (independence, scope and regional configuration, operational authority and short-term reliability) and minimum functions (tariff administration and design, congestion management, parallel path flow, ancillary services, OASIS information, market monitoring, planning and expansion and interregional coordination). 18 CFR (S). 35.34. The regional organizations to which ComEd and PECO belong, MISO and PJM, are "independent system operators," which is a type of organization structure for the control or operation of transmission facilities of multiple owners. Order No. 2000 at 24. MISO and PJM may become RTOs in the future. Order No. 2000 requires all public utilities that own, operate or control interstate transmission facilities subject to FERC jurisdiction to file, by October 15, 2000, a proposal for an RTO with the minimum characteristics and functions identified in Order No. 2000, or, alternatively, a description of any efforts made by the utility to participate in an RTO, any obstacles to participation, and any plans and timetable for further work toward RTO participation. Public utilities that are members of an existing, FERC-approved regional entity must file by January 15, 2001 an explanation of the extent to which the regional entities in which they participate meet the minimum characteristics and functions of an RTO. In Order No. 2000, FERC has adopted a flexible approach that permits a number of different types of RTOs to come into being, including non-profit independent system operators and for-profit transmission companies (transcos), combinations of these two types of entities, or other approaches as yet to be determined. FERC also adopted the principle of "open architecture" so that an RTO and its members can evolve over time and improve structure, geographic scope, market support and operations to meet market needs. FERC will allow RTOs to propose changes to their enabling agreements to meet changing market, organization and policy needs. The inefficiencies that continue to exist in today's open access transmission system will be reduced as RTOs develop and mature. More information on how RTOs will further facilitate the open access transmission system is set forth in the Interconnection Analysis.

/48/ 1995 Report at 67.

interconnection and the economic operation and coordination of utilities with non-contiguous service territories." The "means for achieving interconnection" referred to in the 1995 Report are even more developed because of the open access requirements of Order No. 888 and Order No. 2000 which were promulgated after the 1995 Report was prepared.

The 1935 Act was intended, among other things, to prevent the evils that arise "when the growth and extension of holding companies bears no relation to the economy of management and operation or the integration and coordination of related operating properties . . . ."/49/ The Exelon system will be an example of growth that promotes economies and coordination of related operating properties within a single region in a manner consistent not only under the policies of the Act, but also with the policies of FERC and State regulatory initiatives. Under the Act, the ultimate determination has always been whether, on the facts of a given matter, the proposed transaction "will lead to a recurrence of the evils the Act was intended to address."/50/ The following section B, "Section by Section Analysis" will examine each of the requirements of the Act and show that the Merger will satisfy all those provisions, will not result in a recurrence of the evils to which the Act is directed and, therefore, should be approved by the Commission.

#### B. Section by Section Analysis

The following is a section-by-section analysis that will demonstrate that the Merger is consistent with each of the referenced sections of the Act and should, therefore, be approved by the Commission. This discussion will show that the Merger clearly comports with Commission precedent. The following analysis will show that the Merger meets in every respect the requirements under the Act in light of the Commission's most recent precedent./51/

##### 1. Section 9(a)(2) -- Acquisition of Utility Stock

Section 9(a)(2) makes it unlawful, without approval of the Commission under Section 10, "for any person...to acquire, directly or indirectly, any security of any public-utility company, if such person is an affiliate...of such company and of any other public-utility or holding company, or will by virtue of such acquisition become such an affiliate."/52/ As a result of the Merger, Exelon will directly or indirectly acquire all of the outstanding voting securities of, and therefore be an affiliate of, each of the following public-utility companies: ComEd, the Indiana Company, PECO, Genco and the Conowingo Companies./53/ The Merger therefore requires prior

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/49/ Section 1(b)(4).

/50/ Union Electric Co., quoted in Southern Co., Holding Company Act Release No. 25639 (Sept. 23, 1992).

/51/ American Electric Power Company, Inc., Holding Co. Act Release No. 27186 (June 14, 2000).

/52/ Under the definition set forth in Section 2(a)(11), an "affiliate" of a specified company means "any person that directly or indirectly owns, controls, or holds with power to vote, 5 per centum or more of the outstanding voting securities of such specified company," and "any company 5 per centum or more of whose outstanding voting securities are owned, controlled, or held with power to vote, directly or indirectly, by such specified company."

/53/ Upon completion of the Restructurings, the Conowingo Companies will be subsidiaries of Genco. Further, ComEd and PECO will become subsidiaries of Exelon Energy Delivery. See Exhibit E-5.

Commission approval under the standards of Section 10. The relevant standards are set forth in Sections 10(b), 10(c) and 10(f) of the Act.

The Merger complies with all of the applicable provisions of Section 10 of the Act and should be approved by the Commission:

- . The consideration to be paid in the Merger is fair and reasonable.
- . The Merger will not create detrimental interlocking relations or concentration of control.
- . The Merger will not result in an unduly-complicated capital structure for the Exelon system.
- . The Merger is in the public interest and the interests of investors and consumers.
- . The Merger is consistent with Section 8 and not detrimental to carrying out the provisions of Section 11 of the Act.
- . The Merger tends toward the economical and efficient development of an integrated electric system and a permitted additional integrated gas system.
- . The Merger will comply with all applicable State laws.

2. Section 10(b) -- Commission to Approve if Three

Requirements Met

Section 10(b) provides that if the requirements of Section 10(f) are satisfied, the Commission shall approve an acquisition under Section 9(a) unless the Commission finds that:

- . such acquisition will tend towards interlocking relations or the concentration of control of public-utility companies, of a kind or to an extent detrimental to the public interest or the interests of investors or consumers;
- . in case of the acquisition of securities or utility assets, the consideration, including all fees, commissions, and other remuneration, to whomsoever paid, to be given, directly or indirectly, in connection with such acquisition is not reasonable or does not bear a fair relation to the sums invested in or the earning capacity of the utility assets to be acquired or the utility assets underlying the securities to be acquired; or
- . such acquisition will unduly complicate the capital structure of the holding-company system of the applicant or will be detrimental to the public interest or the interests of investors or consumers or the proper functioning of such holding-company system.

(a) Section 10(b)(1) -- Interlocking

Relations/Concentration of Control

Applicable Standard. The standards of Section 10(b)(1) are satisfied

because the Merger will not "tend towards interlocking relations or the concentration of control of public utility companies, of a kind or to an extent detrimental to the public interest or the interests of investors

or consumers." By its nature, any merger results in new links between previously unrelated companies. The Commission has recognized that such interlocking relationships are permissible in the interest of efficiencies and economies./54/ The links that will be established as a result of the Merger are not the types of interlocking relationships targeted by Section 10(b)(1), which is primarily aimed at preventing business combinations for reasons unrelated to attaining operating synergies. In the present circumstances, the so-called interlocking relationships will consist of new Boards of Directors of Exelon and its subsidiaries and various contractual arrangements designed to integrate the Exelon system and to produce efficiencies and economies. The Merger Agreement provides for the Board of Directors of Exelon to consist of up to 16 members, one-half designated by Unicom and one-half designated by PECO./55/ This is a typical arrangement in a merger of equals transaction such as the Merger.

A variety of contractual arrangements among the companies in the Exelon system will be established, including the following:

- . General Service Agreements. ComEd, the Indiana Company, PECO, -----  
Genco and the Conowingo Companies will each enter into a General Services Agreement with Exelon Services. Under the General Services Agreement, Exelon Services will also provide services to Exelon's direct and indirect non-utility subsidiaries. Through the consolidation of functions into Exelon Services, the Exelon system will achieve substantial economies and efficiencies. Services incidental to their business function may be provided directly by ComEd or PECO in compliance with Rule 87(a)(3). The provision of services between ComEd and PECO and certain affiliates will be subject to State regulation as well.
- . Genco, ComEd, PECO Power Sales Agreements. All generating -----  
facilities of ComEd and PECO will be transferred to Genco. Genco will enter into arrangements with ComEd and PECO to provide them with power necessary for them to meet their "bundled service" or "provider of last resort" obligations under State law and, at the request of ComEd and PECO, will be available to meet future supply needs or coordinate purchases from non-affiliated suppliers. Genco will coordinate Exelon's purchases of power from non-affiliated entities for its competitive marketing activities. Because of this consolidation of generation in a single entity, the Exelon system will not need the typical "joint operating agreement" or "joint dispatch agreement" that many other systems use to achieve coordinated operations.
- . Marketing. The function of marketing the available generating -----  
capacity of the Exelon system will be coordinated by Genco. Genco will include the existing energy

/54/ Northeast Utilities, Holding Co. Act Release No. 25221 (Dec. 21, 1990), as -----  
modified, Holding Co. Act Release No. 25273 (Mar. 15, 1991), aff'd sub nom. City -----  
of Holyoke v. SEC, 972 F.2d 358 (D.C. Cir. 1992) ("interlocking relationships -----  
are necessary to integrate [the two merging entities]").

/55/ The Applicant acknowledges the requirements of Section 17(c) of the Act and Rule 70 thereunder with respect to limitations upon directors and officers of registered holding companies and subsidiary companies thereof having affiliations with commercial banking institutions and investment bankers and undertake that, upon completion of the Merger, it will be in compliance with the applicable provisions thereof.

marketing functions of PECO's Power Team as well as the wholesale sales and marketing operations of ComEd.

These arrangements are necessary to integrate ComEd, the Indiana Company, PECO, Genco and the Conowingo Companies fully into the Exelon system and will therefore be in the public interest and the interest of investors and consumers. Forging such relationships is beneficial to the protected interests under the Act and, thus, is not prohibited by Section 10(b)(1). Because substantial benefits will accrue to the public, investors and consumers from the combination of Unicom and PECO, whatever interlocking relationships may occur as a result of the combination are not detrimental.

Unlike many existing registered holding company systems, the integrated electric system of ComEd, PECO and Genco (the "Exelon Electric System") will have no need for a transmission integration agreement. The Exelon Electric System will be physically interconnected through the Contract Path and through open access transmission service which the operating companies have the right to obtain and use on non-discriminatory terms by virtue of FERC Order Nos. 888 and 889 and the applicable open access tariffs of the utilities whose facilities form the electrical paths between the two parts of the Exelon Electric System. In keeping with this approach Genco, which will own and operate all of the Exelon Electric System's integrated generating facilities, will use the Contract Path and arrange for other interconnecting paths to ensure that both ComEd and PECO receive power from one another when it is economically desirable. Thus, under normal conditions, Exelon will be able to engage in coordinated operations in a manner necessary to establish that it is an integrated public utility company. Further, the transmission facilities owned by ComEd and PECO themselves will each be made available to the other company and these transmission systems will be operated by the respective independent regional transmission system operators (the MISO in the case of ComEd, PJM in the case of PECO) under the non-discriminatory terms contained in the applicable regional open-access tariffs. Finally, under the prevailing retail access programs of Illinois and Pennsylvania, the rates of ComEd's and PECO's retail customers (those that choose to retain the companies as their suppliers) are frozen or capped and will be unaffected by the level and allocation of transmission costs incurred by the Exelon Electric System companies while the frozen or capped rates are in effect.

Due to these factors, the goals typically sought to be accomplished by a "system transmission agreement" -- i.e., enabling each system company to access the transmission facilities of the others and providing a mechanism for rationalizing the different transmission rates imposed by each company -- are accomplished through the open access transmission regime fostered by FERC. Thus, where an agreement was necessary in the past to accomplish these factors leading to integration, the same results can be obtained today without an agreement through reliance on FERC approved rights readily available to ComEd and PECO. The end result is the same -- integrated operations; but the legal means to accomplish that result have been simplified since ComEd and PECO can now use generally available rights rather than having to create unique private rights.

To further explain, Exelon emphasizes that due to the factors and conditions of open access transmission described above, interconnection and integration of Exelon Electric System will be accomplished, in each case without the need for:



- (a) any transmission cost shifts between ComEd and PECO,
- (b) transmission cost equalization,
- (c) the incurrence of any central control and dispatch costs associated with integration, or
- (d) either ComEd or PECO constructing additional transmission facilities.

Additionally, neither company will operate the transmission facilities it now owns (that being the function of the MISO and PJM), nor will it be independently responsible for transmission planning within its regional organization.

Accordingly, for all the reasons explained above, a transmission integration agreement between ComEd and PECO is unnecessary. Finally, because all generating assets will be concentrated in Genco there likewise will be no need for a "generation integration agreement."

In applying Section 10(b)(1) to utility acquisitions, the Commission must further determine whether the acquisition will create "the type of structures and combinations at which the Act was specifically directed."<sup>56</sup> The Merger will not create a "huge, complex and irrational system" but, rather, will afford the opportunity to achieve economies of scale and efficiencies for the benefit of investors and consumers. The Merger is a direct response to the desire of the legislature and regulators in Illinois and Pennsylvania to enhance competition in the electric utility business. See American Electric Power

Company, Inc., Holding Co. Act Release No. 20633 (July 21, 1978) ("AEP"). As

explained in the Joint Proxy Statement, a primary reason for the Merger is to position the companies to participate in the growing and increasingly competitive energy markets. Specifically, the Merger will combine the strengths of the two companies, enabling them to offer customers a broader array of energy products and services more efficiently and cost-effectively than could either company acting alone. At the same time Exelon will benefit from larger and more diverse asset and customer bases, with enhanced opportunities for operating efficiencies and risk diversification. Although Exelon will be one of the larger registered holding companies, its operations will not exceed the economies of scale of current electric generation and transmission technology, nor provide undue market power or control to Exelon in the region in which it will provide service.

Size. While the combination of Unicom and PECO will result in a larger utility system, it will not exceed the economies of scale that may be achieved from modern electric generation and transmission technology, on the one hand, and gas transportation technology on the other. If approved, the Exelon Electric System will serve approximately 4.8 million electric customers and 400,000 gas customers located primarily in two states. As of December 31, 1999, the combined consolidated assets of Unicom and PECO totaled approximately \$35.7 billion and, for the year ended December 31, 1999, combined consolidated operating revenues totaled approximately \$12.2 billion. As of December 31, 1999, the combined owned summer generating capacity of the regulated utility operations of ComEd and PECO totaled approximately 18,000 to 19,000 MW. This figure does not include generating assets owned by AmerGen.

<sup>56</sup> Vermont Yankee Nuclear Power Corp., Holding Co. Act Release No. 15958

(Feb. 6, 1968).

The following table shows the Exelon Electric System's relative size as compared to other registered systems in terms of assets, operating revenues and customers/57/:

System	Total Assets (\$ Millions)	Operating Revenues (\$ Millions)	Electric Customers (Thousands)
Southern	36,192	11,403	3,794
Entergy	22,848	11,495	2,495
AEP 58	19,483	6,346	3,022
GPU	16,288	4,249	2,041
Exelon	36,726	12,225	4,737

Moreover, the Commission has approved a number of acquisitions involving similarly-sized operating utilities./59/

The Commission has rejected a mechanical size analysis under Section 10(b)(1) in favor of assessing the size of the resulting system with reference to the economic efficiencies that can be achieved through the integration and coordination of utility operations. See, e.g., AEP, supra. The Commission in AEP noted that, although the framers of the Act were concerned about "the evils of bigness, they were also aware that the combination of isolated local utilities into an integrated system afforded opportunities for economies of scale, the elimination of duplicate facilities and activities, the sharing of production capacity and reserves and generally more efficient operations . . . [and] [t]hey wished to preserve these opportunities." Id. By virtue of the Merger, Exelon will be in a position to realize precisely these types of benefits. Among other things, the Merger is estimated to yield labor cost savings, corporate and administrative and purchasing savings, and savings in the cost of fuel, information technology, facilities, vehicles, and corporate programs including insurance, advertising, organization dues and benefits.60

Competitive Effects. Section 10(b)(1) also requires the Commission to consider the possible anticompetitive effects of a proposed combination. In this case, Unicom and PECO have filed Notification and Report Forms with the Department of Justice and the Federal Trade

/57/ U.S. Securities and Exchange Commission, Financial and Corporate Report, Holding Companies Registered under the Public Utility Holding Company Act of 1935 as of July 1, 1999 (data provided is as of December 31, 1998); Unicom and PECO from Unaudited Pro Forma Combined Condensed Financial Statements included in S-4 Registration Statement filed as an Exhibit hereto.

/58/ American Electric Power recently merged with Central and South West Corporation. In Amendment No. 4 to the U-1 filed in connection with the merger American Electric Power indicates that the combined company would have assets of \$33,227 million, revenues of \$9,834 million and electric customers of 4.7 million.

/59/ See, e.g., American Electric Power Company, Inc., Holding Co. Act Release No. 27186 (June 14, 2000); Entergy Corporation, Holding Co. Act Release No. 25952 (Dec. 17, 1993) (acquisition of Gulf States Utilities; combined assets at time of acquisition in excess of \$22 billion); TUC Holding Company, Holding Co. Act Release No. 26749 (Aug. 1, 1997) (combination of Texas Utilities Company and ENSERCH Corporation; combined assets at time of acquisition of \$24.0 billion).

/60/ These expected economies and efficiencies from the combined utility operations are described in greater detail in Item 3.B.3(b).

Commission pursuant to the HSR Act the effects of the Merger on competition in the relevant market. It is a condition to the consummation of the Merger that the applicable waiting period under the HSR Act shall have expired or been terminated./61/

The competitive impact of the Merger was also considered by FERC. In its order approving the Merger, FERC found that the horizontal aspects of the Merger relating to consolidating generation would not adversely affect competition. Further, FERC found that the Merger would not adversely affect competition through the strategic dispatch of generation or through the vertical aspects associated with combining the generation and transmission systems. Finally, the FERC found no serious concern with combining generation assets with PECO's limited role as a gas distribution company. Based on this review and review of other relevant factors, FERC approved the Merger without imposing any conditions on the Merger./62/ No party to the FERC proceeding on the Merger sought rehearing of the Commission's approval and it is now final and is not subject to any court appeal.

The Commission has found, and the courts have agreed, that it may watchfully defer to FERC with respect to such matters./63/

As summarized in the testimony of Dr. Heironymous submitted in support of the FERC application (filed as Exhibit D-1.2 hereto), there is no adverse impact on competition resulting from the consolidation of the pre-merger market shares of ComEd and PECO./64/

ComEd has given up ownership of nearly half of its generation in northern Illinois, a measure which addresses ComEd's position in its own highly concentrated market. Although PECO owns substantial generation in its own right, the newly merged system will own a portfolio of generation that is approximately the same size as, but which is dispersed over a larger area than, ComEd's pre- divestiture portfolio. In the competitive generation market in which they operate, ComEd and PECO will continue to have little ability or incentive to raise market prices. Further, within a relatively short time-frame, ComEd's transmission operation and control area functions will be turned over to the MISO, an independent regional organization that meets FERC's standards./65/

PECO's transmission already is controlled by PJM.

The Merger will not have any adverse impact on competition within the nuclear power industry. The nuclear power industry consists of a large number of nuclear utilities and suppliers engaged in the purchase and sale of nuclear reactors, equipment, fuel and services in a highly competitive worldwide market involving light water reactors, heavy water reactors, gas cooled

/61/ The waiting period expired in April 2000.

/62/ Commonwealth Edison Co., 91 FERC(P) 61,036 (Apr. 12, 2000)(filed as Exhibit D-1.3 hereto).

/63/ See City of Holyoke v. SEC, supra at 363-64, quoting Wisconsin's Environmental Decade v. SEC, 882 F.2d 523, 527 (D.C. Cir. 1989).

/64/ While ComEd and PECO offered to sell their 300 MW ComEd to PECO power purchase contract as a mitigation measure, FERC found that such a sale was unnecessary.

/65/ ComEd may turn over its transmission assets to the control of an ITC which will operate with MISO oversight.

reactors and other types of power reactors. The combined nuclear operating fleet of ComEd and PECO, consisting entirely of light water reactors, will have a generating capacity of approximately 14,000 MW, representing only 4.6% of the installed worldwide generating capacity of approximately 301,700 MW for light water reactors. Even if PECO's share of the additional light water reactors owned and operated by AmerGen, consisting of an additional 2,810 MW, is included in these totals, the Genco fleet will represent only 5.2% of the installed generating capacity. Because owners of nuclear plants worldwide are potential customers for the products of nuclear suppliers and because of the relatively small share of nuclear generating capacity that Genco will possess, Genco will not be in a position to exert any anticompetitive influence on nuclear suppliers. Accordingly, the "concentration of control" of the combined nuclear operations of ComEd and PECO in Genco resulting from the Merger will not be "of a kind or to an extent detrimental to the public interest or the interests of investors or consumers."

(b) Section 10(b)(2) -- Merger Consideration and Fees

Applicable Standard. Section 10(b)(2) precludes approval of an

acquisition if the consideration to be paid in connection with the combination, including all fees, commissions and other remuneration, is "not reasonable or does not bear a fair relation to the sums invested in or the earning capacity of . . . the utility assets underlying the securities to be acquired." The Commission has found "persuasive evidence" that the standards of Section 10(b)(2) are satisfied where, as here, the agreed consideration for an acquisition is the result of arm's-length negotiations between the managements of the companies involved, supported by opinions of financial advisors./66/

First, the Merger is a merger of equals, with the former Unicom shareholders holding about 46% and the former PECO shareholders holding approximately 54% of the shares of Exelon.

Second, as explained in the Joint Proxy Statement (Exhibit C-2 hereto), the historical price data for Unicom and PECO common stock provide support for the consideration of 0.875 shares of Exelon common stock and \$3.00 in cash for each share of Unicom common stock and one share of Exelon common stock for each share of PECO common stock.

Third, the merger consideration is the product of extensive and vigorous arm's-length negotiations between Unicom and PECO. These negotiations were preceded by extensive due diligence, analysis and evaluation of the assets, liabilities and business prospects of each of the respective companies. This process is described in "Background of the Merger" in the Joint Proxy Statement./67/ As recognized by the Commission in Ohio Power Co., Holding Co.

Act Release No. 16753 (June 8, 1970), prices arrived at through arm's-length negotiations are particularly persuasive evidence that Section 10(b)(2) is satisfied.

/66/ See Southern Company, Holding Co. Act Release No. 24579 (Feb. 12, 1988); Consolidated Natural Gas Co., et al., Holding Co. Act Release No. 25040 (February 14, 1990).

/67/ See pages 22 through 27 in the Joint Proxy Statement filed as Exhibit C-2 hereto.

Fourth, nationally recognized independent investment bankers have reviewed extensive information concerning PECO and Unicom, analyzed the merger consideration employing a variety of valuation methodologies, and ultimately opined that the merger consideration is fair to the respective holders of Unicom common stock and PECO common stock as of January 7, 2000, the date of the amendment to the Original Merger Agreement which resulted in the Merger Agreement and the final merger consideration. The investment bankers' analyses are described in detail and their opinions are included in full in the Joint Proxy Statement. The assistance of independent consultants in setting consideration has been recognized by the Commission as evidence that the requirements of Section 10(b)(2) have been met./68/

Finally, submitting the Merger for approval by the shareholders of both Unicom and PECO will provide additional assurance that the prices paid are reasonable.

Fees and Expenses. A further consideration under Section 10(b)(2) is -----  
the overall fees, commissions and expenses to be incurred in connection with the Merger. Unicom and PECO believe that these items are reasonable and fair in light of the size and nature of the Merger relative to other utility mergers and acquisitions. The anticipated benefits of the Merger to the public, investors and consumers are consistent with recent precedent and meet the standards of Section 10(b)(2).

As set forth in Item 2 of this Application-Declaration, Unicom and PECO together expect to incur a combined total of approximately \$87.4 million in fees, commissions and expenses in connection with the Merger, including the fees of financial and other advisors. AEP and Central and South West Corporation have represented that they expect to incur total transaction fees and regulatory processing fees of approximately \$72.7 million in connection with their merger representing 1.1% of the value of the consideration paid./69/ New Century Energies and Northern States Power incurred an estimated \$43.7 million in fees in connection with their proposed merger. The Cincinnati Gas and Electric Company and PSI Resources incurred \$47.12 million in fees in connection with their reorganization as subsidiaries of CINergy; Northeast Utilities alone incurred \$46.5 million in fees and expenses in connection with its acquisition of Public Service of New Hampshire; and Entergy alone incurred \$38 million in fees in connection with its acquisition of Gulf States Utilities--which amounts all were approved as reasonable by the Commission./70/

The Applicant believes that the estimated fees and expenses in this matter bear a fair relation to the value of their respective companies and the benefits to be achieved by the Merger, and further that the fees and expenses are fair and reasonable in light of the size and nature of the Merger. See -----  
Northeast Utilities, supra (noting that fees and expenses must constitute normal -----  
costs and represent a minor part of the overall acquisition). Based on the closing prices of Unicom and PECO common stock on September 21, 1999, which was the day prior to the original announcement of the transaction, the Merger would be valued at approximately \$18 billion. The total estimated fees and expenses of \$87.4 million represent approximately 0.49%

/68/ Southern Company, supra; and SV Ventures, Inc., Holding Co. Act Release No. 24579 (Feb. 12, 1998).

/69/ American Electric Power Company, Inc., Holding Co. Act Release No. 35-27186 (June 14, 2000).

/70/ CINergy, Holding Co. Act Release No. 26146 (Oct. 21, 1994); Northeast Utilities, Holding Co. Act Release No. 25548 (June 3, 1992); and Entergy Corp., Holding Co. Act Release No. 25952 (Dec. 17, 1993).

of that value. The value of the consideration to be paid under the purchase method of accounting is \$5.759 billion and such total estimated fees and expenses represent about 1.5% of that amount. These figures are consistent with percentages previously approved by the Commission. See, e.g., Entergy Corp., supra (fees and expenses represented approximately 1.7% of the value of the consideration paid to the shareholders of Gulf States Utilities); Northeast Utilities, supra (fees and expenses represented approximately 2% of the value of the assets to be acquired).

(c) Section 10(b)(3) -- Complicated Capital Structure; No Detriment to Protected Interests

Applicable Standard. Section 10(b)(3) requires the Commission to determine whether the Merger will "unduly complicate the capital structure" or be "detrimental to the public interest or the interest of investors or consumers or the proper functioning" of the Exelon system.

Exelon's Capital Structure. The capital structure of Exelon will be substantially similar to capital structures approved by the Commission in other orders.<sup>71/</sup> Exelon's capital structure will also be similar to the capital structures of existing registered holding company systems. The shareholders of Unicom and PECO will each receive Exelon common stock. Exelon will own directly or indirectly 100% of the common stock of PECO, Genco, the Indiana Company and the Conowingo Companies, and there will be no minority common stock interest in any of those companies. Exelon will own virtually all (over 99%) of the common stock of ComEd.<sup>72/</sup> The very small outstanding amount of ComEd common stock not owned by Exelon relates to outstanding warrants and convertible preferred stock of ComEd which converts into ComEd common stock. Although Unicom has had a standing exchange offer whereby it will exchange for Unicom common stock any ComEd common stock issued on the exercise of these warrants or convertible preferred stock, some shareholders have failed to take advantage of the offer. Exelon expects to continue to make available a similar exchange offer post merger.<sup>73/</sup> Consequently, there will be no disadvantage to those few holders of ComEd common stock as a result of the transactions. They will be able to exchange their ComEd common stock for Exelon common stock at any time.

Although Exelon will have an authorized class of preferred stock, there are no current plans to issue any Exelon preferred stock. Exelon will have the ability to issue, subject to the approval of the Commission, preferred stock, the terms of which may be set by Exelon's Board of Directors.<sup>74/</sup> The only outstanding class of voting securities of Exelon's direct non-utility

<sup>71/</sup> See, e.g., Ameren Corporation, Holding Co. Act Release No. 26809 (Dec. 30, 1997); (voting preferred at utility) CINergy Corp; Holding Co. Act Release No. 26934 (Nov. 2, 1998); and Centerior Energy Corp., Holding Co. Act Release No. 24073 (April 29, 1986). ComEd has, and PECO may have, voting preferred stock. See note 27.

<sup>72/</sup> If Exelon decides to create Exelon Delivery, it would own the ComEd common stock and Exelon would own 100% of the voting securities of Exelon Delivery.

<sup>73/</sup> Exelon will seek the necessary approval for such exchange in the Financing U-1.

<sup>74/</sup> See, e.g., Columbia Gas System, Inc., Holding Co. Act Release No. 26361 (Aug. 25, 1995) (approving restated charter, including authorization to issue preferred stock the terms of which, including voting rights, can be established by the board of directors).

subsidiaries will be common stock and, in each case, all issued and outstanding shares of such common stock will be held by Exelon (except as noted in Exhibits I-1 and I-2).

The existing debt securities and preferred stock of ComEd and PECO will remain outstanding without change./74/

Set forth below are summaries of the capital structures of Unicom and PECO as of June 30, 2000, and the pro forma combined consolidated capital structure of Exelon (assuming the Merger occurred on June 30, 2000):

UNAUDITED PROFORMA COMBINED CONDENSED CAPITAL STRUCTURE

(in Millions)

As of June 30, 2000

	Unicom Historical	PECO Historical (1)	Merger ProForma Adjustments	Exelon ProForma	Capital Structure Percentage
<b>Common Equity</b>					
Common Stock, net of Treasury Shares	\$ 3,395 (2)	\$ 1,383 (3)	\$ (500)(1) 2,217 (4) (415)(5) 569 (6)	\$ 6,649	
Retained Earnings	562	89	(562)(6)	89	
Accumulated Other Comprehensive Income	7	-	(7)(6)		
<b>Total Common Equity</b>	<b>\$ 3,964</b>	<b>\$ 1,472</b>	<b>\$ 1,302</b>	<b>\$ 6,738</b>	<b>29.7%</b>
Preferred and Preference Stock	\$ 2	\$ 174		\$ 176	
Current Maturities of Pref. Stock		19		19	
<b>Total Pref. and Preference Stock</b>	<b>\$ 2</b>	<b>\$ 193</b>	<b>\$ -</b>	<b>\$ 195</b>	<b>0.9%</b>
Company Obligated Mandatorily Redeemable Preferred Securities	\$ 350	\$ 128		\$ 478	2.1%
<b>Long-Term Debt</b>					
Securitization Bonds	\$ 2,550	\$ 4,746		\$ 7,296	
Other	4,232	1,685		5,917	
Current Maturities of LTD	568	220		788	
<b>Total Long-Term Debt</b>	<b>\$ 7,350</b>	<b>\$ 6,651</b>		<b>\$ 14,001</b>	<b>61.7%</b>
Short-Term Debt	\$ 680	\$ 601 (1)		\$ 1,281	5.6%
<b>Total Capital Structure</b>	<b>\$ 12,346</b>	<b>\$ 9,045</b>	<b>\$ 1,302</b>	<b>\$ 22,693</b>	<b>100.0%</b>

/74/ It is contemplated that Genco will assume the pollution control bonds of PECO issued to finance facilities at the generating stations being transferred to Genco.

Notes to Capital Structure Table:

(1) Reflects the payment of the cash portion of the merger consideration to Unicom shareholders. PECO's cash balance as of June 30, 2000 was insufficient to fully fund this cash payment. Accordingly, for pro forma purposes, it was assumed that PECO would borrow \$250 million. The amount of actual borrowing, if any, at the time of consummation of the merger will depend on PECO's actual cash available at that time.

(2) Includes Unicom treasury stock of \$1,589 million.

(3) Includes PECO treasury stock of \$ 2,196 million.

(4) A pro forma adjustment has been made to recognize estimated goodwill in connection with the merger. The goodwill represents the excess of the purchase consideration of \$5.8 billion over the book value of Unicom's assets and liabilities at June 30, 2000.

(5) Reflects the repurchase of approximately \$ 415 million of Unicom's outstanding common shares subsequent to June 30, 2000 to meet Unicom's share repurchase requirement under the Merger Agreement.

(6) Reflects the elimination of Unicom's retained earnings and accumulated other comprehensive income with purchase accounting as prescribed by GAAP.

The anticipated consolidated common equity of Exelon when it is formed in the Merger, is 29.7% of total capitalization./75/ This is within the range of the common equity component of capitalization found acceptable by the Commission./76/

Exelon seeks approval to form two intermediate holding companies -- Ventures to hold the interests in Genco and Enterprises and Exelon Delivery to hold ComEd and PECO. Ventures is necessary to achieve a simple corporate structure while minimizing the Federal and State income tax impact of combining the unregulated businesses of Unicom and PECO. Alternative structures were considered but each had serious disadvantages including potential tax liabilities ranging from about \$5 million to about \$80 million./77/ Alternative structures which would

/75/ The anticipated consolidated capitalization takes into account the adjustments resulting from purchase accounting for the Merger and the affects of the Restructuring transactions. The anticipated post-Merger consolidated common equity ratio for Exelon, excluding securitization debt as indebtedness, is

45.4%. The anticipated common equity ratio for ComEd, excluding securitization debt is 41.9% and including securitization debt is 32.1%, while the anticipated common equity ratio for PECO, excluding securitization debt is 36% and including securitization debt is 16.3%. For a complete discussion of the capitalization of Exelon, see the Financing U-1.

/76/ Northeast Utilities, Holding Co. Act Release No. 25221 (Dec. 21, 1990);

Exemption of Issuance and Sale of Certain Securities by Public-Utility

Subsidiary Companies of Registered Public-Utility Holding Companies, Holding

Company Act Release No. 25573 (July 7, 1992). Under section 7(d)(1) of the Act, the Commission generally has required a registered holding company system and its public-utility subsidiaries to maintain no more than a 65/30 debt/common equity ratio, with the balance generally being preferred equity. Such debt/equity capitalization requirement was included in rule 52, as originally adopted, as applied to securities issued by public-utility subsidiaries, but was eliminated in 1992. Several extraordinary events in recent years involving write-offs related to utility restructuring have resulted in lower than historical levels of retained earnings at Unicom and PECO. The companies expect that Exelon's common stock ratio will improve after the Merger. See Unaudited

Pro Forma Combined Condensed Financial Statements in the Form S-4 Registration Statement filed as an exhibit hereto.

/77/ Combining the PECO non-utility businesses with the Unicom non-utility businesses under the control of Exelon is a spin-off for tax purposes. A spin-off will result in income tax unless it complies with narrow rules. A spin-off of the PECO non-utility businesses followed by combining those businesses with Unicom's businesses under a first tier subsidiary of Exelon would not comply

with these narrow rules and would be a taxable transaction. In particular, some of the PECO non-utility interests do not have a business history of 5 years or more; others do not constitute an "active trade or business." Thus, that transaction would result in Pennsylvania income taxes of as much as \$80 million. Federal income tax would be deferred.



minimize tax liability were much less desirable from a business organization viewpoint and involved much more complicated corporate structures. With respect to Exelon Delivery, Exelon wishes to emphasize the separation of its "wires" business -- the transmission and distribution functions of ComEd and PECO -- from its non-State regulated utility -- Genco --and non-utility -- Enterprises -- businesses. Providing a corporate organization that clearly and fully separates the distribution business from other businesses will better insulate the distribution business, which will continue to be regulated, from unregulated business. Further, providing a separate management structure for the distribution business will provide for management focus on that business enabling better integration and efficient development of that business.

The Commission has recognized in recent cases that there are organizational, regulatory and tax benefits to the creation of intermediate holding companies that should be considered.<sup>78/</sup> The harms that the Act envisioned would be prevented by the reduction or elimination of intermediate holding companies are unlikely to occur given modern financial reporting and affiliate transaction requirements. Exelon's proposal will not result in harmful pyramiding of holding company groups. There is no risk of unfair or inequitable distribution of voting power from the proposal. Neither Ventures nor Exelon Delivery will issue any voting securities to anyone other than Exelon. Accordingly, the Commission should approve the formation of Ventures and Exelon Delivery, "look through" the intermediate holding companies (including Genco to the extent it is a holding company for the Conowingo Companies) or treat them as a single company for purposes of analysis under Section 11(b)(2) of the Act.

For the reasons outlined, the Merger, including the corporate restructuring expected after the Merger, will not result in an unduly complicated capital structure of the resulting holding company.

No Detriment to Protected Interests. Section 10(b)(3) also requires

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the Commission to determine whether the proposed combination will be detrimental to the public interest, the interests of investors or consumers or the proper functioning of the combined Exelon system. The combination of Unicom and PECO is entirely consistent with the proper functioning of a registered holding company system. The utility operations of ComEd, the Indiana Company, PECO, Genco and the Conowingo Companies will be (a) effectively interconnected by means of the Contract Path and available open access transmission capacity, (b) economically operated under normal conditions as a single, coordinated system, through Genco's centralized generation and marketing function and (c) confined to a single area or region in northern Illinois and eastern Pennsylvania which is not so large as to impair (considering the state of the art) localized management, efficient operation and effective regulation. Further, the combination will result in substantial, otherwise unavailable, savings and benefits to the public and to consumers and investors of both companies, and the integration of ComEd, the Indiana Company, PECO, Genco and the Conowingo Companies will improve the efficiency of their respective systems.

<sup>78/</sup> National Grid Group plc, Holding Co. Act Release No. 27154 (Mar. 15,

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2000)(intermediate holding companies necessary for cross-border tax considerations); Dominion Resources, Holding Company Act Release No. 27113 (Dec.

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15, 1999)(intermediate holding company "CNG Acquisitions" to hold CNG's utility subsidiaries under alternative form of merger)

Finally, consummation of the Merger is conditioned upon receipt of all necessary State and Federal regulatory approvals. These regulatory approvals will assure that the interests of retail customers and wholesale customers are adequately protected. FERC's approval will provide assurances that there is no significant adverse effect on competition, no adverse effect on wholesale rates, and no adverse effect on Federal and State regulation. Moreover, as noted by the Commission in approving Entergy's acquisition of Gulf States Utilities, "concerns with respect to investors' interests have been largely addressed by developments in the Federal securities laws and the securities market themselves." /79/ Exelon, ComEd and PECO will be reporting companies subject to the continuous disclosure requirements of the Securities Exchange Act of 1934, as amended ("1934 Act") following the completion of the Merger. The various reports previously filed by Unicom, ComEd and PECO under the 1934 Act contain readily available information concerning the Merger. For these reasons, the Applicant believes that the Merger will be in the public interest and the interest of investors and consumers and will not be detrimental to the proper functioning of the resulting holding company system.

3. Section 10(c) -- Sections 8 and 11; Integration

Section 10(c) of the Act provides that, notwithstanding the provisions of Section 10(b), the Commission shall not approve:

- an acquisition of securities or utility assets, or of any other interest, which is unlawful under the provisions of Section 8 or is detrimental to the carrying out of the provisions of Section 11; or
- the acquisition of securities or utility assets of a public utility or holding company unless the Commission finds that such acquisition will serve the public interest by tending towards the economical and the efficient development of an integrated public-utility system.

(a) Section 10(c)(1) -- Sections 8 and 11

(i) The Merger will be lawful under Section 8

Section 10(c)(1) first requires that the Merger be lawful under Section 8. That section was intended to prevent holding companies, by the use of separate subsidiaries, from circumventing State restrictions on common ownership of gas and electric operations. The Merger will not result in any new situations of common ownership - so-called "combination" systems - within a given State. ComEd has provided, and will continue to provide, only electric service and only in Illinois. PECO will continue to provide electric service only in and around Philadelphia, Pennsylvania and, as it has for many years, also provide gas distribution services in southeastern Pennsylvania. Because Pennsylvania law does not prohibit combination gas and electric utilities serving the same area, the Merger does not raise any issue under Section 8 or the first clause of Section 10(c)(1).

/79/ Entergy Corp., Holding Co. Act Release No. 25952 (Dec. 17, 1993).

Additional assurances are expected to be provided in connection with PECO's application for merger approval filed before the Pennsylvania Commission. In its Pennsylvania application PECO has requested that the Pennsylvania Commission find that the proposed combination "is [not] likely to result in anticompetitive or discriminatory conduct, including the unlawful exercise of market power, which will prevent retail [gas] customers in this Commonwealth from obtaining the benefits of a properly functioning and workable competitive retail [natural gas] market," as required by the Pennsylvania Natural Gas Competition Act.<sup>80</sup> A favorable finding by the Pennsylvania Commission will provide the Commission additional assurance that the requirements of Section 8 of the Act have been satisfied.

(ii) The Merger Is Not Detrimental to Carrying Out Provisions of Section 11

Section 10(c)(1) also requires that the Merger not be "detrimental to the carrying out of the provisions of Section 11." Section 11(b)(1) directs the Commission generally to limit a registered holding company "to a single integrated public-utility system" and permitted "additional" systems. Because the combination of ComEd, PECO and Genco will result in a single, integrated electric utility system -- the Exelon Electric System -- and Exelon will hold a permitted additional gas-utility system, the Merger will in no way be detrimental to carrying out the provisions of Section 11.

(A) The Utility Systems Created by the Merger

The Merger will result in the combination of the electric systems of ComEd and PECO, which as noted operate primarily in only two States. ComEd and PECO will transfer their generating assets to Genco. Genco will provide power to ComEd and PECO pursuant to FERC approved power purchase agreements. Genco will be able to provide power to ComEd's traditional retail bundled load, to PECO's traditional bundled or provider of last resort load, and to other wholesale and retail customers of Exelon on an economical and efficient basis. As the single, central controlling entity for all the electric generation of the Exelon Electric System, Genco will be able to balance the supply it controls with the needs of the Exelon Electric System and off-system opportunities. Through the ComEd and PECO transmission facilities, the Contract Path and the open access transmission capacity available to Exelon, Genco will be able to move power as needed from Exelon's generating resources to those customers.

The gas distribution facilities of PECO are and have been for many years a single, integrated gas utility system (the "Exelon Gas System"). Consequently, the Commission should find that the Exelon Electric System will be the primary integrated public-utility system for purposes of Section 11(b)(1), and that the Exelon Gas System is a permissible additional system under the A-B-C clauses of that section.

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<sup>80</sup> 66 Pa. C.S.(S).2210 (1999).

(B) Statutory Standard -- Integration of Electric Operations In Today's Environment

The electric system of ComEd can be combined with the electric operations of PECO and Genco to form a single integrated electric public-utility system. The term, as applied to electric utility companies, means:

a system consisting of one or more units of generating plant and/or transmission lines and/or distributing facilities, whose utility assets, whether owned by one or more electric utility companies, are physically interconnected or capable of physical interconnection and which under normal conditions may be economically operated as a single interconnected and coordinated system confined in its operations to a single area or region, in one or more States, not so large as to impair (considering the state of the art and the area or region affected) the advantages of localized management, efficient operation, and the effectiveness of regulation.

Section 2(a)(29)(A). As the definition suggests, and the Commission has observed, Section 11 is not intended to impose "rigid concepts" but rather creates a "flexible" standard designed "to accommodate changes in the electric utility industry." /81/ Section 2(a)(29)(A) expressly directs the Commission to consider the "state of the art" in analyzing the integration requirement. As indicated above, the Commission is not constrained by its past decisions interpreting the integration standards based on a different "state of the art." See AEP, supra (noting that the state of the art -- technological advances in generation and transmission, unavailable thirty years prior -- served to distinguish a prior case and justified "large systems spanning several states.")

The ultimate determination under Section 11 of the Act has always been whether, on the facts of a given matter, the proposed transaction "will lead to a recurrence of the evils the Act was intended to address." /82/ As shown by this Application-Declaration, the combination of Unicom and PECO will in no way lead to a recurrence of the problems the Act was designed to eliminate. In the following section, this Application-Declaration describes how the Exelon electric system will meet all of the four requirements of integration set out in the Act.

/81/ UNITIL Corp., Holding Co. Act Release No. 25524 (April 24, 1992); see also

Yankee Atomic Electric. Co., Holding Co. Act Release No. 13048 (Nov. 25, 1955)

("We think it is clear from the language of Section 2(a)(29)(A), which defines an integrated public-utility system, that Congress did not intend to imposed [sic] rigid concepts with respect thereto.") (citations omitted); and see also

Madison Gas and Electric Company v. SEC, 168 F.3d 1337 (D.C. Cir. 1999)

("section 10(c)(1) does not require that new acquisitions comply to the letter with section 11"). The Commission interprets the 1935 Act and its integration standards "in light of . . . changed and changing circumstances." Sempra Energy,

Holding Co. Act Release No. 26971 (Feb. 1, 1999) (interpreting the integration standards of the 1935 Act in light of developments in the gas industry). Accord,

NIPSCO.

/82/ Union Electric, supra.

(iii) Exelon Will Meet All Four Parts of the Integration Requirement of the Act.

ComEd and PECO intend to integrate their operations in the most economic manner possible, consistent with State and FERC regulatory requirements, to take full advantage of the opportunities available to produce and distribute power at lower cost for the benefit of its customers and shareholders. The following summarizes the factors establishing integration:

- . Centralized Generation Function. Genco will coordinate the ----- efficient use of the generation formerly held by ComEd and PECO for the benefit of the Exelon Electric System. The creation of Genco is made possible, in part, by the passage of utility regulation restructuring legislation in Illinois and Pennsylvania.
- . Centralized Operations Function. Genco will coordinate the ----- economic dispatch of all generation and, together with one or more specialized operating subsidiaries, will coordinate the efficient functioning of Exelon's entire electric utility operations --including transmission and distribution systems. As the industry moves to a competitive model, to the extent the regulated distribution functions continue to be energy suppliers, they will increasingly look to all potential sources of generation in the market. Genco will be able to supply power to its affiliates and to non-affiliated customers.
- . Centralized Nuclear Operations Function. The safe and efficient ----- operation of all of Exelon's nuclear generating stations will be coordinated through a centralized function which will adopt best practices and gain efficiencies through concentrated efforts.
- . Centralized Administrative Function. Exelon Services Company will ----- be formed to oversee all centralized corporate and administrative services. Exelon, with corporate headquarters in Chicago, Illinois, will coordinate utility operations functions with facilities in Chicago and Philadelphia, Pennsylvania. ComEd and PECO will maintain the benefits of localized management through local offices throughout their service areas. Exelon's utility subsidiaries will remain fully subject to applicable State and Federal public utility regulation, which will not be adversely affected by the Merger.
- . Centralized Interconnection Management. Exelon will effectuate ----- the coordinated operations of its generation, transmission and distribution functions through Genco's administration of transmission interconnections sufficient to ensure that the benefits of the centralized control and dispatch of generating assets are realized.<sup>/83/</sup> Exelon will be interconnected through the Contract Path and the other transmission facilities of ComEd and PECO and extensive interstate open access transmission capacity. Exelon will have the legal right under the Contract Path and OATTs to move power

<sup>/83/</sup> Operation of the transmission system of PECO is already conducted by PJM and the ComEd transmission system will soon be operated by MISO or the ITC.

economically to customers as needed in amounts sufficient to meet its operating needs throughout the Exelon system.

Size; Single Area or Region. Exelon will not be too large. Given

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the "state of the art," Exelon will be sufficiently large to compete effectively in today's electric utility industry. Given the operating and regulatory structure of today's industry, and the fact that Genco will coordinate all generating facilities and one or more service companies will coordinate all operations, Exelon will be confined to a single area or region within the meaning of the Act. ComEd and PECO have a five year history of economic power exchange transactions. The ability to economically interchange power, taking into account transmission cost, demonstrates that ComEd and PECO are in the same area or region. Further, Exelon's distribution areas -- surrounding Chicago and Philadelphia -- are homogeneous and have similar operating characteristics. Although the United States is electrically

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interconnected, only those utilities, such as Exelon, which can operate their separate utilities economically and in a

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coordinated manner within the meaning of the Act can be

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considered to be in the same area or region. This is not a case involving "scattered" properties prohibited by the Act.

Changes brought about in the industry through State and Federal energy restructuring and deregulation have produced a "state of the art" making a combination like Exelon possible today under the standards of the Act. This Application-Declaration will show that the Merger fits squarely within existing Commission precedent. Each of the four integration standards of Section 2(a)(29)(A) is discussed specifically below.

(A) Interconnection -- The Contract Path

The first requirement for an integrated electric utility system is that the electric generation and/or transmission and/or distribution facilities comprising the system be "physically interconnected or capable of physical interconnection." Historically, the Commission has focused on physical interconnection through facilities that the parties owned or, by specific contract, controlled.<sup>84/</sup> As early as 1978, however, -- well before the developments creating a flexible, open access transmission grid -- the Commission considered the effect of joint

<sup>84/</sup> See, e.g., Northeast Utilities, Holding Co. Act Release No. 25221 (Dec.

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21, 1990) ("Northeast Utilities") at n.74, supplemented, Holding Co. Act Release No. 25273 (Mar. 15, 1991), aff'd sub nom. City of Holyoke v. SEC., 972 F.2d 358

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(1992) (Northeast had the right to use a Vermont Electric line for ten years, with automatic two-year extensions, subject to termination upon two years notice, in order to provide power to a Northeast affiliate.); Centerior Energy

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Corp., Holding Co. Act Release No. 24073 (April 29, 1986) (Cleveland Electric

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Illuminating Company and Toledo Edison Company were connected by a line owned by Ohio Edison. All three were members of the Central Ohio Power Coordination Group ("CAPCO"). The line connecting Cleveland Electric, Ohio Edison and Toledo was a CAPCO line with segments owned by each of the three named utilities.); Electric

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Energy, Inc., 38 SEC 658, 668-671 (1958) (the right to use a transmission line

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owned by a different company found sufficient to satisfy integration.); Cities

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Service Power & Light, Co., 14 SEC 28, 53 n.44 (1943) (two companies in the same

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holding company system were found to be interconnected where energy was transmitted between two separated parts of the system over a transmission line owned by the United States Bureau of Reclamation, under an arrangement which afforded the system the privilege of using the line).

participation in a power pool as a basis for a finding of integration./85/ To date, the Commission has found interconnection through memberships in "tight" power pools and ISOs./86/ These findings are consistent with the recommendation of the 1995 Report that the Commission "adopt a more flexible interpretation of the geographic and physical integration standards, with more emphasis on whether an acquisition will be economical and subject to effective regulation."/87/

More specifically, the Commission in the past has found, and recently reiterated, that the interconnection requirement is met where the parties have a firm contract path. "The physical interconnection requirements of [Section 2(a)(29)(A)] are met if the two service areas are connected by power transmission lines that the companies have the right to use whenever needed."/88/ In the American Electric Power decision of June, 2000, the

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Commission again confirmed that a holding company system could be interconnected by virtue of a single, uni-directional contract path between the two parts of the combining system./89/ In that case, American Electric Power and Central and South West proposed a 250 MW contract path, east to west, for a period from June 1, 1999 to May 31, 2003 (constituting a three year period following approval of the merger by the Commission). The parties committed to either extend their rights to use the contract path prior to its expiration or file with the Commission to explain how the system would remain interconnected if its rights to the path were not extended.

Exelon will obtain either through PECO or, when formed, Genco the following Contract Path: a 100 MW firm, west to east, contract path commencing November 1, 2000./90/ Exelon commits, consistent with American Electric Power, to keep the  
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100 MW firm path in place for 3 years after the date of the order in this case or until such earlier time as the Commission

/85/ See AEP, supra ("The pooling issue is one aspect of the major debate, ...

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as to what should be the future structure of the electric utility industry. We will not undertake to resolve these issues since they are beyond our mandate in this case and because they are within the province of the Congress and the Department of Energy.")

/86/ UNITIL Corp., supra (interconnection through NEPOOL), and Conectiv, Inc.,  
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Holding Co. Act Release No. 26382 (Feb. 25, 1998) (interconnection through PJM, Inc.). See also Yankee Atomic Elec. Co., 36 SEC 552, 565 (1955); Connecticut

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Yankee Atomic Power Co., 41 SEC 705, 710 (1963) (authorizing various New England  
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companies to acquire interests in a commonly-owned nuclear power company and finding the interconnection requirement met because the New England transmission grid already interconnected the companies).

/87/ 1995 Report, at 70.

/88/ Centerior, supra (emphasis added). In American Electric Power Company,  
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Inc., Holding Co. Act Release No. 27186 (June 14, 2000) at note 62, the  
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Commission put to rest contentions (based on dicta in a series of Commission decisions) that contract rights cannot be relied on to integrate two "distant" systems. The Commission confirmed that the length of a firm contract path is not relevant in determining whether the "physically interconnected or capable of physical interconnection" requirement of Section 2(a)(29)(A) is met.

/89/ American Electric Power Company, Inc., Holding Co. Act Release No. 27186  
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(June 14, 2000).

/90/ A 100 MW path for the Exelon Electric System is comparable to a 250 MW path for the American Electric Power system in terms of capacity based on a comparison of the amount of generation in AEP's eastern zone which could be available for export to its western zone versus the amount of generation controlled long-term by Exelon in Exelon's ComEd area available for export to its PECO area. Likewise, the Exelon Contract Path can move into PECO approximately the same percentage of PECO's anticipated total retail customer demand (considering the reduction in that demand likely to occur as a result of customer choice) as the AEP path could move into its western zone to meet Central and South West's retail demand.

determines that an alternate path or some other arrangement is sufficient to keep Exelon in compliance with the integration requirement of the Act./91/

(B) Interconnection through OATTs and OASIS

The American Electric Power decision demonstrates that Exelon's

proposed Contract Path is sufficient to establish interconnection. Exelon believes that the additional interconnection it can achieve through other transmission paths obtained through OATTs further demonstrates how it will comply with the Act's interconnection and integration requirements.

The Commission's 1995 Report recommended that the Commission should increasingly rely on an acquisition's demonstrated economies and efficiencies, rather than upon the physical interconnection of facilities, to meet the integration standard./92/ The 1995 Report noted that the 1935 Act provides the necessary flexibility to adjust the integration standards in light of changes in the "state of the art."/93/ The 1995 Report concluded that it would be a logical extension of prior orders for the Commission to find that wheeling and other forms of sharing power (such as reliability councils and proposed regional transmission groups) meet the statutory interconnection standard./94/

It is important to note that the 1995 Report was issued before FERC's issuance of Order No. 888. As summarized above in Item 3.A, and as described in detail in the Interconnection Analysis included as Exhibit K-1 hereto, it was

Order No. 888 which created the legal framework of practical access to the transmission grid for all generators. Order No. 888 moved

/91/ The Contract Path will be ComEd to American Electric Power (AEP) to Virginia Electric and Power Company (VP) to PJM. PECO has made OASIS requests on each of the ComEd transmission system and the AEP transmission system for a total of 100 MW each for the period November 1, 2000 through December 31, 2001 (in the form of two, one-month reservations for the months of November and December, 2000, and a one-year, long-term reservation for the period January 1, 2001 through December 31, 2001 on each system). The ComEd reservations have a Point-of-Delivery (POD) of AEP. The AEP reservations have a Point-of-Receipt (POR) of ComEd and a POD of VP. To comply with the commitment made herein to keep the Contract Path in place, Genco will "roll over" the long-term reservations on the ComEd and AEP systems at least 60 days before the expiration of the initial reservations, as permitted under FERC rules. With respect to the VP leg of the Contract path, PECO has a long-term firm reservation rights to 820 MW of VP transmission with a POR of AEP and a POD of PJM for the year 2000. PECO will exercise its right of "roll over" on the VP transmission reservation for at least 100 MW under Section 2.2 of the Virginia Power Open Access Transmission Tariff and the FERC clarified roll-over rights. With respect to the PJM leg of the Contract Path, Exelon will rely on PECO's rights as a Load-Serving Entity to use "Secondary Service" as defined by Section 28.4 of the PJM Open Access Transmission Tariff rather than obtain from PJM 100 MW of firm point-to-point transmission service. Secondary Service has rights equivalent to firm point-to-point service.

In *Entergy Power Marketing Corp. v. Southwest Power Pool, Inc.*, 91 FERCP.

61,276, FERC clarified "roll-over" rights for long-term transmission reservations. The decision clarifies that a transmission user must give notice at least 60 days prior to the expiration of a current long-term reservation of its election to roll-over for an additional term of equal or longer length.

/92/ Id.  
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/93/ Id. at 71.  
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/94/ Id.  
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"open access" from a "case-by-case" arrangement of individually negotiated contracts to a standardized system where transmission is available on short notice to all comers at a set price. If the 1995 Report were being written today it seems reasonable to conclude that it would find that the current state of the open access transmission system results in the "interconnection" of participating utilities within the meaning of the Act./95/ The Commission need not decide this question in this case, however, because the Contract Path is clearly within the most recent precedent establishing the interconnection requirement.

ComEd and PECO will be "physically interconnected or capable of physical interconnection" through the Contract Path and through other open access transmission service which they "have the right to use" by virtue of EPACT, FERC Order No. 888 and the applicable open access tariffs of the utilities forming the paths between the two parts of the Exelon Electric System. Genco will coordinate Exelon's access to transmission services from several, redundant sources -- those unaffiliated transmission providers which operate in the region where the Exelon Electric System will be located, including the Contract Path. These transmission providers are required to offer a wide variety of highly flexible, time and quality differentiated services. These services are available under the providers' FERC mandated OATTs. Service can be reserved and scheduled by Genco by using readily available, easy to use, and redundant communications systems. Genco will be able to obtain the transmission services to connect the Exelon Electric System at just, reasonable and nondiscriminatory rates, which by regulation, can be no higher than the rates these unaffiliated transmission providers must charge themselves for their own comparable transactions. In effect, Genco will be able to control the movement of power within the Exelon Electric System using the Contract Path and other available transmission just as reliably and efficiently as if all generation, transmission and distribution facilities of Genco, ComEd and PECO were directly interconnected over Exelon owned facilities.

The feasibility of transmitting power from the ComEd electric system to the PECO electric system is clearly demonstrated by the actual recent operations of the companies. ComEd and PECO have engaged in power sales arrangements since 1996. PECO has been able to move this power to Pennsylvania for its use through various firm and non-firm open access transmission arrangements. Details regarding the power transferred under these arrangements are included in the Interconnection Analysis in Exhibit K-1.

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(C) Coordination

Coordination of Generation. Historically, the Commission has

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interpreted the requirement that an integrated electric system be economically operated under normal conditions as a single interconnected and coordinated system, "to refer to the physical operation of utility assets as a system in which, among other things, the generation and/or flow of current within the

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system may be centrally controlled and allocated as need or economy directs."/96/ The Commission has noted that, through this standard, Congress "intended that the utility properties

/95/ See the 1995 Report at 71.

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/96/ See, e.g., *Conectiv*, supra, citing *The North American Company, Holding Co.*

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Act Release No. 3466 (April 14, 1942), aff'd, 133 F.2d 148 (2d Cir. 1943), aff'd on constitutional issues, 327 U.S. 686 (1946) (emphasis supplied).

be so connected and operated that there is coordination among all parts, and that those parts bear an integral operating relationship to one another."/97/

Traditionally, the most obvious indicia of "coordinated operations" was the ability to engage in "automatic central dispatch" or "joint economic dispatch." A single controller would determine which generating units should run at what time to achieve the lowest overall cost of generation. For this to work, all generating resources had to be interconnected with the distribution system.

It is clear from the language of the Act and Commission precedent that central or joint dispatch is not per se a requirement for a finding of coordinated operations./98/ Central dispatch was a means to accomplish the

efficient "coordinated" operations required by the Act not an end in itself.

Applicant submits that the need for joint economic dispatch that the Commission has historically focused on reflects a past structure of the industry and regulatory requirements. So-called "single system" dispatch and committed bilateral power exchanges are not required by the explicit terms of the statute and, indeed, may be inconsistent with regulatory requirements and the economical and efficient operation of large systems. In any event, the goals formerly satisfied by centralized, coordinated dispatch are now met by employing market mechanisms. Applicant submits that in today's environment, the coordination requirement should be deemed satisfied if:

- . utilities are able to achieve efficiencies through such measures as coordinated generation operations, even where such operations do not rise to the level of traditional "joint economic dispatch" within a single control area;
- . utilities are able to coordinate cost-effective transmission of power to loads by using open access to transmission; and
- . utilities engage in coordinated marketing efforts, both as a buyer and seller of electricity and integrate other functions including administrative and general services and programs.

/97/ Id., (citations omitted).

/98/ American Electric Power Company, Inc., Holding Co. Act Release No. 27186

(June 14, 2000). See also, Electric Energy, Inc., 38 SEC 658 (1958); Cities Service Power & Light Co., 14 SEC 28 (1943). In fact, the Commission has even

held that a system could be deemed integrated even if power never flowed between two parts of the system. Environmental Action, Inc. v. SEC, 895 F.2d 1255 (9th Cir. 1990). Environmental Action involved the acquisition by a holding company

of an interest in an electric generating plant ("Plant"). The intervenors argued that the acquisition did not satisfy the standards of the 1935 Act because, among other things, the system's existing electric utility company ("UtilCo") had represented that it might purchase up to twenty percent of Plant's capacity

if and only if the price of such power was competitive in the market. The Court of Appeals noted that the UtilCo might not purchase any of Plant's output but, nonetheless, concluded that the Commission had correctly found that UtilCo and Plant could be operated as part of a coordinated system, within the meaning of the Act. Id. at 1264-65, citing Electric Energy, Inc., Holding Co. Act Release

No. 13871 (Nov. 28, 1958) (the companies sponsoring the construction of a generating plant only pledged to buy any surplus energy remaining after the plant had supplied the needs of the major purchaser, a nonaffiliated government agency).

These factors are consistent with the requirements of the Act. Applicant will not use traditional joint automatic economic dispatch of the systems of ComEd and PECO as do other registered systems that effectively operate as tight power pools. Given that ComEd and PECO are in separate "control areas," such true automatic joint dispatch would not be feasible./99/ However, Exelon will centralize all its generating assets and activities in Genco. Genco will provide power to ComEd and PECO as one of several competing options to meet those companies' bundled load or provider of last resort load obligations. Because of this organizational structure, Exelon will have no need for the type of "joint operating agreement" that many registered public-utility systems have. While those agreements may be necessary to achieve integrated operations among several separate subsidiary utility companies, in Exelon's case all generation resources are controlled in a single entity and no such agreements are required./100/

In general terms, PECO currently has, and after the Merger Genco will continue to have, ultimate control over the dispatch of generation located within PJM for economic purposes and PJM has ultimate control of dispatch for reliability purposes. Further, PJM's control relates only to that generation which is included in the PJM Installed Capacity pool. PECO, as a generator in PJM, has and Genco will also have, a specified capacity obligation to PJM. Currently, PECO owns capacity in excess of its PJM capacity obligations. This additional capacity is not included in PJM Installed Capacity and therefore is not subject to call by PJM even in capacity emergency situations./102/

Under normal operating conditions, even capacity which is included in the PJM Installed Capacity pool may be "self-scheduled" by the owner. All generating units included in the PJM Installed Capacity are required to be "bid-in" to the pool on a daily basis (i.e., the capacity offered at a price determined by the generator). However, the owner has the option to "self-schedule" this generation (i.e., plan to sell it outside PJM). In the case of self-scheduled

/99/ A control area is a portion of the transmission and distribution grid where electric control over the area's electric system is performed by one entity, usually the vertically integrated utility having the certificated service area corresponding with that portion of the grid. The operators of a control area ensure the constant balanced operation of the grid and directly control the output of all generation within the control area and also control the movement of power into and out of or across the control area. See the

Interconnection Analysis in Exhibit K-1. Traditionally, the several electric

utilities making up a registered holding company system acted as a single control area. Thus, it was possible for direct system-wide coordination of generation to achieve maximum efficiency of dispatch of generation. The Commission recognized early that much of the benefit of coordinated operations could be achieved even without centralized automatic dispatch through a single controller. Several cases refer to coordination of generation through voice communication. See, e.g., Electric Energy, Inc., 38 SEC 658 (1958); Cities

Service Power & Light Co., 14 SEC 28 (1943). With the increase in interchange

sales between control areas, and the developing market for wholesale generation, it is now possible to achieve economic benefits equivalent to those achieved by

centralized automatic dispatch across areas that are not in the same control area. The elimination of the need to be in the same control area to achieve generation efficiencies is demonstrated by the development of RTOs. RTOs will assume much of the function of the control areas including control of the transmission grid and dispatching of generation within the RTO's area. See

Conectiv, Inc., Holding Co. Act Release No. 26832 (February 25, 1998) at n. 9.

("The PJM staff centrally forecasts, schedules and coordinates the operation of generating units, bilateral transactions and the spot energy market to meet load requirements.")

/101/ See the discussion in Item 3.b.2.a above regarding the fact that Exelon will not need "transmission integration agreements" or similar arrangements.

/102/ The MISO, to which ComEd belongs, will act as a transmission operator and will have no dispatch authority over generation.

generation, PJM skips over that unit in making its economic dispatch decisions, unless there is a generation emergency. Thus, Genco will be able to use all its available capacity located in PJM to serve needs of ComEd in non-emergency conditions./103/ Even in PJM "max-emergency," that capacity owned by Genco which is not part of PJM Installed Capacity will remain available for ComEd. Finally, all generation decisions are subject to normal reliability criteria and transmission constraints.

Further, under the Exelon system, each utility will be free -- indeed may be required by the Illinois Commission or Pennsylvania Commission -- to seek other sources of supply. Genco may coordinate this effort for ComEd and PECO. It can no longer be assumed that power from affiliates will be the lowest cost source of supply. Because both Illinois and Pennsylvania have adopted retail customer choice regimes, the energy portion of retail service is deregulated. ComEd and PECO are no longer the monopoly provider of generation. Accordingly, coordination through market mechanisms (and not simply joint dispatch of owned generation) will be the key means of achieving the efficiency objectives previously attained through joint dispatch.

The operation and coordination of the ComEd transmission system will increasingly be performed by an ITC operating under the purview of the MISO, just as PJM now operates PECO's transmission facilities. These RTOs will develop all operating procedures and schedules, approve all transmission requests and direct the operation of the transmission grid for all transmission users. The RTOs will also control maintenance and planning of all of the transmission facilities within their respective areas. This degree of coordination and integration of transmission assets is comparable to that presented to, and accepted by, the Commission in recent decisions./104/

Genco will conduct marketing efforts, both as a buyer and seller, for the Exelon system. The Commission has recently recognized joint marketing efforts as a means to coordinate system operations within the meaning of the Act./105/ System dispatchers at Genco will continually monitor the generation needs and capacity of the ComEd and PECO systems. ComEd and PECO already have the ability to reach common suppliers, purchasers, and trading hubs in various combinations. The rapidly evolving wholesale power markets surrounding the energy industry will allow Genco to operate its generation assets wherever located as a single system by buying and selling power as the situation dictates to decrease the overall production costs of the system. This method of operation will result in lower available energy costs for the ComEd and PECO distribution functions and provide Genco with an attractively priced product for other market sales. The diversity of weather, time, fuel supply and localized economic conditions applicable to the various generating assets will create opportunities to allocate resources more efficiently.

/103/ Transmitting the power to ComEd via a short-term firm or nonfirm transmission path.

/104/ American Electric Power Company, Inc., Holding Co. Act Release No. 27186  
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(June 14, 2000) (interconnection through 250 MW uni-directional contract path);  
UNITIL Corp., Holding Co. Act Release No. 25524 (April 24, 1992)  
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(interconnection through NEPOOL); Conectiv, Inc., Holding Co. Act Release No.  
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26382 (Feb. 25, 1998) (interconnection through PJM, Inc.). See also MISO Order,  
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supra at n. 162 and n. 169.  
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/105/ American Electric Power Company, Inc., Holding Co. Act Release No. 27186  
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(June 14, 2000).

Coordination of Non-Operating Activities. In applying the integration

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standard, the Commission looks beyond simply the coordination of the generation and transmission within a system to the coordination of other activities./104/ Recently, the Commission has found coordinated operational and administrative functions to constitute "de facto" integration for exempt holding companies./105/ Moreover, the coordination of administrative functions and joint marketing activities were crucial factors in the Commission's determination that the coordination requirement was satisfied in Sempra and NIPSCO.  
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The combined system of Exelon will be coordinated in a variety of ways beyond simply the coordination of the generation and transmission within the system. Among other things, administrative and general services will be performed for the Exelon System by Exelon Services. Exelon may develop additional service companies to perform specialized functions. Exelon will have a single accounting organization which will be managed by a single team in one or more locations. The coordination and integration of the combined system is expected to be further achieved through the coordination and integration of information system networks; customer service; procurement organizations; organizational structures for power generation, energy delivery and customer relations; and support services.

Efficiency. As indicated by the language of Section 2(a)(29)(A) that

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the coordinated system be "economically operated," the Commission further analyzes whether the coordinated operation of the system results in economies and efficiencies. The question whether a combined system will be economically operated under Section 10(c)(2) and Section 2(a)(29)(A) was recently addressed by the Court of Appeals in *Madison Gas and Electric Company v. SEC*, 168 F.3d

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1337 (D.C. Cir. 1999). In that case, the court determined that in analyzing whether a system will be economically coordinated, the focus must be on whether the acquisition "as a whole" will "tend toward efficiency and economy." *Id.* at

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1341. The Merger will meet this standard given the significant savings and synergies and other benefits expected to result from the Merger.

/104/ See, e.g., *American Electric Power Company, Inc., Holding Co.* Act Release

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No. 27186 (June 14, 2000) (centralized asset-management policy, integrated financial decisions, centralized resource allocation, implementation of best practices, coordinated communications and information system networks); *General*

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*Public Utilities Co., Holding Co.* Act Release No. 13116 (Mar. 2, 1956)

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(integration is accomplished through power dispatching by a central load dispatcher as well as through coordination of maintenance and construction requirements); *Middle South Utilities, Inc., Holding Co.* Act Release No. 11782

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(Mar. 20, 1953), petition to reopen denied, *Holding Co.* Act Release No. 12978 (Sept. 13, 1955), *rev'd sub nom. Louisiana Public Service Comm'n v. SEC*, 235

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F.2d 167 (5th Cir. 1956), *rev'd*, 353 U.S. 368 (1957), *reh'g denied*, 354 U.S. 928

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(1957) (integration is accomplished through an operating committee which coordinates not only the scheduling of generation and system dispatch, but also makes and keeps records and necessary reports, coordinates construction programs and provides for all other interrelated operations involved in the coordination of generation and transmission); *North American Company, Holding Co.* Act Release

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No. 10320 (Dec. 28, 1950) (economic integration is demonstrated by the exchange of power, the coordination of future power demand, the sharing of extensive experience with regard to engineering and other operating problems, and the furnishing of financial aid to the company being acquired). See also *NIPSCO*,

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*supra* (functional merger of Bay States and NIPSCO gas supply department through

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*NIPSCO Services*, "a service company subsidiary of NIPSCO that provides financial, accounting, tax, purchasing, natural gas portfolio management, and other administrative services to associate companies.")

/105/ *Sierra Pacific Resources, Holding Co.* Act Release No. 27054 (July 26,

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1999).

In short, all aspects of the combined system will be centrally and efficiently planned and operated. As with other merger applications approved by the Commission, the combined system will be capable of being economically operated as a single interconnected and coordinated system as demonstrated by the variety of means through which its operations will be coordinated and the efficiencies and economies expected to be realized by the proposed transaction./106/

(D) Single Area or Region

As required by Section 2(a)(29)(A), the operations of the Exelon Electric System will be confined to a "single area or region in one or more States." While the terms "area" and "region" are not defined in the 1935 Act, the "single area or region" requirement does not mandate that a system's operations be confined to a small geographic area or a single State./107/ The Commission has specifically found that the combining systems need not be contiguous in order for the requirement to be met./108/ Rather, the Commission has found that the single area or region test should be applied flexibly when doing so does not undercut the policies of the 1935 Act against "'scatteration' - - [that is,] the ownership of widely dispersed utility properties which do not lend themselves to efficient operation and effective state regulation."/109/ Conversely, utilities which may be "efficiently and economically operated" in an integrated fashion, and where effective State regulation is not hampered by such combination, should be considered in the same area or region.

/106/ The savings, synergies and other benefits are discussed under Item 3.B.3.(b).

/107/ In considering size, the Commission has consistently found that utility systems spanning multiple States satisfy the single area or region requirement of the 1935 Act. For example, the Entergy system covers portions of four States (Entergy, supra), the Southern system provides electric service to customers in

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portions of four States (Southern Co., Holding Co. Act Release No. 24579 (Feb.

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12, 1988)), and the principal integrated system of New Century Energies covers portions of five States (with all of its electric operations serving customers in six States). If New Century Energies merger with Northern States Power is approved, the new holding company will serve in 12 States ranging from Michigan and Minnesota to Colorado and Texas. As early as 1945, the Commission found that the operations of American Electric Power in seven States were confined to a single region or area. The AEP system spans about 425 miles from western Virginia to southern Michigan. American Gas and Electric Co., Holding Co. Act

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Release No. 6333 (Dec. 28, 1945). The combined system of AEP and Central and South West encompasses 11 states and about 1,200 miles from the Rio Grande River at the Texas-Mexico border to the Blue Ridge area of Virginia. By contrast, Exelon's regulated utility operations will be primarily in only two States. Its main service areas, Chicago and Philadelphia, are about 750 miles apart.

/108/ See, e.g., Conectiv, supra; cf. New Century Energies, supra (integration test was met where entities planned to build a 300-mile transmission line to interconnect the systems which operated in noncontiguous territories). See also,

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American Electric Power Company, Inc., Holding Co. Act Release No. 27186 (June 14, 2000) (eastern zone and western zone separated by 150 miles).

/109/ NIPSCO, supra (applying single area or region requirement with respect to gas utility system); accord, Sempra, supra. In Gaz Metropolitan, Inc., the Commission agreed that a single area or region could include areas across international borders. Holding Co. Act Release No. 26170 (Nov. 23, 1994).

The Commission recently set out the basis for finding that a system will be considered as operating in a single area or region./110/ A system which meets the following, will be considered in a single area or region:

- . the system is interconnected;
- . it is susceptible of economic and coordinated operations;
- . no adverse finding is required on anticompetitive grounds;
- . its size will not impair efficient operation, localized management or effective regulation; and
- . the combination will result in economies and efficiencies.

As demonstrated in this Application, the Exelon system will satisfy all these requirements.

In the 1995 Report, the Staff recommended that the Commission "interpret the 'single area or region' requirement flexibly, recognizing technological advances, consistent with the purposes and provisions of the Act" and that the Commission place "more emphasis on whether an acquisition will be economical."/111/ The Staff recognized that "recent institutional, legal and technological changes . . . have reduced the relative importance of . . . geographical limitations by permitting greater control, coordination and efficiencies" and "have expanded the means for achieving the interconnection and economic operation and coordination of utilities with noncontiguous service territories."/112/ The 1995 Report also recognized that the concept of "geographical integration" has been affected by "technological advances in the ability to transmit electric energy economically over longer distances, and other developments in the industry, such as brokers and marketers."/113/

Importantly, there have been significant further developments since the 1995 Report which further reinforce the conclusions reached by the Staff at that time. FERC Order No. 888 established and Order 2000 will further refine the open access transmission system. In the words of the 1995 Report, these developments dramatically changed the "relative importance of . . . geographical limitations." In 1995, the Staff concluded that the "state of the art" had "expanded the means for achieving the interconnection and economic operation and coordination of utilities with noncontiguous service territories." With the development of open access transmission, the nascent "means" of interconnection seen by the Staff in 1995 have fully developed into more effective and economical "means" by which Exelon may, under normal conditions, achieve the economic operation and coordination of its utilities with noncontiguous

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/110/ American Electric Power Company, Inc., Holding Co. Act Release No. 27186  
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(June 14, 2000).

/111/ 1995 Report at 66, 69.

/112/ 1995 Report at 69.

/113/ Id.  
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service territories as required by the Act. As described in the Interconnection Analysis, there is a significant volume of interchange of electric power through the corridor of major transmission lines running from the Chicago area generally through Indiana, Ohio and the Virginias to southeastern Pennsylvania. The following table gives information regarding transactions from ComEd to PECO under their existing contract over the three-year period ending in 1999:

Year	Total MWh Delivered to PECO
1997	1,552,456
1998	456,623*
1999	1,111,613

\* The decline in 1998 was the result of increased need for power in the ComEd service area.

ComEd and PECO have demonstrated through their existing utility operations that it is physically possible and, as importantly, economically possible, for Exelon to conduct its business in a coordinated manner through the use of this available transmission. Although open access transmission is available to all utilities, only those utilities, such as Exelon, which can operate their separate utilities economically and in a coordinated manner within the meaning of the Act should be considered in the same area or region. While FERC has noted that "the entire Eastern interconnection is, as the name indicates, interconnected," this refers to electrical, physical interconnection and does not indicate that any two utilities in the Eastern interconnection can be deemed "integrated" within the meaning of the Act./114/

The regions created by changes in the operation of the transmission grid brought about by open access transmission through RTOs are larger than those in the electrical regions of the past for a variety of reasons. First, as previously discussed the technological advances and additions to the transmission network that have occurred since 1935 now permit trading to occur over 1,000-mile distances./115/ Second, a large region is necessary to address the inefficiencies and inequities that FERC is seeking to remedy through RTOs.

The developments noted by the Staff in 1995, and enhancements and improvements since that date, are breaking down traditional boundaries and concepts of regions. The Commission has confirmed its support for the Staff's Report, citing, in particular, the Staff's recommendation that the Commission "continue to interpret the 'single area or region' requirement of [the 1935 Act] to take into account technological advances."/116/ The Commission noted as long ago as 1978 that the permissible area or region of a registered holding company was a function of

/114/ North American Electric Reliability Council, 87 FERC (P) 61,161 (1999).

The country is divided into three synchronous "interconnections:" Eastern, Western and ERCOT. The Eastern Interconnection, in which ComEd and PECO are located, covers all the area east of the Rocky Mountains, except for most of Texas.

/115/ Chicago, headquarters of ComEd is about 750 miles from Philadelphia, headquarters of PECO.

/116/ NIPSCO, supra; accord, Sempra, supra. While these cases were determining integration of gas utilities, where the statutory standard is different from electric integration, the principal of taking into account technological advances is fully applicable in this case.



technological realities./117/ Exelon will be able to use open access transmission to achieve the coordinated operations of its system thus demonstrating that it will, in fact, be confined to a "single area or region."

Other factors demonstrate that the Exelon Electric System will satisfy the single area or region requirement. Exelon will operate distribution facilities in only two States -- significantly fewer than many existing or proposed registered holding company systems. The principal generating facilities of Genco are located in those two States./118/ The traditional service areas of the Exelon Electric System, that of ComEd and PECO, are similar and homogeneous./119/ Each serves a major city and surrounding metropolitan and adjacent areas in a relatively compact service area. Illinois and Pennsylvania are very similar -- both States have large populations, with a significant industrial and commercial base. The service characteristics and ratios of residential, industrial and commercial companies of the companies are similar./120/ These many similarities and the trade between the areas shows that Exelon will operate in a single area or region.

The conclusion that the Exelon Electric System will constitute a single area or region is further supported by the logic of the Commission's definition of "region" used for purposes of its size analysis under Section 10(b)(1). In Entergy, supra, the Commission adopted the applicants' definition of the

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relevant region for purposes of Section 10(b)(1) to include themselves and those electric utilities directly interconnected with either or both, which, at the time, were their most accessible markets. This region consisting of utilities within "one wheel" of the merging utilities made sense in light of the barrier that rate pancaking presented in trying to access more distant markets. In today's increasingly competitive world, ComEd and PECO do not operate as isolated companies, and their geographic region should be analyzed in terms of their most accessible markets, which include the areas of MISO, Alliance RTO and PJM -- that is the open access transmission path existing between Chicago and Philadelphia.

The Commission's recent decision related to the gas industry in Sempra is  
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also relevant for a commodity business such as the evolving electricity industry. In that decision, the SEC

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/117/ American Electric Power Company, Inc., Holding Co. Act Release No.  
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20633 (July 21, 1978)

/118/ PECO has an interest in the Salem nuclear generating station in New Jersey. See note 16 above. Other generating facilities coordinated by Genco will  
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be EWGs whose geographical location is not restricted by the Act.

/119/ The nature or characteristics of the service area of utilities has been relevant in the Commission's review of the circumstances leading to a conclusion that a system was integrated within the meaning of the Act. The similarities among the various parts of an integrated system tends to show that the system is not so large as to impair the benefits of localized management and regulation and is therefore integrated. In a homogeneous system, management is better able to attend to local concerns which are similar throughout the system. See Middle  
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West Corp., 18 SEC 296 (1945); In re West Texas Utilities Co., 21 SEC 566  
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(1945).

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/120/ In 1999, ComEd's electric revenues were derived 33% from residential customers while PECO's electric revenues were derived 27% from residential customers. In each case the balance was derived from industrial, commercial and wholesale customers. The percentage of total sales made to residential customers is a useful guide to the nature of an electric utility's business. The division between residential and other types of customers has a strong impact on the nature of a utility's load and how it meets that load. Of course, in Pennsylvania and Illinois all customers have (or soon will have) a choice of electricity supplier.

approved Sempra's acquisition of a 90 percent interest in Frontier Energy LLC of North Carolina and considered the combined system to be an integrated gas system under the Act./121/ In that decision the SEC affirmed the existence of a national natural gas commodity market. The SEC pointed out that, when the Act was drafted in the 1930s, the common source requirement meant the city gate. Now, however, with the changing gas market, it means obtaining gas from the same supply basins. Thus, even though the two systems in Sempra were 3,000 miles

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apart, the SEC said that its decision did not undercut the Act because the acquisition did not raise the concerns that prompted its enactment./122/ This conclusion supports the notion that mere distance does not equate to "scatteration" so long as the separate parts of the system can be operated, under normal conditions, in a coordinated manner. Exelon has demonstrated that it meets that test.

Exelon does not believe that the combination of ComEd and PECO will contravene the policy of the Act against "scatteration" -- the ownership of widely dispersed utility properties that do not lend themselves to efficient operation. As stated in Sempra, supra, "The Act is directed against the growth

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and extension of holding companies [that] bears no relation to economy of management and operation or the integration and coordination of related operating properties." The Commission dealt with this concept in American

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Electric Power in 1978./123/ This case involved one of the few situations of a  
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significant expansion of a registered holding company system in "modern" times, i.e., after the period when the break-up of the huge holding company systems of the 1930's was complete. The Commission noted that "the standards in these sections [2(a)(29) and 10(b)] were relatively easy to apply to the huge, complex, and irrational holding company systems at which the Act was primarily aimed." The Commission went on to note that it was more difficult to apply the standards to AEP which, although large and widespread, was efficient and clearly a rational and proper company. Exelon, like AEP in 1978, does not present any of the evils the Act was designed to eliminate. The facts of this case demonstrate that the Exelon Electric System will be economically operated as a single interconnected and coordinated system. It has a sound economic and financial rationale. It will have compact distribution service areas in only two States. Furthermore, as demonstrated in the following sections, the combined system will not have an adverse effect upon localized management, efficient operation or effective regulation.

(E) Size

The final clause of Section 2(a)(29)(A) requires the Commission to look to the size of the combined system (considering the state of the art and the area or region affected) and its effect

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/121/ Sempra Energy, Holding Co. Act Release No. 26890 (June 26, 1998).  
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/122/ Applicant recognizes that the Sempra case is not directly on point because  
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the language of Section 2(a)(29)(B) of the Act regarding an integrated gas utility differs from that of Section 2(a)(29)(A) describing an electric system. The recognition in that case of the changing nature of energy markets in the United States is directly relevant, however.

/123/ American Electric Power Company, Inc., Holding Co. Act Release No. 20633  
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(July 21, 1978) ("AEP").

upon localized management, efficient operation, and the effectiveness of regulation. In the instant matter, these standards are easily met./124/

Localized Management The Commission has found that an acquisition does not

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impair the advantages of localized management where the new holding company's "management [would be] drawn from the present management" (Centerior, supra), or  
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where the acquired company's management would remain substantially intact (AEP, supra). The Commission has noted that the distance of corporate headquarters  
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from local management was a "less important factor in determining what is in the public interest" given the "present-day ease of communication and transportation." AEP, supra. The Commission also evaluates localized management  
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in terms of whether a merged system will be "responsive to local needs." AEP, supra.  
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The management of Exelon will be drawn primarily from the existing management of Unicom, ComEd, PECO and their subsidiaries. The corporate headquarters of Exelon will be in Chicago -- the current headquarters of Unicom and ComEd. PECO's distribution and transmission functions will have headquarters in Philadelphia. The management of the combined generating operations of Genco and the marketing activities will be conducted in southeastern Pennsylvania. The electric utility subsidiaries will continue to operate through the regional offices with local service personnel and line crews available to respond to customer's needs. In short, the management structures of ComEd and PECO, which are responsive to local needs, will continue to perform to meet customer needs after the Merger. Accordingly, the advantages of localized management will not be impaired.

Efficient Operation -- As discussed above in the analysis of Section

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10(b)(1), the size of Exelon will not impede efficient operation; rather, the Merger will result in significant economies and efficiencies. Operations will be more efficiently performed on a centralized basis because of economies of scale, standardized operating and maintenance practices and closer coordination of system-wide matters.

Effective Regulation -- The Merger will not impair the effectiveness of

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regulation at either the State or Federal level. ComEd will continue to be regulated by the Illinois Commission and PECO by the Pennsylvania Commission with respect to retail rates, service and related matters subject to the changing regulation brought about by utility regulatory restructuring laws in both States./125/ On the Federal level, Exelon will be regulated as a single registered holding company as opposed to two exempt holding company systems. The electric utility subsidiaries of Exelon will continue to be regulated by FERC with respect to interstate electric sales for resale and transmission services, by the NRC with respect to the operation of nuclear facilities, and by the FCC with respect to certain communications licenses.

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/124/ See Item 3.B.2(a) for a discussion of the relative size of the Exelon system

/125/ Although Genco will be a "public-utility company" for purpose of the Act and will be subject to FERC rate regulation, it will not be subject to utility regulation by Illinois or Pennsylvania consistent with the restructuring legislation in those States.

At the State level, the Merger Agreement requires approval of the Pennsylvania Commission. Under the Illinois Customer Choice and Rate Relief Law of 1997, the legislature determined that corporate reorganizations and mergers would foster the move to a more competitive environment and accordingly provided that such transactions, such as the Merger, could be undertaken without an approval process at the Illinois Commission. See 220 ILCS 5/16-111(g). Although the process is streamlined, the new law -- together with other provisions of the Illinois Public Utility Act, clearly protects the public interest. Under the Customer Choice and Rate Relief Law, ComEd is required to file a notice with the Illinois Commission describing its transaction. That notice was filed on November 22, 1999/126/ and included the following information, as required by statute:

- . A complete statement of the accounting entries to be made to reflect the transaction, a certification that the entries are in accordance with GAAP, and a certification that cost allocations between the utility and its affiliates will be in accord with Illinois Commission approved cost allocation guidelines.
- . A description of the use of proceeds of any sale of facilities (inapplicable to this transaction).
- . A list of regulatory approvals for the transaction.
- . An irrevocable commitment by the utility that, as a result of the transaction, it will not impose any stranded cost charges that it might otherwise be allowed to charge retail customers under Federal law or increase the transition charges that it is otherwise entitled to collect under the Illinois utility restructuring law.

The forgoing notice constitutes all action that must be taken for the Merger to proceed under Illinois law.

The public interest is protected by these requirements and by other provisions of the Illinois Public Utility Act that will continue to be applicable to ComEd, most notably the provisions regulating affiliate transactions. Applicant is working closely with regulators (both State and Federal) to obtain the required approvals. The Illinois Commission and the Pennsylvania Commission have adequate jurisdiction to prevent the Merger from an impairment of their regulatory authority.

(F) Conclusion -- Exelon Electric System will be Integrated

A rigid reading of the integration requirement may have been appropriate at a time when ownership or control of the intervening transmission lines was the only way that a utility could move power from its generation assets to its distribution systems. The need for this type of firm physical interconnection has been greatly reduced, if not eliminated, as the distribution systems now routinely contract for power with nonaffiliates and move the purchased commodity power

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/126/ An amended notice informs the Illinois Commission of the change to the Merger Agreement.

over independently operated or owned transmission lines -- or eliminate the requirement for physical movement of power from the generator to the utility system through use of market swaps, power displacement or similar techniques.

As FERC explained in the RTO NOPR:

the industry has undergone sweeping restructuring activity, including a movement by many states to develop retail competition, the growing divestiture of generation plants by traditional electric utilities, a significant increase in the number of mergers among traditional electric utilities and among electric utilities and gas pipeline companies, large increases in the number of power marketers and independent generation facility developers entering the marketplace, and the establishment of independent system operators (ISOs) as managers of large parts of the transmission system. Trade in bulk power markets has continued to increase significantly and the Nation's transmission grid is being used more heavily and in new ways. As a result, the traditional means of grid management is showing signs of strain and may be inadequate to support the efficient and reliable operation that is needed for the continued development of competitive electricity markets./127/

The Commission has found, and the courts have agreed, that in circumstances in which the expertise in operating issues is lodged with another regulator, it is appropriate to "watchfully defer" to the work of that regulator./128/ Applicant urges the SEC to apply the doctrine of watchful deference to FERC's stated objective to improve the competitiveness of the electric industry through large RTOs, Orders such as 888 and 889, and through State development of restructuring laws.

The need for the SEC to accommodate the views of FERC in this matter cannot be overstated. Congress enacted the 1935 Act and the FPA as two parts of the same legislation. The legislative history makes clear that the purpose of Section 11 of the 1935 act "is simply to provide a mechanism to create conditions under which effective Federal and State regulation will be possible."/129/ The FERC's administration of the FPA has evolved as that agency has sought to develop fully competitive wholesale markets consistent with changing technology. Administration of the 1935 Act must also evolve if the 1935 Act is to continue to create conditions under which "effective Federal and State regulation" is possible.

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/127/ RTO NOPR, FERC Stats & Regs at 33,685.

/128/ Northeast Utilities, Holding Co. Act Release No. 25273 (March 15, 1991),  
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aff'd sub nom. City of Holyoke v. SEC, 972 F.2d 358 (1992). See also  
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Wisconsin's Environmental Decade v. SEC, 882 F.2d 523 (D.C. Cir. 1989) ("we are  
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not prepared to say that the Commission abdicates its duty in an exemption  
determination by deciding to rely, watchfully, on the course of state  
regulation").

/129/ Sen. Rep. No. 621, 74th Cong., 1st Sess. (1935).

In the 1995 Report, the Division recommended that the Commission focus on whether the resulting system will be subject to effective regulation. The 1995 Report emphasized that "open access under FERC Order No. 636, wholesale wheeling under the Energy Policy Act [and FERC Order No. 888] and the development of an increasingly competitive and interconnected market for wholesale power have expanded the means for achieving the interconnection and the economic operation and coordination of utilities with non-contiguous service territories." /130/ The 1995 Report further expressed concern that the Act "not serve as an artificial barrier where other energy regulators have determined that an acquisition will benefit utility consumers." Accordingly, the 1995 Report concluded that "[w]hen considering any proposed acquisition, the SEC should consider whether the resulting system will impair the effectiveness of regulation. Where the affected State and local regulators concur, the SEC should interpret the integration standard flexibly to permit non-traditional systems if the standards of the Act are otherwise met." Under this approach, if the affected States approve a proposed transaction (a condition precedent to the instant Merger), the "effectiveness of regulation" standard would be met. A condition of the Merger is the receipt of all requisite State approvals.

The Commission should find that the Exelon Electric System comprises a single, integrated electric utility system within the meaning of the Act.

(iv) Retention of Exelon Gas System

Because the Commission has interpreted the term "integrated public-utility system" to mean a system that is either gas or electric, but not both, it is necessary to qualify the gas operations of PECO (the "Exelon Gas System") under the "A-B-C" clauses of Section 11(b)(1). Under those provisions, a registered holding company can own "one or more" additional integrated systems if certain conditions are met. Specifically, the Commission must find that (A) the additional system "cannot be operated as an independent system without the loss of substantial economies which can be secured by the retention of control by such holding company of such system," (B) the additional system is located in one State or adjoining states, and (C) the combination of systems under the control of a single holding company is not so large . . . as to impair the advantages of localized management, efficient operation, or the effectiveness of regulation."

As shown below the Exelon Gas System currently is, and will continue to be, a single, integrated public-utility system. This case presents a less complicated determination of the A-B-C Clause test than other cases presented to the Commission in recent years because only PECO has gas distribution facilities. There is no need, as has been the situation with other cases to analyze whether two previously separate gas systems can constitute a single integrated system. Further, the PECO gas system has been operating as a single, integrated system for many years.

Section 2(a)(29)(B) defines an "integrated public-utility system" as applied to gas utility companies as:

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/130/ 1995 Report at 73-74.

a system consisting of one or more gas utility companies which are so located and related that substantial economies may be effectuated by being operated as a single coordinated system confined in its operation to a single area or region, in one or more States, not so large as to impair (considering the state of the art and the area or region affected) the advantages of localized management, efficient operation, and the effectiveness of regulation: Provided, that gas utility companies deriving natural gas from a common source of supply may be deemed to be included in a single area or region.

PECO's current gas operations satisfy this definition. There will be no change to the PECO gas operations caused by the Merger that would affect this conclusion.

PECO's gas operations serve all or a portion of five counties surrounding the City of Philadelphia. This "single area or region" is located wholly within the Commonwealth of Pennsylvania. PECO's facilities comprise a physically interconnected network of gas transmission and distribution facilities that derive all of their natural gas from common sources of supply. The management of PECO's gas operations will continue to reside with PECO Energy, which will be headquartered in the City of Philadelphia (indeed, the electric and gas distribution companies will continue to share employees and common facilities so long as the Commission does not order divestiture). Management will, accordingly, remain close to the gas operations, thereby preserving the advantages of local management. This will remain true even after the Merger and various plans of reorganization and restructuring have been implemented. PECO's gas distribution operations are, and will continue to be, regulated by the Pennsylvania Commission. The effectiveness of regulation will not be altered or impaired by PECO's merger with Unicom.

PECO's gas operations overlap the territory served by PECO's electric distribution company ("EDC"). This overlap of service territories permits PECO to achieve significant synergies in serving both its electric and gas customers which are passed along to those customers in the form of lower rates and better service. The synergies achieved due to PECO's combined gas and electric operations are identified in Exhibit J-1 hereto, which identifies the additional costs PECO's gas utility would incur if PECO were not permitted to retain the system and were instead forced to operate as a stand-alone gas utility.

The Pennsylvania Legislature recently passed the Natural Gas Competition Act ("Gas Competition Act"). 66 Pa.C.S.A. (S)(S) 2201 et. seq. (1999). The Pennsylvania Gas Competition Act will require PECO to provide competitors access into PECO's gas distribution network. While PECO is presently one of the lowest cost gas utility suppliers in the Commonwealth of Pennsylvania, if PECO were required to divest its gas utility, the conservative projections included in Exhibit J-1 indicate that the price PECO's gas utility would have to charge retail customers located in its present service territory would make it one of the most expensive retail

gas suppliers in the State (with an estimated post-divestiture rate increase of \$292 per customer per year, an increase of 30.28%)./131/

Because most of the increased costs would be charged to operations that will remain regulated under the Gas Competition Act, such as gas distribution, maintenance of gas mains, meter reading, billing and customer service, it will not be possible for PECO's distribution customers to escape the high cost of a new stand-alone operation by choosing an alternate gas supplier. See Exhibit J-1

at 5. Thus, if the Commission were to require PECO to divest its gas operations to "New Gas Co", New Gas Co's gas distribution customers would suffer the most.

PECO's gas system not only satisfies the integration requirements of Section 2(A)(29)(B), the retention of this system is also appropriate under the A-B-C clauses of (S) 11(b)(1) of the Act, as shown below.

(A) Loss of economies if operated as an independent system

In its 1995 Report, the SEC Staff noted that, in a competitive utility environment, any loss of economies threatens a utility's competitive position and even a "small" loss of economies could render a utility vulnerable to significant erosion of its competitive position. Adopting this line of reasoning, the Commission, in its order approving the merger of Public Service Colorado and Southwestern Public Service, moved away from earlier cases that required, in effect, a showing that the additional system could not survive on a stand-alone basis. In this case the Commission found that "[t]he gas and electric industries are converging, and, in these circumstances, separation of gas and electric businesses may cause the separated entities to be weaker competitors than they would be together. This factor adds to the quantifiable loss of economies caused by increased costs." /132/ The potential of divestiture injuring PECO's ability to compete is heightened in this case because PECO is already subject to retail electric competition in the Commonwealth of Pennsylvania and will soon be subject to retail gas competition as well.

Historically, the Commission has given consideration to four ratios, which measure the projected loss of economies as a percentage of: (1) total utility operating revenues; (2) total utility expense or "operating revenue deductions"; (3) gross utility income; and (4) net utility operating income. Although the Commission has declined to draw a bright-line numerical test under Section 11(b)(1)(A), it has indicated that cost increases resulting in a 6.78% loss of operating revenues, a 9.72% increase in operating revenue deductions, a 25.44% loss of gross gas income and a 42.46% loss of net income would afford an "impressive basis for finding a loss of substantial economies." Engineers Public Service Co., Holding Co. Act Release No. 3796 (Sept. 17, 1942).

Direct Loss of Economies. PECO has prepared a study of its gas utility operations that analyzes the lost economies that its gas utility operations would suffer upon divestiture when

/131/ Under the Gas Competition Act the non-gas cost portion of PECO's rates are capped until January 1, 2001.

/132/ New Century Energies, supra. See also Dominion Resources, Inc., Holding Company Act Release No. 27113 (December 15, 1999); WPL Holdings, supra.



compared to their retention pursuant to the Merger. The study is attached to this Application as Exhibit J-1 (the "Gas Study").

The Gas Study shows that if New Gas Co were operated on a stand-alone basis, lost economies from the need to replicate services, the loss of economies of scale, the costs of reorganization, and other factors would be immediate and substantial. In the absence of rate relief, those lost economies would substantially injure the shareholders of PECO and Unicom upon the divestiture of those gas operations. As the Gas Study further shows, if rate relief were granted with respect to the lost economies, then consumers would bear the majority of those substantial costs over what they would have to pay if the properties were retained as contemplated by the Merger. This is because a substantial portion of the synergies achieved by combined operations occur in operational areas that will remain subject to rate regulation even after full retail competition for retail gas and electric customers is implemented in Pennsylvania.

As set forth in the Gas Study, divestiture of the gas operations of PECO into New Gas Co would result in lost economies of over \$72.8 million (exclusive of income tax effects). The table below shows PECO's 1998 gas operating revenues, gas operating revenue deductions, gas gross income and net income from gas operations on both a pre- and post-divestiture basis. The post-divestiture gas operating revenues number is the revenue requirement in order for NewGasCo to make up for the lost economies.

Timing	Gas Operating Revenues	Gas Operating Revenue Deductions	Gas Gross Income	Gas Net Income
(dollars in thousands)				
Pre-Divestiture (actual)	\$399,642	\$323,265	\$76,377	\$58,506
Post-Divestiture (est., see Exh. J-I)	\$520,640	\$396,143	\$3,499	\$19,214
Difference	\$120,998	\$72,878	\$72,878	\$39,292
(Increased revenue requirement; Economies Lost as Result of Divestiture)				

On a percentage basis, the lost economies amount to 124.5% of 1998 gas net income--far in excess of the 30% loss of net income in New England Electric System that the Commission has described as the highest loss of net income in any past order requiring divestiture./133/ As a percentage of 1998 gas operating revenues, these lost economies described in the Gas Study amount to 18.24% -- greater than the losses identified in several past orders that permitted

/133/ See UNITIL Corp., Holding Co. Act Release No. 25524 (April 24, 1992) ("The Commission has required divestment where the anticipated loss of income of the stand-alone company was approximately 30% . . ." or "29.9% of net income before taxes"), citing SEC v. New England Electric System, 390 U.S. 207, 214 n.11 (1968).

merger applicants to retain the additional systems in question./134/ As a percentage of 1998 expenses or operating revenue deductions, the lost economies described in the Gas Study would amount to 22.54%. Again, the losses identified in the Gas Study exceed the losses as a percentage of operating revenue deductions identified in past orders permitting retention of the additional systems, including Ameren (17.6%) and Conectiv (17.4%). As a percentage of 1998 gross income, the lost economies described in the Gas Study amount to 95.42%, far in excess of the 25.44% figure the Commission relied upon in identifying a loss of substantial economies in its Engineers Public Service Co. decision. See  
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supra.  
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In order to recover these estimated lost economies, New Gas Co stand-alone gas operations would need to increase rate revenue by \$123 million or about 30%. This increase in rate revenues would have an immediate negative impact on the rates charged to customers for gas services (to the extent that they apply to regulated operations) and would adversely impact New Gas Co's ability to compete in the emerging retail gas market in Pennsylvania (to the extent they apply to operations which will soon be competitive). In addition, the customers of PECO's gas businesses who are also electric customers will experience a doubling of their postage costs to pay two separate bills. The total estimated increase in incremental costs associated with forced divestiture would be \$292 per customer per year, or 30.3% over the average customer's current annual payments.

Other Lost Economies. Divestiture of the PECO gas property would also  
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result in the loss to consumers of the cost-saving benefits of the economies offered by the "energy services" approach of PECO and Unicom to the utility business. While the losses cannot now be fully quantified, they are substantial. At the center of the energy services company concept is the idea that providing gas and electric services and products is only the start of the utility's job. In addition, the company must provide enhanced service to the consumer by providing an entire package of both energy products and services. In this area, PECO and Unicom's efforts are part of a trend by companies to organize themselves as energy service providers; that is, as providers of a total package of energy services rather than merely utility suppliers of gas and electric products. The goal of an energy service company is to retain its current customers and obtain new customers in an increasingly competitive environment by meeting customers' needs better than the competition. An energy service company can provide the customer with a low cost energy (i.e., gas, electricity or conservation) option without inefficient subsidies. This trend towards, and the need for, convergence of the former separate electric utility function and gas utility function into one energy service company was recognized by the Commission in Consolidated Natural Gas Company, Holding Co. Act Release No.  
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26512 (April 30, 1996) (hereinafter, the "CNG Order"), where the Commission  
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stated: "It appears that the restructuring of the electric industry now underway will dramatically affect all United States energy markets as a result of the growing interdependence of natural gas transmission and electric generation, and the interchangeability of different forms of energy, particularly gas and electricity." See also  
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/134/ See, e.g., Conectiv, Inc., Holding Co. Act Release No. 26832 (February 25,  
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1998) (loss of 14.07% of gas operating revenues in case permitting retention of additional gas system); UNITIL Corp., supra (loss of slightly less than 14% of  
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operating revenues). The highest loss of operating revenues in any case ordering divestiture is commonly said to be 6.58%. ("[o]f cases in which the Commission has required divestment, the highest estimated loss of operating revenues of a stand-alone company was 6.58% . . .") Id.  
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New Century Energies, Holding Co. Act Release No. 26748 (August 1, 1997); UNITIL  
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Corp., Holding Co. Act Release No. 26527 (May 31, 1996) and SEI Holdings, Inc.,  
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Holding Co. Act Release No. 26581 (Sept. 26, 1996).

It is the intent of Applicant that PECO's gas property continue to be integrated and operated as a single economic system in conjunction with Applicant's combined electric system in order to better provide competitive comprehensive energy services to Applicant's customers. PECO's potential competitors, including Conectiv, Baltimore Gas & Electric, Public Service Electric and Gas, UGI Utilities, Inc., PPL Corporation and others are themselves potential suppliers of comprehensive energy services. The lost economies Applicant shows in Exhibit J-1 are substantial in an industry in which there are already many companies competing with Applicant for the provision of comprehensive energy services in Applicant's service territories. In areas of PECO's business that will remain regulated, lost economies will result in increased retail rates for PECO's gas and electric customers. For the deregulated portions of PECO's business, competition between energy suppliers can only benefit consumers.

As the Commission recognized in WPL Holdings, TUC Holdings and New Century Energies, there are significant economies and competitive advantages inherent in -----  
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a combined gas and electric utility as contrasted to a utility offering only electricity or gas. Besides the loss of these inherent economies, other substantial economies would be lost by the separation of the electric systems from the gas system. These lost economies would include decreased efficiencies from separate meter reading, meter testing and billing operations, the need for duplicative customer service operations, plus a loss of savings due to failure to exploit synergies in areas such as facilities maintenance, emergency work coordination, and other administrative operations.

A final consideration, raised by the Commission in the 1997 New Century Energies Order, is that PECO's gas and electric properties have long been under PECO's control, and approval of the Merger will not alter the status quo with respect to these operations.

It is Applicant's view that the standards of Clause A of Section 11(b)(1) of the Act are satisfied in light of the increased expenses and the potential loss of competitive advantages that could result from the divestiture of PECO's gas system. Applicant requests that the Commission find the standards of Clause A are satisfied for the reasons set forth above.

(B) Same State or Adjoining States

The Merger does not raise any issue under Section 11(b)(1)(B) of the Act. The Commission has paraphrased Clause B as follows: "All of such additional systems are located in a State in which the single integrated public-utility system operates, or in states adjoining such a State, or in a foreign country contiguous thereto." Engineers Public Service Company, Holding Co. Act Release -----  
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No. 2897 (July 24, 1941), rev'd on other grounds, 138 F.2d 936 (D.C. Cir. 1943),  
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vacated as moot, 332 U.S. 788 (1947). The PECO Gas System is located in the same  
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State and region as the PECO Electric System. Indeed, the two service territories overlap. Thus, the requirement that each additional system be located in one State or adjoining States is satisfied.

It is Applicant's view that the standards of Clause B of Section 11(b)(1) of the Act are satisfied due to the proximate location of PECO's gas and electric properties. Applicant requests that the Commission find the standards of Clause B are satisfied for the reasons set forth above.

(C) Size --Localized Management; Efficient Operation; Effective Regulation

Retention of PECO's gas operations as an additional integrated system raises no issue under Section 11(b)(1)(C) of the Act. PECO's mid-sized gas system is "not so large . . . as to impair the advantages of localized management, efficient operation, or the effectiveness of regulation." In any event, as the Commission has recognized elsewhere, the determinative consideration is not size alone or size in an absolute sense, either big or small, but size in relation to its effect, if any, on localized management, efficient operation and effective regulation. From these perspectives, it is clear that PECO's gas operations are not too large.

PECO's gas utility operations with 419,738 gas customers combined in five adjoining Pennsylvania counties, are relatively minor when compared to Houston Industries (the parent of Minnegasco) which, through subsidiaries, has 2.7 million gas customers located in multiple States, 630,000 in Minnesota alone.

Based on data through December 31, 1999, and giving effect to the Merger, the net gas utility property, plant and equipment will represent only 2.8% of the total assets of Exelon, whereas the net electric utility property, plant and equipment will represent 45.3%; operating revenues for the gas operations will be 3.9% of total company revenues as compared with 94.5% for the electric operations; and customers of the gas operations will constitute 8% of all Exelon customers (all of which are also located in PECO's electric distribution service territory), while electric operations will represent 92%.

With respect to localized management, this issue is discussed for the Merger as a whole under Item 3.B.3(a)(iii)(D) below. Applied solely to the gas operations, the PECO gas system will continue to be run from PECO Energy's Philadelphia headquarters. Management will therefore remain geographically close to the gas operations, thereby preserving the advantages of localized management. No reduction in customer service or support crews is expected.

From the standpoint of regulatory effectiveness, PECO has operated its combined gas and electric utility in Pennsylvania for many years. The historical joint gas and electric utility operations of PECO have not raised regulatory concerns in Pennsylvania and Applicant does not believe the Merger will introduce any new concerns in this area.

With respect to efficient operation, as described above, as part of the Applicant's combined system, PECO's gas operations are expected to provide cost synergies in combined operations worth approximately \$84.4 million over the ten-year period from 2001-2010, which may enable PECO to reduce costs for its regulated gas distribution customers and compete more efficiently for retail gas customers in Pennsylvania's newly deregulated retail gas market. Effective competition in the Pennsylvania retail gas market is absolutely necessary if the fledgling market is to provide benefits to retail customers. Far from impairing the advantages of

efficient operation, the continued combination of the gas operations will facilitate and enhance the efficiency of both Exelon's gas and electric operations.

It is Applicant's view that the standards of Clause C of Section 11(b)(1) of the Act are satisfied because the Merger will not give rise to any of the abuses, such as ownership of scattered utilities properties, inefficient operations, lack of local management or evasion of State regulation, that Clause C and the Act generally were intended to prohibit. Applicant requests that the Commission find the standards of Clause C are satisfied for the reasons set forth above.

(v) Retention of Other Businesses

Exhibits I-1 and I-2 list and describe those non-utility businesses conducted by Unicom and PECO. As a result of the Merger, the non-utility businesses and interests of Unicom and PECO described in Item 1.C. above and in those Exhibits will become businesses and interests of Exelon. These non-utility interests are fully retainable by Exelon under the Act. Corporate charts showing the subsidiaries, including non-utility subsidiaries of Unicom and PECO, are filed as Exhibits E-3 and E-4. A corporate chart showing the projected arrangement of these subsidiaries under Exelon is filed as Exhibit E-5.

Section 11(b)(1) permits a registered holding company to retain "such other businesses as are reasonably incidental, or economically necessary or appropriate, to the operations of [an] integrated public-utility system." The Commission has historically interpreted this provision to require an operating or "functional" relationship between the non-utility activity and the system's core non-utility business./135/ The Commission modified this historical position and "has sought to respond to developments in the industry by expanding its concept of a functional relationship."/136/ This shift culminated in the adoption of Rule 58. The Commission added "that various considerations, including developments in the industry, the Commission's familiarity with the particular non-utility activities at issue, the absence of significant risks inherent in the particular venture, the specific protections provided for consumers and the absence of objections by the relevant State regulators, made it unnecessary to adhere rigidly to the types of administrative measures" used in the past. /137/ Furthermore, in the 1995 Report, the SEC Staff recommended that the Commission replace the use of bright-line limitations with a more flexible standard that would take into account the risks inherent in the particular venture and the specific protections provided for consumers./138/ As set forth more fully in Exhibits I-1 and I-2, the non-

/135/ See, e.g., Michigan Consolidated Gas Co., Holding Co. Act Release No. 16763 (June 22, 1970), aff'd, 444 F.2d 913 (D.C. Cir. 1971); United Light and Railways Co., Holding Co. Act Release No. 12317 (Jan. 22, 1954); CSW Credit, Inc., Holding Co. Act Release No. 25995 (March 2, 1994); and Jersey Central Power and Light Co., Holding Co. Act Release No. 24348 (March 18, 1987).

/136/ Exemption of Acquisition by Registered Public-utility Holding Companies of Securities of Non-utility Companies Engaged in Certain Energy-related and Gas-related Activities, Holding Co. Act Release No. 26667 (Feb. 14, 1997) ("Rule 58 Release").

/137/ Id.

/138/ 1995 Report at 81-87, 91-92.

utility business interests that Exelon will hold directly or indirectly all meet the Commission's standards for retention.

In the past, the Commission has approved the acquisition or retention of non-utility businesses in a merger where one or both companies were either not subject to the Act or were exempt from registration. See WPL Holdings, Inc., supra. See also New Century Energies, supra Applicant submits that the statutory requirements for ownership of all non-utility businesses identified in Exhibits I-1 and I-2 are satisfied.

In New Century Energies and WPL Holdings, the Commission also excluded the non-utility businesses applicants sought to retain from the limitation upon investment in energy-related companies under Rule 58, noting that the restrictions of Section 11(b)(1) are applicable to registered holding companies and not to exempt holding companies. Unicom and PECO are both exempt holding companies. Rule 58 provides in section (a)(1)(ii) that investments in non-utility activities that are exempt under Rule 58 cannot exceed 15% of the consolidated capitalization of the registered holding company. In its statement supporting the adoption of the Rule, the Commission stated:

The Commission believes that all amounts that have actually been invested in energy-related companies pursuant to commission order prior to the date of effectiveness of the Rule should be excluded from the calculation of aggregate investment under Rule 58. The Commission also believes it is appropriate to exclude from the calculation all investments made prior to that date pursuant to available exemptions./139/

Because the non-utility investments of Unicom and PECO, as exempt holding companies, were exempt under the Act, investments made by them prior to the effective date of Rule 58 which will continue as part of Exelon after consummation of the merger, should not count in the calculation of the 15% maximum. See New Century Energies, supra (Commission order granting exclusion of non-utility energy-related investments of Southwestern Electric Service, an independent utility, and Public Service Colorado, an exempt holding company, from calculations of the 15% maximum investment allowed under Rule 58).

(vi) The Merger will Satisfy the Requirements of Section 11(b)(2) as incorporated by Section 10(c)(1)

Section 11(b)(2) further directs the Commission:

To require that each registered holding company, and each subsidiary company thereof, shall take such steps as the Commission shall find necessary to ensure that the corporate structure or continued existence of any company in the holding-company system does not unduly or unnecessarily complicate the

structure, or unfairly or inequitably distribute voting power among security holders, of such holding-company system. In carrying out the provisions of this paragraph the Commission shall require each registered holding company (and any such company in the same holding company system with such holding company) to take such action as the Commission shall find necessary in order that such holding company shall cease to be a holding company with respect to each of its subsidiary companies which itself has a subsidiary company which is a holding company. Except for the purpose of fairly and equitably distributing voting power among the security holders of such company, nothing in this paragraph shall authorize the Commission to require any change in the corporate structure or existence or any company which is not a holding company, or of any company whose principal business is that of a public-utility company.

Section 11(b)(2) raises two issues: first, will the proposed corporate structure or continued existence of any company unduly or unnecessarily complicate the structure of the Exelon holding company system post-Merger and, second, will the Merger result in an unfair or inequitable distribution of voting power among the security holders of Exelon. As explained more fully below and as found by the Commission in recent cases, any apparent complexity in the resulting holding company system does not create any inequitable distribution of voting power and is necessary in order to achieve important benefits./140/

Ventures and Exelon Delivery raise an issue under Section 11(b)(2)./141/ The important benefits Exelon will derive from these companies should outweigh any increase in complexity there presence causes. Their presence will not in any way create inequitable distribution of voting power. Both companies serve the purpose of creating the simplest possible business organization that still achieves important business goals of Exelon. As noted above, Ventures is required to achieve significant tax savings. Exelon Delivery will enable Exelon to fully and efficiently integrate its regulated utility businesses and provide full separation from its unregulated businesses.

Accordingly, the Applicants seek a declaratory order requesting that the proposed transaction structure is in compliance with Section 11 of the Act, solely for purposes of complying with the "great grandfather" provisions of Section 11(b)(2)./142/

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/140/ National Grid Group plc, Holding Co. Act Release No. 27154 (Mar. 15, 2000)(intermediate holding companies necessary for cross-border tax considerations); Dominion Resources, Holding Company Act Release No. 27113 (Dec. 15, 1999)(intermediate holding company "CNG Acquisitions" to hold CNG's utility subsidiaries under alternative form of merger).

/141/ PECO is currently a holding company with respect to the Conowingo Companies. Further, PEPCO is a registered holding company. Thus, Genco will also be a holding company with respect to the Conowingo Companies and a determination is sought that it not be considered a holding company solely for purposes of Section 11(b)(2). See note 16 above.

/142/ See Item 1.C and 1.E. for a discussion of the utility subsidiaries of ComEd and PECO.

Ventures and Exelon Delivery will be wholly-owned, directly by Exelon. Other than to enhance the full integration of the regulated utilities, Exelon Delivery will not affect the operation of ComEd or PECO. Likewise, Ventures will not affect the operation of Genco. Thus, there is no possibility that implementation and continuance of the proposed transaction structure could result in an undue or unnecessarily complex capital structure or inequitable distribution of voting power to the detriment of the public interest or the interest of consumers. Accordingly, this is not the type of situation that concerned the drafters of the Act, and, Exelon urges the Commission to exercise its discretion to find that any apparent complexity of the proposed transaction structure is neither undue nor unnecessary.

(b) Section 10(c)(2) -- Economies and Efficiencies

Because the Merger is estimated to result in substantial cost savings and synergies, it will tend toward the economical and efficient development of an integrated public-utility system, thereby serving the public interest, as required by Section 10(c)(2) of the Act.

The Merger will produce economies and efficiencies more than sufficient to satisfy the standards of Section 10(c)(2) of the Act. Although some of the anticipated economies and efficiencies will be fully realizable only in the longer term, they are properly considered in determining whether the standards of Section 10(c)(2) have been met. See AEP, supra. Some potential benefits

cannot be precisely estimated, nevertheless they too are entitled to be considered. "[S]pecific dollar forecasts of future savings are not necessarily required; a demonstrated potential for economies will suffice even when these are not precisely quantifiable." Centerior, supra.

Cost Synergies. Unicom and PECO estimate that the combined company will

achieve regulated and unregulated net annual cost savings of approximately \$100 million in the first year following completion of the merger, increasing to approximately \$180 million by the third year. Approximately 60% of these savings will be attributable to regulated activities and the remainder to unregulated activities. Estimated savings include only those cost savings and cost avoidance items management expects to achieve as a result of the merger. These expected savings are comparable to the anticipated savings in a number of recent acquisitions approved by the Commission./143/

/143/ See, e.g., NIPSCO Industries, Inc., Holding Co. Act Release No. 26975

(Feb. 10, 1999) (estimated expected savings of \$57.45 million over ten years); Sempra Energy, Holding Co. Act Release No. 26890 (June 26, 1998) (estimated

expected savings of \$1.2 billion over ten years); BL Holding Corp., Holding Co.

Act Release No. 26875 (May 15, 1998) (estimated expected savings of \$1.1 billion over ten years); LG&E Energy Corp., Holding Co. Act Release No. 26866 (April 30,

1998) (estimated expected savings of \$687.3 million over ten years); WPL

Holdings, Holding Co. Act Release No. 26856 (April 14, 1998) (estimated expected

savings of \$680 million over ten years); Conectiv, Holding Co. Act Release No.

26832 (Feb. 25, 1998) (estimated expected savings of \$500 million over ten years); Ameren Corporation, supra (estimated savings of \$686 million over ten

years); 1997 NCE Order, supra (estimated savings of \$770 million over ten

years); TUC Holding Company, supra (estimated savings of \$505 million over ten

years); Northeast Utilities, supra (estimated savings of \$837 million over

eleven years); Entergy Corporation, Holding Co. Act Release No. 25952 (Dec. 17,

1993) (expected savings of \$1.67 billion over ten years); Northeast Utilities,

Holding Co. Act Release No. 25221 (Dec. 21, 1990) (estimated savings of \$837 million over eleven years); Kansas Power and Light Co., Holding Co. Act Release

No. 25465 (Feb. 5, 1992) (expected savings of



Other Benefits. Unicom and PECO believe that the Merger will provide

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substantial strategic and financial benefits to PECO Energy's and Unicom's  
shareholders, employees and customers. These benefits are expected to include:

Expanded Generation Capacity. Exelon is expected to have a portfolio of generation assets with a capacity that will be nearly double that of either PECO Energy or Unicom alone and that can be deployed to expand its power marketing business. Unicom and PECO believe the competitive and strategic value of size and scope will increase future earnings growth rates, creating value for shareholders. With a focus on nuclear operations excellence, Exelon will have the nation's largest nuclear generation fleet. Unicom and PECO expect to achieve synergies in operations and supply management by combining best practices and operating capabilities. The expansion strategy of Exelon will be consistent with PECO Energy's disciplined acquisition programs and will provide a framework for adding value to Unicom's nuclear fleet.

Expanded Marketing and Trading Business. Based on the expanded generation capacity of Exelon, Unicom and PECO will extend the scale and the scope of the power marketing and trading business by:

capitalizing on the flexibility and geographic diversity of the combined portfolio,  
broadening the portfolio of customized products offered to customers,  
enhancing their position as a preferred counterparty, and  
pursuing additional generation development and contract opportunities.

Broadened Distribution Platform. Exelon will have approximately 5 million electric customers -- among the largest electric utility customer bases in the nation -- and will use its existing distribution facilities as a platform for regional consolidation based on:

an unwavering commitment to top-tier reliability and customer satisfaction,  
sharing of best practices and systems while also respecting each company's commitment to its local community and service territory,  
capturing synergies and economies of scale,  
growth through market extension and strategic acquisitions, and  
the benefits of more diversified economic, weather and market conditions.

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(continued...)

\$140 million over five years); IE Industries, Holding Co. Act Release No. 25325  
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(June 3, 1991) (expected savings of \$91 million over ten years); Midwest  
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Resources, Holding Co. Act Release No. 25159 (Sept. 26, 1990) (estimated savings  
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of \$25 million over five years); CInergy Corp., Holding Co. Act Release No.  
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26146 (Oct. 21, 1994) (estimated savings of approximately \$1.5 billion over ten  
years).

Strategic Fit and Compatibility. PECO Energy, with its generation focus and substantial number of distribution customers, and Unicom, with its distribution focus and substantial generation capacity, have complementary strategies and compatible corporate cultures and visions of the future of the energy business. The companies have a shared commitment to supporting and participating in competitive electric markets, are already competing in deregulated markets in their respective service territories and are prepared for industry restructuring.

Foundation for Future Growth. The Merger is expected to provide the critical mass, and the development and operating infrastructure, to expand the broad and complementary unregulated businesses of PECO Energy and Unicom, with a focus on EWG development, energy-related infrastructure services, energy solutions and telecommunications. The merger is expected to enhance the flexibility of the companies to take advantage of new opportunities for unregulated businesses, including by:

- leveraging of infrastructure services over a broader customer base,
- capitalizing on opportunities in the telecommunications business, and,
- exploiting cross-selling opportunities in the unregulated energy solutions business.

Cost Savings. Unicom and PECO believe that the merger will produce cost savings through the elimination of duplication in corporate and administrative programs, generation consolidation, greater efficiencies in the power marketing and trading business, unregulated ventures integration, improved purchasing power (non-fuel), and the combination of portions of the two workforces. Unicom and PECO estimate that the combined company will achieve regulated and unregulated net annual cost savings of approximately \$100 million in the first year following completion of the merger, increasing to approximately \$180 million by the third year. Approximately 60% of these savings will be attributable to regulated activities and the remainder to unregulated activities. Estimated savings include only those cost savings and cost avoidance items management expects to achieve as a result of the merger.

Nuclear Coordination. The potential benefits associated with the

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integration of the nuclear operations of ComEd and PECO will be particularly significant. As the licensed owner and operator of the nuclear power plants currently owned and operated by ComEd and PECO, Genco will be subject to pervasive regulatory oversight by the NRC under the Atomic Energy Act of 1954, as amended, ("AEA") with respect to virtually every aspect of the operation, maintenance, and eventual decommissioning of these plants. As described in the license transfer applications submitted to the NRC in connection with the Merger, the qualifications of Genco to carry out its licensed responsibilities will meet or exceed the existing qualifications of ComEd and PECO and enhance the safety of nuclear operations throughout the Exelon system./144/ The

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/144/ The NRC recently adopted new procedures to streamline its license transfer proceedings and facilitate the transfer of NRC licenses to technically and financially qualified licensees as the restructuring of the electric utility

Merger will combine two of the nation's most experienced nuclear management teams and nuclear operating organizations, currently consisting of over 9,600 personnel responsible for the operation of 14 nuclear plants with a total generating capacity in excess of about 14,000 MW, with demonstrated experience in achieving and sustaining safe and reliable nuclear plant operations, into a single nuclear operating group in Genco.

In accordance with the requirements imposed under the AEA and NRC regulations, this integrated nuclear group will be led by an experienced and dedicated nuclear management team that establishes and enforces high standards and clear accountability, focuses on effective nuclear support, assures the sharing and implementation of best practices, and effectively exercises oversight of licensed activities. The Genco nuclear group will function as a single cohesive entity, with a common vision, a shared mandate for regulatory compliance and performance excellence, and consistent standards, programs, practices, and management controls designated to sustain and enhance the safety of nuclear operations. Additional personnel, resources, and nuclear operating experience will become available to all of ComEd's and PECO's existing nuclear plants through the nuclear group.

Finally, the Genco nuclear group will be available to assist in the safe and efficient operation of the nuclear generating stations owned by AmerGen.

Thus, the establishment of the Genco nuclear group in connection with the merger will not only improve the efficiency of economy of nuclear power plant operations throughout the Exelon system, it will also further the public interest by enhancing the safety of nuclear operations throughout the system.

(c) Section 10(f) -- Compliance with State Law

Section 10(f) provides that:

The Commission shall not approve any acquisition as to which an application is made under this section unless it appears to the satisfaction of the Commission that such State laws as may apply in respect of such acquisition have been complied with, except where the Commission finds that compliance with such State laws would be detrimental to the carrying out of the provisions of section 11.

(Continued...)

industry unfolds. See Streamlined Hearing Process for NRC Approval of License Transfers, 63 Fed. Reg. 66723 (Dec. 3, 1998). As Commissioner Merrifield of the

NRC observed in a speech several weeks after the merger between Unicom and PECO was announced: "As I have said on several occasions, I view the consolidation in the nuclear industry as a tremendous opportunity to further improve the operational performance and safety of these plants. In most of the transactions, I expect that the buyers will be large nuclear generating companies that own and operate a substantial number of nuclear units. These buyers have economies of scale and resources that are simply not available to companies that own and operate only one nuclear unit. I am also truly encouraged by the fact that most of the license transfers will likely involve buyers with excellent performance records." See Statement of NRC Commissioner Jeffrey S. Merrifield, 27/th/ Water

Reactor Safety Information Meeting (Oct. 25, 1999).

As described below under Item 4. "Regulatory Approvals," and as evidenced by the filings before the Illinois Commission and the Pennsylvania Commission, ComEd and PECO intend to comply with all applicable State laws related to the Merger.

C. Intra-system Transactions

The Exelon system companies will engage in a variety of affiliate transactions for the provision of goods, services, and construction. Certain of these transactions are elaborated upon below. The provision of goods, services, and construction by Exelon system companies to other Exelon system companies will be carried out in accordance with the requirements and provisions of Rules 87, 90, and 91 unless otherwise authorized by the Commission by order or by rule. With respect to exceptions to the cost rules requested below for an interim period following the Merger, Exelon commits that not later than 15 months following the date of the Commission's order in this case all transactions subject to the interim exemption or waiver will be conducted in accordance with the Commission's pricing standards for affiliate transactions.

1. Exelon Business Services Company.

Rule 88(b) provides that "[a] finding by the Commission that a subsidiary company of a registered holding company . . . is so organized and conducted, or to be so conducted, as to meet the requirements of Section 13(b) of the Act with respect to reasonable assurance of efficient and economical performance of services or construction or sale of goods for the benefit of associate companies, at cost fairly and equitably allocated among them (or as permitted by [Rule] 90), will be made only pursuant to a declaration filed with the Commission on Form U-13-1, as specified in the instructions for that form, by such company or the persons proposing to organize it." Notwithstanding the foregoing language, the Commission in recent cases has made findings under Section 13(b) based on information set forth in an Application-Declaration on Form U-1, without requiring the formal filing of a Form U-13-1./145/ In this Application-Declaration, Applicant is submitting substantially the application information as would have been submitted in a Form U-13-1. Accordingly, it is submitted that it is appropriate to find that Exelon Services will be so organized and shall be so conducted as to meet the requirements of Section 13(b), and that the filing of a Form U-13-1 is unnecessary, or, alternatively, that this Application-Declaration should be deemed to constitute a filing on Form U-13-1 for purposes of Rule 88.

Exelon Services/146/ will be the service company subsidiary for the Exelon system and will provide Exelon, ComEd, PECO, Genco and non-utility subsidiaries with one or more of the following: administrative, management and support services, including services relating to

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/145/ New Century Energies; Ameren; CINergy Corp.; UNITIL Corp., supra.  
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/146/ As noted above, Exelon may establish a specialized service company for Genco operations ("GenServCo"). The GenServCo will pay the salaries of its employees and be responsible for the administration of all employee benefit plans. GenCo will reimburse GenServCo for its expenses on a full cost basis in accordance with the requirements imposed by Section 13 of the Act and the Commission Rules promulgated thereunder. Exelon will provide information regarding such a service company by pre-or post-effective amendment hereto which will include a services agreement in a form that is substantively similar to the General Services Agreement included as Exhibit B-2 to this Application.

support of electric and gas plant operations (i.e., energy supply management of the bulk power and natural gas supply, procurement of fuels, coordination of electric and natural gas distribution systems, maintenance, construction and engineering work); customer bills, and related matters; materials management; facilities; real estate; rights of way; human resources; finance; accounting; internal auditing; information systems; corporate planning and research; public affairs; corporate communications; legal; environmental matters; executive services and the other services listed on Schedule 2 to the General Service Agreement. Exelon Services will have a minimal capitalization -- not more than 1,000 shares with total equity capital of not more than \$10,000.

In accordance with the General Service Agreement, services provided by Exelon Services will be directly assigned, distributed or allocated by activity, project, program, work order or other appropriate basis. To accomplish this, employees of Exelon Services will record their labor and expenses to bill the appropriate subsidiary company. Costs of Exelon Services will be accumulated in accounts of the service company and be directly assigned, distributed, or allocated to the appropriate client company in accordance with the guidelines set forth in the General Services Agreement and the procedures in the "Procedures Manual" which will be provided to the Staff. There will be an internal audit group which, among other things, will audit the assignment of service company charges to client companies. Exelon Services' accounting and cost allocation methods and procedures are structured so as to comply with the Commission's standards for service companies in registered holding company systems.

Exelon Services will be staffed primarily by transferring existing personnel from the current employee rosters of Unicom, PECO and their subsidiaries. Exelon Services will have its headquarters in Chicago and will conduct substantial operations in both Chicago and Philadelphia. Merger transition teams are presently considering where specific operations of the combined company will be headquartered.

As compensation for services, the General Service Agreement provides that "Client Companies listed in Attachment A hereto, as amended from time to time, shall pay to Service Company [i.e., Exelon Services] all costs which reasonably can be identified and related to particular services provided by Service Company for or on Client Company's behalf (except as may otherwise be permitted by the SEC)."

Companies listed on Attachment A will be ComEd, PECO, Genco and any other company which is a "public utility company" within the meaning of the Act and which operates within the United States (the "Operating Companies") as well as any subsidiary that is involved in directly providing goods, construction or services to the Operating Companies (together with the Operating Companies, the "Utility Subsidiaries").

The General Services Agreement also provides that "Client Companies listed on Attachment B hereto, as amended from time to time, shall pay to Service Company charges for services that are to be no less than cost (except as may otherwise be permitted by the SEC), insofar as costs can reasonably be identified and related by Service Company to its performance of particular services for or on behalf of Client Company."

The companies listed on Attachment B will be subsidiaries that Exelon is authorized to hold, other than the Utility Subsidiaries, such as EWGs, FUCOs, Exempt Telecommunications Companies ("ETCs"), and Energy Related Companies ("ERCS") permitted under Rule 58 or by

Commission order, certain intermediate companies/147/ and other entities which are not involved in directly providing goods, construction or services to Utility Subsidiaries (collectively, the "Non-Utility Subsidiaries").

Where more than one company is involved in or has received benefits from a service performed, the General Service Agreement will provide that the such costs "shall be fairly and equitably allocated using the ratios set forth" in the General Service Agreement. Thus, charges for all services provided by Exelon Services to affiliated utility companies will be as determined under Rules 90 and 91 of the Act. Except for the requested exceptions discussed below, services provided by Exelon Services to Non-Utility Subsidiaries pursuant to the General Services Agreement will also be charged as determined under Rules 90 and 91 of the Act. In the event that any changes to the General Service Agreement or allocations are needed to more accurately allocate costs to ComEd, PECO, Genco or other affiliates, Applicant will propose such changes to the Commission as they become known.

The General Services Agreement provides that no change in the organization of Exelon Services, the type and character of the companies to be serviced, the factors for allocating costs to associate companies, or in the broad categories of services to be rendered subject to Section 13 of the Act, or any rule, regulation or order thereunder, shall be made unless and until Exelon Services shall first have given the Commission written notice of the proposed change not less than 60 days prior to the proposed effectiveness of any such change. If, upon the receipt of any such notice, the Commission shall notify Exelon Services within the 60-day period that a question exists as to whether the proposed change is consistent with the provisions of Section 13 of the Act, or of any rule, regulation or order thereunder, then the proposed change shall not become effective unless and until Exelon Services shall have filed with the Commission an appropriate declaration regarding such proposed change and the Commission shall have permitted such declaration to become effective.

Applicant believes that the General Services Agreement is structured so as to comply with Section 13 of the Act and the Commission's rules and regulations thereunder.

2. Services, Goods, and Assets Involving the Utility Operating Companies

ComEd, PECO and Genco may provide to one another and other associate companies services incidental to their utility businesses, including but not limited to, infrastructure services maintenance, storm outage emergency repairs, and services of personnel with specialized expertise related to the operation of the utility. These services will be provided in accordance with Rules 87, 90, and 91. Moreover, in accordance with Rules 87, 90, and 91, certain goods may be provided through a leasing arrangement or otherwise by one Utility Subsidiary to one or

/147/ In the Investment U-1, Exelon is seeking authority to establish certain Non-utility subsidiaries that will be authorized to engage in permitted activities under Rule 58 and otherwise which will include a request that "intermediate companies" also be allowed for organizational, tax, limitation of liability, international considerations and other proper business purposes. See,

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e.g., Interstate Energy Corporation, Holding Company Act Release No. 35-27069  
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(Aug. 26, 1999); Ameren Corporation, Holding Company Act Release No. 35-27053  
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(July 23, 1999); Entergy Corporation, Holding Company Act Release No. 27039  
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(June 22, 1999); New Century Energies, Inc., Holding Company Act Release No. 35-  
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27000 (Apr. 7, 1999).

more associate companies, and certain assets may be used by one Utility Subsidiary for the benefit of one or more other associate companies. Because these services will be provided in accordance with applicable rules, no relief is sought from the Commission regarding these services.

Although Genco is a "public-utility company," it is not subject to State rate regulation and will have no "captive" customers. Accordingly, Exelon will seek exemption or waiver of certain affiliate rules relating to Genco./148/

### 3. Non-Utility Subsidiary Transactions

The Applicant requests authorization for Exelon Services and the Non-Utility Subsidiaries to enter into agreements to provide construction, goods or services to certain associate companies enumerated below at fair market prices determined without regard to cost and therefore requests an exemption (to the extent that Rule 90(d) of the Act does not apply/149/) under Section 13(b) from the cost standards of Rules 90 and 91.

In recent decisions,/150/ the Commission has approved such relief allowing "at market" pricing for substantially the following transactions, and Exelon requests similar relief, if the client company is:

- 1) a FUCO or an EWG that derives no part of its income, directly or indirectly, from the generation, transmission, or distribution of electric energy for sale within the United States;
- 2) an EWG that sells electricity at market-based rates which have been approved by the FERC or other appropriate State public utility commission, provided that the purchaser of the EWG's electricity is not an affiliated public utility or an affiliate that re-sells such power to an affiliated public utility;
- 3) a qualifying facility ("QF") under the Public Utility Regulatory Policies Act of 1978 ("PURPA") that sells electricity exclusively at rates negotiated at arm's length to one or more industrial or commercial customers purchasing such

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/148/ See Item 3.C.4.(g). Sales of electric energy by Genco to ComEd and PECO are not subject to the Commission's jurisdiction. See Middle South Utilities, Holding Company Act Release No. 35-23579 (Jan. 23, 1985); Section 2(a)(20) of the Act.

/149/ Under Rule 90(d)(1), the price of services, construction or goods is not limited to cost if neither the buyer nor the seller of such services, construction or goods is (i) a public-utility holding company, (ii) an investment or similar company as defined in the Rule, (iii) a company in the business of selling goods to associate companies or performing services or construction (i.e., a "service company") or (iv) any company controlling an entity described in (i), (ii) or (iii). In general, therefore, goods, services or construction provided from one Non-utility Subsidiary to other Non-utility Subsidiaries (other than any service company) are not subject to the cost restrictions and may be priced at market, which may be above or below cost. A Non-utility Subsidiary would generally be permitted to make such sales of goods, services or construction to another Non-utility Subsidiary under Rule 87(b).

/150/ Interstate Energy Corporation, Holding Company Act Release No. 35-27069 (Aug. 26, 1999); Ameren Corporation, Holding Company Act Release No. 35-27053 (July 23, 1999); Entergy Corporation, Holding Company Act Release No. 27039 (June 22, 1999); Entergy Corporation, Holding Company Act Release No. 27040 (June 22, 1999); New Century Energies, Inc., Holding Company Act Release No. 35-27000 (Apr. 7, 1999).

electricity for their own use and not for resale, or to an electric utility company other than an affiliated electric utility at the purchaser's "avoided cost" determined under PURPA;

- 4) an EWG or a QF that sells electricity at rates based upon its costs of service, as approved by FERC or any State public utility commission having jurisdiction, provided that the purchaser of the electricity is not an affiliated public utility; or
- 5) an exempt telecommunications company under Section 34 of the Act ("ETC"), an energy related company ("ERC") under Rule 58 or any other Non-Utility Subsidiary that (a) is partially owned, provided that the ultimate purchaser of goods or services is not a Utility Subsidiary, (b) is engaged solely in the business of developing, owning, operating and/or providing services or goods to Non-Utility Companies described in (1) through (4) above, or (c) does not derive, directly or indirectly, any part of its income from sources within the United States and is not a public-utility company operating within the United States.

#### 4. Existing Affiliate Arrangements and Requests for Exemption.

##### (a) ComEd AIA Transactions

ComEd currently provides to or receives services from affiliates in accordance with an Affiliated Interests Agreement ("AIA") approved by the Illinois Commission. PECO's form of Mutual Services Agreement under which PECO will provide and receive services from affiliates has been approved by the Pennsylvania Commission. These contracts are filed as Exhibits B-3.1 and B-3.2, respectively.

Under the Illinois AIA, ComEd may provide services to affiliates, and affiliates may provide services to ComEd, at the "prevailing price," which, as defined in the AIA, is substantially a market price,<sup>/151/</sup> or if there is no prevailing price, then at fully distributed cost, which is substantially the same as "cost" as defined under the Act.

Under the AIA ComEd has a contract with Unicom Energy Services ("UES") under which it acquires services at the prevailing price. Under this contract, UES provides service to ComEd in connection with a contract that ComEd has with certain U.S. governmental agencies to provide energy management, demand side management and energy conservation and efficiency services. These services include energy audits, feasibility analyses, engineering and design and implementation. All services required to be provided by ComEd to the governmental entities are provided to ComEd by UES at a prevailing price. Exelon will take the position that because ComEd acts solely as a conduit or pass through and the services provided by UES are for the benefit of the U.S. government, not ComEd, that these transactions do not constitute the

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<sup>/151/</sup> Under the AIA, "prevailing price" means, for the utility, the tariffed rate or other pricing mechanism approved by the Illinois Commission, and for ComEd's Unicom affiliates, the price charged to nonaffiliates if such transactions with nonaffiliate constitute a substantial portion of the affiliate's total revenues from such transactions.



type of affiliate transaction that is subject to the provisions of Section 13 of the Act. The Commission has agreed with this analysis in the past./152/

(b) ComEd "Competitive Services"

Under Illinois law, regulated distribution utilities such as ComEd are authorized to provide certain competitive services to affiliates and unaffiliated parties. These services include any service "declared to be competitive" by the Illinois Commission, "contract service" for the provision of electric power and energy or other services provided by mutual agreement between an electric utility and a retail customer, and "services, other than tariffed services, that are related to but not necessary for, the provision of electric power and energy or delivery services." ("Competitive Services")./153/ The price at which Competitive Services may be sold by the utility is not limited to cost.

Competitive Services are accounted for on a so-called "below the line" basis, that is, the costs associated with such services may not be included in the utility's calculation of cost for rate making purposes. Any profit or loss on these activities would be disregarded for utility rate making purposes. In effect, these activities are conducted as if they were conducted by a separate nonregulated "subsidiary" except that the corporate entity of the utility company is the actual party to the transactions. Accordingly, under Illinois law customers are fully protected from the possibility that an abuse of the affiliate relationships between or among ComEd and any of the other Exelon companies could result in excessive charges to ComEd, or be passed on to its customers.

Applicant requests authorization for ComEd continue to perform under existing arrangements with affiliates to provide Competitive Services and to acquire goods or services from affiliates related to Competitive Services at fair market prices determined without regard to cost and therefore requests an exemption under Section 13(b) from the cost standards of Rules 90 and 91 as applicable for a period of not longer than 15 months following the date of the Commission's order in this case. The existing arrangements subject to this exemption are described in Exhibit B-3.3.

(c) PECO Government Contracts

PECO and/or its subsidiaries will provide energy services to U.S. governmental agencies at rates approved by the Pennsylvania Commission in the same manner as ComEd as described in Item 3.C.4.(a) above.

(d) PECO Sales and Purchases To and From Retail Marketing Affiliates

Under the proposed Pennsylvania Mutual Service Agreement, most transactions between affiliates will be made at cost. Through January 1, 2001, PECO's Interim Code of Conduct

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/152/ Entergy Arkansas, Inc., File No. 132-3, 1998 SEC No-Act. LEXIS 435 (Mar. 26, 1998).

/153/ 220 ILCS 16-102

provides additional protection to the regulated utility in transactions involving non-power goods and services between the regulated electric distribution company (PECO) and its retail marketing affiliate(s) by requiring PECO to sell non-power goods and services to its affiliated retail marketing entities at the greater of cost or market and requiring PECO to purchase non-power goods and services from those entities at prices no higher than market in order to prevent anti-competitive cross subsidies. Interim Code of Conduct, Appendix H of PECO's Pennsylvania Commission approved restructuring settlement in Docket Nos. R-00973953 and P-00971265. The recently promulgated final state-wide Code of Conduct applicable to all utilities, 52 Pa. Code 54.121 (effective July 7, 2000), however, which will apply to PECO effective January 1, 2001, does not contain any such asymmetrical transfer pricing provision. Rather, any such transfer will merely be subject to the Pennsylvania Commission's affiliate transaction requirements, which require the charging of full incremental cost.

Applicant does not believe that there will ordinarily be any conflict between the Commission's cost rules and the Pennsylvania Commission approved inter-affiliate cost allocation rules. To address the rare circumstances in which the Commission's cost rule and the Mutual Services Agreement (reflecting the terms of PECO's Pennsylvania restructuring settlement) may conflict, PECO proposes to implement a practice that will mitigate any such conflict. Under the proposed procedure PECO will only sell non-power goods or services to its retail marketing affiliate when its cost is substantially equal to the market price for the services or goods in question./154/ PECO will only purchase non-power goods and services from its retail marketing affiliate when the at-cost price offered by that affiliate is at or below the market price for the same goods or services. The proposed procedure will protect customers who receive service from PECO's regulated entity from any potential for abuse of the affiliate relationship and ensure that regulated services are not used to subsidize competitive activities. PECO requests an exemption under Section 13(b) from the cost standards of Rules 90 and 91 as applicable for transactions pursuant to the Code of Conduct for a period of not longer than 15 months following the date of the Commission's order in this case. The existing arrangements subject to this exemption are described in Exhibit B-3.3.

(e) Exelon Infrastructure Services; Unicom Mechanical Services

(i) Description of Exelon Infrastructure Services.

PECO is engaged in the Electric Infrastructure Business through its current subsidiary, Exelon Infrastructure Services, Inc ("EIS") and its subsidiaries. Exelon plans to expand this utility related business through additional acquisitions. This business consists of two major groups: Construction Maintenance Operations Group and Program Management and Sales Group. The Construction Maintenance Operations Group will include most of EIS's field operations and will be functionally aligned around the skills and resources required to perform particular kinds of work. EIS is putting in place centralized systems for the management of construction and maintenance work on a nationwide basis so that EIS can quickly set up a new project site, hire workers and manage assets efficiently.

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/154/ If the utility's cost is below market, it would not be permitted to sell at cost under Pennsylvania rules, but would be prohibited from selling at market by the Commission's rules.

The Construction and Maintenance Operations Group consists of four field operations groups and a shared services organization. (1) Underground Construction and Maintenance. This group's capabilities are focused on installing and maintaining underground communications and energy networks. The group enables EIS to build and maintain underground distributed infrastructures throughout the United States for gas, communications and electric utilities. (2) High Voltage Transmission and Distribution Construction and Maintenance. This group's expertise is focused on installing and maintaining high voltage transmission and distribution lines, substations and towers for electric and telecommunications companies. (3) On-site Construction, Maintenance and Service. This group will provide construction and ongoing maintenance services to industrial and municipal owners of complex electric and communications infrastructures on a nationwide basis. The group will provide inside plant electric and communications construction and maintenance services to a variety of local, regional and national customers. (4) High Volume Network Interfaces. This group will manage large volumes of technical service and repair work for communications and energy utilities. The group will have a staff of technicians, repairmen and installers who service telephones, meters, power supplies, cable boxes and other low voltage interface devices.

Shared Operational Services. In addition to the four operations groups, EIS has also created the Operational Shared Services Group to take advantages of opportunities of scale and to share best practices. This group will handle fleet management, safety management, tools procurement and craft training.

Program Management and Sales. The Program Management and Sales Group will include most of EIS's project management, engineering and sales resources. This group will be responsible for developing the processes and skills required to sell and manage turnkey projects and outsourcing services for energy utilities, communications companies and large commercial and industrial owners of infrastructure. The group will consist of three principal divisions, engineering, program management and sales. EIS's infrastructure outsourcing business will also be included in this group. (1) Engineering. EIS will provide a variety of engineering and design services for energy and communications infrastructure owners. The primary focus of the engineering group will be to support the Construction and Operations Group and the Program Management Group in designing and building turnkey projects. Individual engineering services will be offered on an as-needed basis. (2) Program Management. This group is implementing project and program management processes and procedures that will be used to manage large-scale turnkey projects and other services provided by EIS (3) Sales. EIS will focus its sales activities to serve the needs of communications companies, electric utilities and large commercial and industrial infrastructure owners. (4) Infrastructure Outsourcing. This group provides new residential design and construction services on an outsourced basis, permitting a single point of contact for the design and construction of all utility infrastructures (including gas, electric, cable and telephone). The group also provides infrastructure services in connection with outdoor lighting.

(ii) Description of Mechanical Services

Unicom Mechanical Services ("Mechanical Services") business includes the installation, operation and maintenance of space conditioning equipment, building automation and temperature controls, installation and maintenance of refrigeration systems, building

infrastructure wiring supporting data and controls networks, environmental monitoring and control, ventilation system calibration and maintenance, piping and fire protection systems, and installation and maintenance of emergency power generation systems. A breakdown of each category includes the following primary equipment and/or services: (1) Space Conditioning. Boilers, electric drive and absorption chillers, roof top packaged units, furnaces, steam, and hot and chilled water distribution servicing, installation, and maintenance of the above equipment. (2) Building Automation and Temperature Controls. Installation and maintenance of temperature monitoring and control systems, security systems, automatic scheduling of environmental systems, equipment status. (3) Refrigeration systems. Installation and maintenance of process cooling systems for food preparation and storage, refrigeration applications requiring heat rejection within specifications. (4) Infrastructure Wiring for Data Networks. Infrastructure of cable and data ports and servers to provide LAN connectivity for building automation and controls systems or other devices. (5) Environmental Monitoring and Controls/Ventilation Systems. Air handling system balancing and controls, monitoring of air change rates and control of outside air intake, indoor air quality monitoring and filtration systems, special cooling and environmental controls for data centers. (6) Piping and Fire Protection Systems. Installation of water piping and associated pumps for water distribution (either for space conditioning or fire protection systems), installation of storage tanks, sprinkler systems and controls for fire protection. (7) Emergency Power Generation Systems. Installation and maintenance of emergency back-up generation for critical power applications such as fire protection, elevators, security systems, exit and hall way lighting, and pumps and other forms of distributed generation such as microturbines.

(iii) Requested Exemption from Cost Standard

The services provided by EIS and the mechanical services businesses are the type commonly "outsourced" by regulated utilities. In fact, the EIS business has grown through acquisition of existing contractors who provide service to a number of utilities. Existing subsidiaries of EIS provided services to PECO prior to becoming affiliated with PECO. Exelon expects that future subsidiaries of EIS and/or Mechanical Services will be providing services to PECO and/or ComEd at the time they become affiliated with the Exelon group. The Utility Subsidiaries will continue to outsource some or all of their needs for work of the type done by EIS and Mechanical Services. The Utility Subsidiaries use (or in the case of Genco, will use) a process which ensures that contracts are let at a competitive price. In some cases formal competitive bids are sought; in other cases a more informal check of the market is conducted.

The Utility Subsidiaries would like to allow EIS and Mechanical Services to compete for this business on an equal footing with non-affiliated contractors. Exelon estimates that in the first full year following the Merger EIS and Mechanical Services could provide up to approximately 6 % and 2 % of their total sales, respectively, to the Utility Subsidiaries.<sup>/155/</sup> The amount of such services purchased from EIS and Mechanical Services would likely be about constitute a minor portion of the Utility Subsidiaries' construction budgets for that period.

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<sup>/155/</sup> The percentage of EIS's total business represented by sales to the Utility Subsidiaries is expected to decline as the EIS business grows through acquisitions.

Pricing of services to ComEd at "market" prices will be permitted by the Illinois Commission. ComEd's existing AIA allows affiliates to sell goods and services to ComEd at "prevailing prices" -- i.e., the price at which such affiliate makes a substantial number of sales to the general public. Under the Pennsylvania Public Utilities Code/156/, any services provided to or from an affiliate of a Pennsylvania public utility must be provided at a reasonable price. In PECO's recent merger and restructuring filing with the Pennsylvania Commission, in which it sought approval for affiliate contracts, PECO requested a determination that pricing for affiliate services will be considered reasonable if those services are provided at no more than cost, or on such other pricing treatment as may be directed or permitted by an appropriate regulatory authority. The costs of services provided to any associate company by EIS or Mechanical Services (and their subsidiaries) will in all cases be comparable to the costs charged to unaffiliated third parties.

Exelon requests a determination that EIS and Mechanical Services may engage in the business described above with ComEd, PECO and Genco pursuant to Rule 87(a)(3) or otherwise. In addition, Exelon requests an exemption under Section 13(b) of the Act from the cost standards of Rules 90 and 91 for EIS and Mechanical Services to provide services to the Utility Subsidiaries at market prices for a period of not longer than 15 months following the date of the Commission's order in this case. The existing arrangements subject to this exemption are described in Exhibit B-3.3. Exelon and EIS will take all steps necessary to develop accounting methods and other safeguards sufficient to ensure that at the end of such 15 month period, to the extent EIS continues to do business with Exelon's utility affiliates that only those costs properly chargeable to those services are included in billings to the utility affiliates. In particular, Exelon will provide that any cost of capital included in "cost" as permitted under Rules 90 and 91 will comply with Commission guidelines.

(f) Public Interest

The Illinois Commission has found, and the Pennsylvania Commission is expected to find in connection with its review of the Merger, that the AIA and the Mutual Services Agreement are reasonable and are in the public interest. The Commission's principal concern under Section 13 of the Act is to protect utility companies in a holding company system from abusive cross-subsidization transactions between associate companies. Since Applicant and its affiliates will not be able to engage in transactions under State law until the Illinois Commission or the Pennsylvania Commission will have found that all the aforementioned contracts are reasonable and are in the public interest, cross-subsidization issues will not arise under these agreements, and each should be permitted to continue./157/ Applicant emphasizes that the bundled

/156/ Pa. C.S. Title 66.

/157/ The Commission is authorized to grant exemptions or waiver of the at cost rules that involve special or unusual circumstances or are not in the ordinary course of business." Section 13(b)(2) of the Act. See Dominion Resources, Inc.,

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Holding Company Act Release No. 35-27113 (Dec. 15, 1999) See also, In Entergy  
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Corporation, Holding Co. Release No. 27040 (June 22, 1999) the Commission

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addressed its flexibility in administering Section 13 in the context of Entergy's Settlement Agreement with several regulators. The Commission allowed Entergy's regulated utilities to provide services to non-utility businesses at cost of service plus five percent. In reaching its decision, the Commission recognized that the Act's statutory provisions afforded the Commission the "necessary flexibility to deal with changing circumstances." The Commission has used this flexibility several times. See, e.g., New England  
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rate distribution customers of ComEd and PECO are protected from increases in rates for proscribed periods because of the rate cap or rate freeze in effect in those States as described elsewhere in this Application-Declaration./158/

(g) Goods and Services to and from Genco at Cost

Genco will be the owner and operator of all the generating stations of Exelon. As owner of Exelon's generating assets, Genco will coordinate the dispatch and sale of Exelon's generation with its purchase of off-system resources. In addition, Genco or its Subsidiaries will hold Exelon's interest in other entities that own and operate generation assets and support the operation of these assets, including the EWG assets of AmerGen and future acquisitions. A significant portion of this portfolio of generating assets are nuclear fueled. While Genco will be a "public-utility company" within the meaning of the Act, it is not subject to State rate regulation and will not have any captive customers - -- its sales will be in competitive markets and at wholesale.

For the nuclear plants owned by Genco or its subsidiaries, the coordinated operation of multiple plants within a larger nuclear organization, rather than as stand-alone plants, offers the potential for greater operational efficiencies and economies of scale. The sharing of best management, safety, maintenance, and operating practices within such an organization, coupled with a diversity of reactor designs and plant locations, also reduces the risk and potential impact of prolonged outages due to technical problems or local regulatory concerns.

One area of particular concern to the Nuclear Regulatory Commission in its regulation of nuclear generating plants is the identity and capabilities of the individuals who will be responsible for nuclear operations and safety. The NRC has found that a key factor in its determination that AmerGen has the technical qualifications to own nuclear plants is the managerial and technical support that PECO currently provides to AmerGen and the sharing of talent and expertise between AmerGen and PECO./159/ These nuclear support functions will be transferred to Genco and, in approving the license transfers associated with the Merger, the NRC will rely upon the continuation of these support services from Genco to, and the sharing of talent and expertise between, AmerGen and Genco.

(continued...)

Electric System, Holding Co. Release No. 22309 (Dec. 9, 1981) (authorizing the price or charter rental of a good or service to be 90% of a market rate); Blackhawk Coal Co., Holding Co. Release. 23834 (Sept. 20, 1985) (authorizing market-based cap on prices paid for coal purchased from coal mining affiliate); Columbus Southern Power Co., Holding Co. Release No. 25326 (June 5, 1991) (authorizing sale of spare at replacement cost); EUA Cogenex Corp., Holding Co. Release No. 26373 (Sept. 14, (authorizing sale goods or services at prices not to exceed market prices ); and EUA Cogenex Corp., Holding Co. Release No. 26469 (Feb. 6, 1996) provision of goods or services at prices not to exceed market prices).

/158/ See Item 3.C.3.

/159/ See In re GPU Nuclear, Inc. (Three Mile Island Unit No. 1), Order Approving Transfer of License and Conforming Amendment, Docket No. 50-289 (April 12, 1999); 64 Fed. Reg. 19,202.

Consequently, Genco has important reasons to seek to share services with AmerGen and future EWGs of Exelon. These services may include such services as engineering and technical support and functions, nuclear fuel procurement and engineering, information systems, licensing, emergency planning, maintenance, quality assurance, management services and support, offsite safety review, and other services beneficial to the efficient operation of Genco and AmerGen generation facilities. These services would involve a substantial number of employees and other resources but will result in the most efficient operation of the Exelon generation function.

Exelon seeks approval pursuant to Rule 87(a)(3) or otherwise for Genco and AmerGen and any future Subsidiary of Genco to provide such services, at cost as defined in Rules 90 and 91, to each other as required for the efficient operation of the generating facilities in the Exelon system.

Genco expects to render to and receive from ComEd and PECO services pertaining to the interface between the generation function conducted by Genco and the transmission and distribution functions provided by ComEd and PECO. These services would be limited to those necessary for the efficient operation of the facilities located at the generating station sites where generating facilities are connected to transmission and distribution facilities --primarily switchyard facilities. In some cases it may be more efficient for Genco employees to conduct maintenance and perform other services on facilities located at the switchyard but which are owned by ComEd or PECO. In other cases, it will be more efficient for ComEd or PECO employees to provide these services. Examples of these services would be preventative, corrective and predictive maintenance services for high voltage electrical equipment from generator output to the point of distribution system interconnection; calibration and repair of station auxiliary power and generation meters; operation of Richmond Frequency Converters; maintain switch house buildings and equipment; environmental cleanup; supply functions; and similar services.

Exelon seeks approval pursuant to Rules 85(a), 87(a)(3) or otherwise for Genco and ComEd and PECO to provide such services to each other, at cost as defined in Rules 90 and 91, as required for the efficient operation of the facilities in the Exelon system.

Finally, ComEd and PECO expect to obtain supply planning services and also to use Genco to assist ComEd and PECO in obtaining energy supply resources from unaffiliated sellers in each case related to the utility's unbundled retail sales and/or wholesale sales to the extent energy supply is not provided by Genco.

Exelon seeks authority for ComEd and PECO and Genco to provide these services to each other, at cost as defined in Rules 90 and 91, as necessary or desirable in the normal operation of their businesses.

#### 5. Phase-In of Compliance with Service Company Requirements.

Exelon expects Exelon Services to be operational on the date the Merger is effective or within 30 days thereafter. However, Exelon seeks authority to delay, for a period not longer than 12 months following the effective date of the Merger, the full implementation of all expected services to be provided by Exelon Services and/or full implementation of required accounting

systems and cost allocation methodologies. Such delay would be to accommodate the need to develop systems to fully implement the desired accounting requirements or for other reasons making full implementation more costly or complex than if a short delay were allowed./162/

D. Approval for Restructurings -- Interim Operations

Exelon expects all approvals as well as Internal Revenue Service rulings as to the tax free nature of the spin-off of the generation businesses of Unicom and PECO to be in place shortly after completion of the Merger (i.e., by year-end 2000). In the event there is a lag of a few months between closing of the Merger and completion of the Genco Restructuring, Exelon would operate during the interim period as follows:

1. Power marketing activities. During the interim period, ComEd and PECO plan to begin integrating the management of their generation portfolio and power marketing operations. They will thus act in concert to market the output of their generation, to supply their loads, and to buy and sell generation of third parties. This will at a minimum involve sharing market information between ComEd and PECO and joint management and consultation with respect to what will be temporarily a "virtual" combined portfolio. It may also involve what could be characterized as brokering services. For example, Power Team -- the marketing arm of PECO which will become part of Genco -- may buy and sell power on behalf of ComEd, and ComEd's counterpart to Power Team - the Wholesale Energy Group - may do so on behalf of Power Team. Power Team may also administer certain power purchase agreements ComEd has to acquire power from the generating units it has recently sold to third parties.

2. Management. Senior management of both ComEd and PECO plan to integrate management of nuclear generation. This will include the Chief Nuclear Officer and his senior management team managing the operations of both ComEd and PECO nuclear generation, as well as AmerGen generation.

3. Services of employees. Employees of both ComEd and PECO will provide services to affiliates. This includes the following:

- . ComEd generation employees working on PECO generation matters, and PECO generation employees working on ComEd generation matters.
- . Employees of ComEd and PECO providing services to affiliates as employees of ComEd and PECO for all or a portion of the interim period.

4. Common procurement. Exelon plans to integrate generation procurement such that a single contract with a vendor can be utilized by ComEd and PECO prior to the restructuring and by Genco after the restructuring.

/162/ The Commission has allowed limited phase-in of the affiliate requirements for companies who are becoming subject to the Act for the first time as a result of a merger. See Dominion Resources, Inc., Holding Company Act Release No. 27113

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(December 15, 1999).



5. Transfer of Goods. There may be transfers of goods and equipment between ComEd and PECO relating to generation activities during the interim period. All equipment related to generation will be transferred to Genco when the Restructuring is consummated.

6. Unicom Energy. Power Team may sell power to Unicom Energy -- a retail energy provider -- during the interim period.

7. Other activities. Exelon will take other reasonable steps to achieve full functional integration of generation operations of ComEd and PECO during the interim period. Legal structure alignment of the integration of those operations will occur when the assets are transferred to Genco and when the Restructurings are completed.

Exelon seeks approval to transfer the utility assets of ComEd and PECO through the creation of subsidiaries, statutory divisions, mergers or other procedures, making of dividends, direct transfer or otherwise so as to achieve the corporate structure described herein. Finally, Exelon seeks approval to engage in necessary intra-system transactions designed to achieve the benefits of the final corporate structure as describe herein pending the completion of the Restructurings such as agreements between ComEd and PECO to facilitate common control of generation and marketing of electricity.

#### Item 4. Regulatory Approvals

Set forth below is a summary of the regulatory approvals that Applicant expects to obtain in connection with the Merger. It is a condition to the consummation of the Merger that final orders relating to the Merger be obtained from the Commission under the Act and from the various Federal and State commissions described below and that those orders not impose terms or conditions which, individually or in the aggregate, could reasonably be expected to have a material adverse affect on Exelon and its prospective subsidiaries taken as a whole or which would be materially inconsistent with the agreements of the parties to the Merger Agreement.

##### A. Antitrust

The HSR Act and the rules and regulations thereunder prohibit certain transactions (including the Merger) until certain information has been submitted to the Antitrust Division of the Department of Justice ("DOJ") and Federal Trade Commission ("FTC") and the specified HSR Act waiting period requirements have been satisfied. Unicom and PECO submitted the Notification and Report Forms and all required information to the DOJ and FTC in January 2000. The waiting period expired in April 2000.

The expiration or earlier termination of the HSR Act waiting period does not preclude the DOJ or the FTC from challenging the Merger on antitrust grounds. Applicant believes that the Merger will not violate Federal antitrust laws.

##### B. Federal Power Act

Section 203 of the Federal Power Act provides that no public utility shall sell or otherwise dispose of its jurisdictional facilities or directly or indirectly merge or consolidate such facilities with those of any other person or acquire any security of any other public utility,

without first having obtained authorization from FERC. Under Section 203 of the Federal Power Act, FERC will approve a merger if it finds that merger "consistent with the public interest." In reviewing a merger, FERC evaluates three factors: (i) whether the merger will adversely affect competition, (ii) whether the merger will adversely affect cost based power or transmission rates, and (iii) whether the merger will impair the effectiveness of regulation. On November 22, 1999, ComEd and PECO filed a combined application with FERC requesting FERC to approve the Merger under Section 203 of the Federal Power Act.

On April 12, 2000, FERC entered its order approving the proposed transactions without imposing any conditions on the Merger. The FERC order is filed as Exhibit D-1.3.

On December 16 and December 22, 1999, PECO and ComEd, respectively, filed separate applications with FERC requesting FERC to authorize the transfer of jurisdictional assets associated with the companies' Restructurings. The Restructurings include plans to establish Genco and to separate generation and marketing from transmission and distribution businesses. FERC was informed that the transfers are expected to occur about the time the Merger becomes effective. On March 17, 2000 and April 12, 2000 FERC entered orders approving the requested transfers. On May 31, 2000, ComEd filed a second application with FERC requesting FERC to authorize the transfer of additional jurisdictional assets associated with the Restructurings. On July 24, 2000 PECO, ComEd, and their public utility affiliates filed an application with FERC requesting authorization for Genco to engage in wholesale power sales at market-based rates, confirmation of market-based rate authority for the existing Exelon public utility subsidiaries, waiver of FERC inter-affiliate power sales transaction pricing rules and code of conduct rules, and acceptance of certain tariffs and rate schedules. On July 24, 2000, PECO and ComEd filed an application with FERC requesting authorization to implement the revised holding company structure described herein.

#### C. Atomic Energy Act

ComEd, PECO and AmerGen hold NRC operating licenses in connection with their ownership and/or operation of various nuclear generating facilities. The operating licenses authorize the holder to own and operate the facilities. The AEA provides that a license or any rights thereunder may not be transferred or in any manner disposed of, directly or indirectly, to any person through transfer of control unless the NRC finds that such transfer is in accordance with the AEA and consents to the transfer. Pursuant to the AEA, ComEd and PECO filed applications with the NRC seeking approval of the license transfer associated with the Merger and the Restructuring. AmerGen has also applied for NRC approval in connection with the transfer of PECO's interest in AmerGen to Genco.

On August 3, 2000, the NRC issued orders approving the proposed transfer of ComEd and PECO licenses to GenCo. These NRC orders are filed as Exhibit D-4.2. The NRC approval of the indirect transfer of the licenses held by AmerGen and for the period of interim operation of the plants prior to completion of the Restructurings are expected in the near future.

#### D. State Public Utility Regulation

ComEd is currently subject to the jurisdiction of the Illinois Commission. PECO is subject to the jurisdiction of the Pennsylvania Commission. Genco, although a "public-utility

company" under the Act will not be a public utility subject to jurisdiction by either the Illinois Commission or the Pennsylvania Commission. PECO has filed an application for approval of the Merger and related matters with the Pennsylvania Commission. ComEd made its required notice filing with the Illinois Commission outlining the terms of the Merger on November 22, 1999.

Further filings have been or will be made with the Illinois Commission and the Pennsylvania Commission regarding the Restructurings.

E. Other

ComEd and PECO possess municipal franchises and environmental permits and licenses (including licenses from the FCC) that they may need to assign or replace as a result of the Merger. ComEd and PECO do not anticipate any difficulties obtaining such assignments, renewals and replacements. Except as set forth above, no other State or local regulatory body or agency and no other Federal commission or agency has jurisdiction over the transactions proposed herein.

Finally, pursuant to Rule 24 under the Act, the Applicant represents that the transactions proposed in this filing shall be carried out in accordance with the terms and conditions of, and for the purposes stated in, the declaration-application no later than August 1, 2000.

Item 5. Procedure

The Commission is respectfully requested to publish, not later than August 18, 2000, the requisite notice under Rule 23 with respect to the filing of this Application-Declaration, such notice to specify a date not later than September 12, 2000, by which comments must have been entered and a date on or after September 12, 2000, as the date when an order of the Commission granting and permitting this Application-Declaration to become effective may be entered by the Commission.

It is submitted that a recommended decision by a hearing or other responsible officer of the Commission is not needed for approval of the Merger. The SEC Staff may assist in the preparation of the Commission's decision. There should be no waiting period between the issuance of the Commission's order and the date on which it is to become effective.

Item 6. Exhibits and Financial Statements

A. Exhibits

Exhibit No.	Description of Document	Method of Filing
A-1	Restated Articles of Incorporation of Exelon	Incorporated by reference to S-4 Registration Statement, Exhibit C-1

Exhibit No.	Description of Document	Method of Filing
A-2	Restated Articles of Incorporation of ComEd effective February 20, 1985, including Statements of resolution Establishing Series, relating to the establishment of three new series of ComEd preference stock known as the "\$9.00 Cumulative Preference Stock," the "\$6.875 Cumulative Preference Stock" and the "\$2.425 Cumulative Preference Stock."	Incorporated by reference; File No. 1-1839, Unicom Form 10-K for the year ended December 31, 1994, Exhibit (3)-2.
A-3	Restated Articles of Incorporation of PECO	Incorporated by reference; File No. 1-1401, PECO 1993 Form 10-K, Exhibit 3-1
B-1	Amended and Restated Agreement and Plan of Exchange and Merger (Merger Agreement)	Incorporated by reference; Annex 1 to Exhibit C-1
B-2	Form of General Services Agreement	Filed March 16, 2000
B-3.1	Affiliated Interest Agreement approved by Illinois Commission.	Filed herewith
B-3.2	Mutual Services Agreement approved by Pennsylvania Commission	Filed herewith
B-3.3	Description of existing agreements under State approved affiliated interest requirements	Filed by amendment
C-1	Registration Statement of Exelon on Form S-4	Incorporated by reference; Registration Statement No. 333-37082.
C-2	Joint Proxy Statement and Prospectus of Unicom and PECO	Incorporated by reference; included in Exhibit C-1
D-1.1	Joint Application of ComEd and PECO to FERC re Merger (excluding exhibits and testimony which Applicant will supply upon request of the Commission)	Filed March 16, 2000
D-1.2	Direct Testimony of Dr. William H. Heironymous (Exhibit No. APP-300 to FERC Joint Application).	Filed March 16, 2000
D-1.3	Order of FERC approving the Merger	Filed June 16, 2000

Exhibit No.	Description of Document	Method of Filing
D-1.4	Application of ComEd to FERC for Authority to Transfer Jurisdictional Assets ("Restructuring Filing") (excluding exhibits and testimony which Applicant will supply upon request of the Commission)	Filed March 16, 2000
D-1.5	Application of PECO to FERC for Authority to Transfer Jurisdictional Assets ("Restructuring Filing") (excluding exhibits and testimony which Applicant will supply upon request of the Commission)	Filed March 16, 2000
D-2.1	Application of PECO before the Pennsylvania Commission regarding the Merger (excluding exhibits and testimony which Applicant will supply upon request of the Commission)	Filed March 16, 2000
D-2.2	Order of the Pennsylvania Commission approving the Merger	Filed herewith
D-2.3	Application of PECO before Pennsylvania Commission regarding Restructuring (excluding exhibits and testimony which Applicant will supply upon request of the Commission)	Filed March 16, 2000
D-2.4	Joint Petition for Settlement before Pennsylvania Commission	Filed herewith
D-3.1	Notice of ComEd to the Illinois Commission regarding the Merger (excluding exhibits and attachments which Applicant will supply upon request of the Commission)	Filed March 16, 2000
D-3.2	Application of ComEd to the Illinois Commission regarding Restructuring (excluding exhibits and testimony which Applicant will supply upon request of the Commission)	Filed March 16, 2000
D-4.1	Applications of PECO, ComEd and AmerGen to the NRC regarding transfer of nuclear generating operating licenses	Filed March 16, 2000 and supplemental filings filed herewith.

Exhibit No.	Description of Document	Method of Filing
D-4.2	Orders of the NRC finding that the transfer of the ComEd and PECO operating licenses in connection with the Merger and Restructurings is in compliance with The Atomic Energy Act and consenting to such transfers	Filed herewith
E-1	Maps of service area and transmission system of ComEd	Filed in paper under Form SE
E-2	Maps electric and gas service areas and transmission system of PECO	Filed in paper under Form SE
E-3	Unicom corporate chart	Filed in paper under Form SE
E-4	PECO corporate chart	Filed in paper under Form SE
E-5	Exelon corporate chart	Filed in paper under Form SE
F-1	Preliminary opinion of counsel to Exelon	Filed by amendment
F-2	Past-tense opinion of counsel to Exelon	Filed by amendment
G-1	Opinion of Wasserstein Perella & Co.	Incorporated by reference; Annex 4 to S-4 Registration Statement, Exhibit C-1
G-2	Opinion of Salomon Smith Barney Inc.	Incorporated by reference; Annex 3 to S-4 Registration Statement, Exhibit C-1
G-3	Opinion of Morgan Stanley & Co.	Incorporated by reference; Annex 2 to S-4 Registration Statement, Exhibit C-1
H-1	Annual Report of Unicom on Form 10-K for the year ended December 31, 1999	Incorporated by reference, File No. 1-11375
H-2	Annual Report of PECO on Form 10-K for the year ended December 31, 1999	Incorporated by reference, File No. 1-1401
H-3	Quarterly Reports of Unicom on Form 10-Q for the quarters ended March 31, 2000 and June 30, 2000	Incorporated by reference, File No. 1-11375
H-4	Quarterly Reports of PECO on Form 10-Q for the quarters ended March 31, 2000 and June 30, 2000	Incorporated by reference, File No. 1-1401
I-1	List and Description of Subsidiaries and Investments Of Unicom Corporation (Other than "Public-Utility" Companies) (updated as of August, 2000)	Filed herewith

Exhibit No.	Description of Document	Method of Filing
I-2	List and Description of Subsidiaries and Investments Of PECO Energy (Other than "Public-Utility" Companies) (updated as of August, 2000)	Filed herewith
J-1	Analysis of the Economic Impact of a Divestiture of the Gas Operations of PECO Energy Company	Filed March 16, 2000
K-1	Analysis of How the Interconnection Requirement of PUHCA is Satisfied by OATTs and OASIS ("Interconnection Analysis")	Filed March 16, 2000
L-1	Form of Notice of filing	Filed by amendment

#### B. Financial Statements

Statement No.	Description	Method of Filing
FS-1	Historical consolidated financial statements of Unicom	Incorporated by reference to Annual Reports on Form 10-K for the years ended 1999, 1998 and 1997 and Quarterly Reports on Form 10-Q for the quarters ended March 31, 2000 and June 30, 2000
FS-2	Historical consolidated financial statements of PECO	Incorporated by reference to Annual Reports on Form 10-K for the years ended 1999, 1998 and 1997 and Quarterly Reports on Form 10-Q for the quarters ended March 31, 2000 and June 30, 2000
FS-3	Unaudited Pro Forma Financial Statements of Exelon, giving effect to the Merger	Incorporated by reference; S-4 Registration Statement, Exhibit C-1

#### Item 7. Information as to Environmental Effects

The Merger neither involves "major federal actions" nor "significantly [affects] the quality of the human environment" as those terms are used in Section (2)(C) of the National Environmental Policy Act, 42 U.S.C. Sec. 4332. The only Federal actions related to the Merger pertain to the Commission's declaration of the effectiveness of the Joint Registration Statement, the approvals and actions described under Item 4 and Commission approval of this Application-Declaration. Consummation of the Merger will not result in changes in the operations of Unicom, ComEd or PECO that would have any impact on the environment. No Federal agency is preparing an environmental impact statement with respect to this matter.

SIGNATURE

Pursuant to the requirements of the Public Utility Holding Company Act of 1935, the undersigned company has duly caused this amendment to Application-Declaration to be signed on its behalf by the undersigned thereunto duly authorized.

EXELON CORPORATION

Date: August 21, 2000

BY: /S/ Corbin A. McNeill, Jr.  
-----

Name: Corbin A. McNeill, Jr.  
Title: Chairman, Chief Executive Officer  
and President



AFFILIATED INTERESTS AGREEMENT

Dated as of December 4, 1995

Among

Unicom Corporation

Commonwealth Edison Company

And

Each of the Entities Identified on Exhibit A Hereto

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AFFILIATED INTERESTS AGREEMENT

THIS AFFILIATED INTERESTS AGREEMENT (this "Agreement") is made and entered into as of the 4th day of December, 1995, among Unicom Corporation, an Illinois corporation ("Unicom"), Commonwealth Edison Company, an Illinois corporation ("ComEd"), and each of the entities identified on Exhibit A hereto, as such Exhibit A may be amended from time to time in accordance with the provisions of this Agreement.

W I T N E S S E T H:

WHEREAS, the parties are related by virtue of common ownership, directly or indirectly, of their equity securities by Unicom; and

WHEREAS, the parties believe that the central management of certain services, the provisions to each other of certain services and facilities, and the transfer of certain property are or may be efficient and cost-effective, and the parties desire to make provision for these and other transactions as between ComEd and a Unicom Entity or Entities;

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants contained herein, the parties hereby agree as follows:

ARTICLE I  
Definitions and Interpretation  
-----

Section 1.1. Definitions. As used in this Agreement, the following terms shall have the respective meanings set for the below unless the context otherwise requires:

"Acquiring Party" means a Party who desires to acquire real property, interests in real property, tangible personal property or Intangible Assets from a Selling party.

"ICC" means the Illinois Commerce Commission.

"Intangible Assets" mean, for the purposes of this Agreement, items for which costs have been incurred to create future economic benefits that have not been recorded as assets on the Selling party's financial statements. Intangible Assets include, but are not limited to, operational activities or intellectual property derived from internal research and development efforts.

"Investment Guidelines" means the investment guidelines attached hereto as Exhibit B, as such Exhibit may be amended from time to time with the approval of the ICC.

"Party" means each, and "Parties" means all, of the entities who are from time to time a party to this Agreement.

"Provider" means a Party who has been requested to, and who is able and willing to, furnish facilities, provide services or both to a Requestor under the terms of this Agreement.

"Requestor" means a Party who desires to use facilities, receive services or both, and has requested another Party to furnish such facilities, provide such services or both.

"Selling Party" means a Party who is willing to sell and transfer real property, interests in real property, tangible personal property of Intangible Assets to an Acquiring Party.

"Tax Sharing Agreement" means the Unicom Group Income Tax Allocation Agreement attached to this Agreement as Exhibit C, as such Exhibit may be amended from time to time with the approval of the ICC.

"Unicom Entity" means any of Unicom and the entities identified on Exhibit A.

Section 1.2. Purpose of Intent; Interpretation. (a) The purposes and intent of this Agreement are to set forth procedures and policies to govern (i) transactions between a Unicom Entity and ComEd, whether such transactions occur directly or indirectly as the end result of a series of related transactions and (ii) the allocation of certain joint service costs. It is not intended to govern transactions between Unicom Entities, although such entities may elect to apply the provisions of this Agreement to specific transactions, or to govern transactions between ComEd and its subsidiaries. This Agreement shall be interpreted in accordance with such purposes and intent.

(b) The headings of Articles and Sections contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. References to Articles, Sections and Exhibits refer to articles, sections and exhibits of this Agreement unless otherwise stated. Words such as "herein", "hereinafter", "hereof", "hereto", "hereby" and "hereunder", and words of like import, unless the context requires otherwise, refer to this Agreement (including the Exhibits hereto).

ARTICLE II  
Use of Facilities and Services  
-----

Section 2.1. Facilities. Upon the terms and subject to the conditions of this Agreement, a Requestor may request a Provider or Providers to make available or provide, and, subject to the provisos at the end of this Section, such Provider or Providers shall make available or provide to such Requestor, the use of:

(a) facilities, including, without limitation, office space, warehouse and storage space, transportation facilities (including, without limitation, dock and port facilities, rail sidings and truck facilities), repair facilities, manufacturing and production facilities, fixtures and office furniture and equipment;

(b) computer equipment (both stand-alone and mainframe) and networks, peripheral devices, storage media, and software;

(c) communications equipment, including, without limitation, audio and video equipment, radio equipment, telecommunications equipment and networks, and transmission and switching capability;

(d) vehicles, including, without limitation, automobiles, trucks, vans, trailers, railcars, marine vessels, transport equipment, material handling equipment and construction equipment; and

(e) machinery, equipment, tools, parts and supplies;

provided, however, that a Provider shall have no obligation to provide any of the foregoing to the extent that such item or items are not available (either because such Provider does not possess the item or the item is otherwise being used); and provided further, it is understood that a Provider has sole discretion in scheduling the use by a Requestor of facilities, equipment or capabilities so as to avoid interference with such Provider's operations.

Section 2.2. Services. Upon the terms and subject to the conditions of this Agreement, a Requestor may request a Provider or Providers to provide, and, subject to the provisos at the end of this Section, such Provider or Providers shall provide to such Requestor:

(a) Administrative and management services, including, without limitation, accounting (including, without limitation, bookkeeping, billing, accounts receivable administration and accounts payable administration, and financial reporting); audit; executive; finance; insurance; information systems services;

investment advisory services; legal; library; record keeping; secretarial and other general office support; real estate management; security holder services; tax; treasury; and other administrative and management services;

(b) personnel services, including, without limitation, recruiting; training and evaluation services; payroll processing; employee benefits administration and processing; labor negotiations and management; and related services;

(c) purchasing services, including, without limitation, preparation and analysis of product specifications, requests for proposals and similar solicitations; vendor and vendor-product evaluations; purchase order processing; receipt, handling, warehousing and disbursement of purchased items; contract negotiation and administration; inventory management and disbursement; and similar services; and

(d) operational services, including, without limitation, drafting and technical specification development and evaluation; consulting; engineering; environmental; nuclear; construction; design; resource planning; economic and strategic analysis; research; testing; training; customer solicitation, support and other marketing related services; public and governmental relations; and other operational services;

provided, however, that a Provider shall have no obligation to provide any of the foregoing to the extent that it is not capable of providing such service (either because such Provider does not have personnel capable of providing the requested service or the service is otherwise being used); and provided further, it is understood that a Provider has sole discretion in scheduling the use by a Requestor of services so as to avoid interference with such Provider's operations.

Section 2.3. Joint Purchasing. A party may also request that another Party or Parties enter into arrangements to effect the joint purchase of goods or services from third parties; provided, however, that if ComEd is so requested to enter into or to participate in such arrangements, it shall do so only if its fully distributed cost for such goods or services is not thereby increased; and provided further, that no Party shall be required to purchase a service which it is otherwise capable of providing or obtaining. In the event that any such arrangements are established, one Party may be designated as, or serve as, agent for the other Parties to the arrangement and may administer the arrangement (including billing and collecting amounts due the vendor(s)) for the other Parties.

Section 2.4. Cash Management. The Parties may enter into one or more arrangements providing for the central collection, management, investment and disbursement of cash by a Party. If such an arrangement is established, then:

(a) the Parties participating in such arrangement shall establish appropriate intercompany accounts to track the amount of cash transferred and/or received by each Party to such arrangement and the pro rata portion of the earnings received by each such party from the investment of cash;

(b) the Party responsible under the arrangement for the management and investment of such cash shall establish a separate account or accounts for such purpose, which account(s) and the records associated therewith shall clearly indicate that other Parties have an interest in said account(s) and the proceeds thereof and shall not be subject to set-off by the bank or other institution holding the same except to the limited extent of expenses arising from the management, handling and investment of the account(s); and

(c) if and to the extent that an account contains cash received from ComEd, such account may be invested, and reinvested, in the investments described in the Investment Guidelines, subject, however, to the need to maintain suitable liquidity in such account in order to meet the cash needs of the Parties participating in the arrangement; it being understood that the Investment Guidelines shall not be the exclusive means by which cash of Parties other than ComEd may be invested.

Section 2.5. Tax Sharing. Each Party who is eligible to be included in a consolidated tax return filing by Unicom shall, by virtue of this Section 2.5, be deemed a party to, and shall observe and comply with the provisions of, the Tax Sharing Agreement.

Section 2.6. Agreements, Etc. A Provider and Requestor may evidence their agreement with respect to the availability, provision or use of the facilities, services and activities described in this Article II by entering into an agreement, lease, license or other written memorandum or evidence; provided such agreement, lease, license or other written memorandum or evidence shall not contain terms inconsistent with this Agreement; and further provided that this Section 2.6 shall not be deemed to require any such agreement, lease, license or other written memorandum or evidence.



ARTICLE III  
Asset Sales  
-----

Section 3.1. Real Property Transfers. Upon the terms and subject to the conditions of this Agreement, an Acquiring Party may purchase from a Selling Party, and the Selling Party may sell to the Acquiring party, real property or interests in real property; provided, however, that the value of the real property or interests in the real property proposed to be transferred (as such value is determined in accordance with Section 5.1(a)) shall not exceed \$300,000/(AMENDMENT 1)/ without approval of the specific agreement by the ICC.

Section 3.2. Tangible Personal Property. Upon the terms and subject to the conditions of this Agreement, an Acquiring Party may purchase from a Selling Party, and the Selling Party may sell to the Acquiring Party, tangible personal property; provided, however, that the value of the tangible personal property proposed to be transferred (as such value is determined in accordance with Section 5.1(a)) shall not exceed \$300,000 without approval of the specific agreement by the ICC (it being understood that the foregoing limitation shall not apply to the transfer of tangible personal property by ComEd which is not necessary or useful to ComEd in the performance of its duties to the public); and provided further, that this Section 3.2 shall not apply to joint purchasing arrangements (and the transactions thereunder) entered into pursuant to Section 2.3 of this Agreement.

Section 3.3. Intangible Assets. Subject to approval by the ICC of the specific agreement, an Acquiring Party may enter into an agreement with a Selling Party to purchase, and the Acquiring Party may purchase from the Selling Party and the Selling Party may sell to the Acquiring Party pursuant to such agreement, Intangible Assets. Any such Intangible Assets shall be valued in accordance with Section 5.1(c).

Section 3.4. Unicom Stock. Upon the terms and subject to the conditions of this Agreement, Unicom may issue and sell to ComEd shares of Unicom's Common Stock for the sole purpose of enabling ComEd to meet its obligations to its directors and employees in respect of compensation (it being understood that ComEd would cause any shares so purchased and received to be reissued to such directors or employees in payment of such compensation obligations).

Section 3.5. Agreements, Etc. An Acquiring Party and a Selling Party may evidence their agreement with respect to the sale of real property and/or tangible personal property described in Sections 3.1 or 3.2 by entering into an agreement or other written

memorandum or evidence; provided such agreement or other written memorandum or evidence shall not contain terms inconsistent with this Agreement; and further provided that this Section 3.5 shall not be deemed to require any such agreement or other written memorandum or evidence.

ARTICLE IV  
Charges; Payment  
-----

Section 4.1. Charges. (a) Charges for the use of facilities, equipment, capabilities or services under Sections 2.1 and 2.2 shall be determined in accordance with Section 5.1(b); charges for assets sold and transferred under Sections 3.1, 3.2 and 3.4 shall be determined in accordance with the provisions of Section 5.1(a); and charges for assets sold and transferred under Section 3.3 shall be determined in accordance with the provisions of Section 5.1(c). By requesting the use of facilities, equipment, capabilities and/or services, a Requestor shall be deemed to have agreed to pay, and shall pay, to the Provider or Providers the charge determined therefor in accordance with Section 5.1(b). By acquiring real property, interests therein, tangible personal property or Intangible Assets in accordance with the provisions of Article III, an Acquiring Party shall be deemed to have agreed to pay, and shall pay, to the Selling Party the charge determined therefor in accordance with Section 5.1(a) or, in the case of Intangible Assets, Section 5.1(c).

(b) Charges related to arrangements under Section 2.3 for the joint purchase of goods or services shall be determined in accordance with Section 5.1(a), in the case of asset transfers, and Section 5.1(b), in the case of services and overhead, administrative and other costs.

(c) Charges of third parties related to the establishment and operation of any account or accounts established under Section 2.4 and the investment of the proceeds, and the earnings resulting from the investment thereof, shall be allocated to the Parties participating therein based upon the daily balance of cash maintained by each Party in such account or accounts. Charges related to the administration of the account by a Party's personnel shall be determined in accordance with Section 5.1(b).

Section 4.2. Accounting. Each Party shall maintain adequate books and records with respect to the transactions subject to this Agreement and shall establish unique function numbers in its general ledger system which shall be used to record the costs to be apportioned to the other Parties. Each Party shall be responsible for maintaining internal controls to ensure the costs associated with transactions covered by this Agreement are properly and consistently allocated and billed in accordance with the terms and provisions of this Agreement.

Section 4.3. Invoicing, Payment. Invoicing and payment for the facilities and services specified in Article II, the asset sales specified in Article III or the joint services costs specified in Section 5.3(a) shall be as follows:

(a) for the use of facilities, equipment or capabilities specified in Section 2.1 or the provision of services specified in Section 2.2, a Provider shall invoice the Requestor on a monthly basis for the charges therefor as provided in Section 4.1(a), and such invoices shall be payable within thirty days of receipt;

(b) for joint purchasing arrangements specified in Section 2.3, a party participating in any such arrangement shall be invoiced for charges as provided in Section 4.1(b), which invoices will be payable according to the terms set by the vendor(s) providing the purchased goods or services, or if a Party has been selected to administer such arrangement, pursuant to invoices rendered by such Party or the vendor of the good or services, which invoices will be payable no later than thirty days after receipt;

(c) for cash management activities under Section 2.4, (i) the party responsible for administering the activities shall invoice the other participating Parties for the charges therefor as provided in Section 4.1(c), which invoices shall be payable within thirty days of receipt, or (ii) the charges for such activities may be offset against the cash amounts held thereunder, provided a written statement of such charges and the amount of the offset is provided to the participating Parties monthly;

(d) for the tax sharing arrangement specified in Section 2.5, charges and payments shall be made as provided in the Tax Sharing Agreement;

(e) for the sale of real property or interests in real property specified in Section 3.1, the Acquiring Party shall pay the charges therefor as provided in Section 4.1(a) to the Selling Party upon the closing of the sale and transfer of such real property or interests therein;

(f) for the sale of tangible personal property specified in Section 3.2, the Selling Party shall invoice the Acquiring Party for the charges therefor as provided in Section 4.1(a), and such invoices shall be payable within thirty days of receipt;

(g) for the transfer of Unicom Common Stock specified in Section 3.4, ComEd shall pay the charges therefor as provided in Section 4.1(a) and such

payment shall be made to Unicom concurrently with the issuance and delivery of the shares of such stock; and

(h) for joint service costs under Section 5.3(a), Unicom shall invoice the other Parties for such costs as provided in Section 5.3(c), and such invoices shall be payable within thirty days of receipt.

Late payments shall bear interest at a rate per annum equal to the rate of interest announced from time to time by The First National Bank of Chicago as its "corporate base rate," and such interest shall be based on the period of time that the payment is late.

ARTICLE V  
Cost Apportionment Methodology  
-----

Section 5.1. General Principles. The following general principles shall be used in setting charges for transactions between ComEd and Unicom Entities:

(a) Sales of Assets. Asset sales between ComEd and a Unicom Entity shall be charged by the Selling Party to the Acquiring Party at: (i) the fair market value of the transferred asset, as evidenced by (1) the prevailing price for which the same or similar assets are offered for sale to the general public by the Selling Party (e.g., for ComEd, the tariffed charge or other pricing mechanism approved by the ICC) or, if no such prevailing price exists, (2) the price at which nonaffiliated vendors offer the same or similar assets for sale by reference to quoted market prices, independent appraisals or other objectively determinable evidence or, if no such fair market value is objectively or practicably determinable, (ii) the historical cost of the asset to the Selling Party, less all applicable valuation reserves.

(b) Use of Facilities or Services.

(i) Facilities or services provided by ComEd to a Unicom Entity shall be charged by the Provider to the Requestor at: (1) the prevailing price for which the facility or service is provided for sale to the general public by the Provider (i.e., the tariffed rate or other pricing mechanism approved by the ICC) or, if no such prevailing price exists, (2) the fully distributed cost (determined as provided in Section 5.2) incurred by the Provider in providing such facility or service to the Requestor.

(ii) Facilities or services provided by a Unicom Entity to ComEd shall be charged by the Provider to the Requestor at: (1) the prevailing price for which the facility or service is provided for sale to the general public by

the Provider (i.e., the price charged to nonaffiliates if such transactions with nonaffiliates constitute a substantial portion of such Unicom Entity's total revenues from such transactions) or, if no such prevailing price exists, (2) an amount not to exceed the fully distributed cost (determined as provided in Section 5.2) incurred in providing such facility or service.

(c) Sales of Intangible Assets. Intangible Asset sales between ComEd and a Unicom Entity shall be charged by the Selling Party to the Acquiring Party (i) under a mechanism to reflect the fair market value of the asset as determined by an appraisal or other fair market value study or, if no such fair market value is objectively or practicably determinable, (ii) at the fully distributed cost incurred to purchase or develop the asset, adjusted to reflect imputed depreciation of, if applicable, and carrying costs on the unrecorded asset.

Costs shall be charged to a Party in accordance with these general principles using either a direct charge or an allocation methodology. Costs of assets or services specifically attributable to a Party should be charged directly to such Party. Joint and common costs not specifically attributable to a Party should be charged to the appropriate Parties based on specific allocation methodologies. The Parties intend to develop and implement a set of guidelines to address applications of the foregoing general principles.

Section 5.2. Fully Distributed Costs. Costs charged on a fully distributed cost basis shall reflect the amounts of direct labor, direct materials and direct purchased services associated with the related asset or service as provided in subsections (a) and (b). These amounts shall be increased by a portion of indirect costs to reflect labor, administrative and general and other overhead amounts as provided in subsection (c).

(a) Direct Costs. Costs incurred that are specifically attributable to a Party shall be directly charged to the appropriate function.

(i) Direct Labor. Amounts of direct labor charged to a Party shall be based on an employee's actual direct labor rate, reflecting the effects of overtime and non-productive time.

For most employees, direct labor shall be charged to a Party under a positive time reporting methodology under which an employee shall report each pay period the number of hours incurred in performing activities for such Party. Based on the time reported each pay period, the regular, predetermined account distribution for the employee shall be adjusted to reflect the distribution of direct labor charges to the appropriate affiliate function.

Some departments or organizations are expected to provide a recurring, predictable level of services to a Party or Parties. For these departments or organizations, annual reviews shall be performed to determine a normal distribution of time to such Party or Parties. The distribution percentages derived from such reviews shall then be used to allocate time with respect to each pay period. For these departments or organizations, direct labor shall be charged to a Party or Parties under an exception time reporting methodology. That is, significant deviations of actual activity from these predetermined percentages shall be reported and shall result in adjustments to the predetermined distribution of direct labor charges to the affiliate functions.

Officers of each Party shall also utilize an exception time reporting methodology. Distribution percentages derived from an annual review for each Officer shall be used to allocate time with respect to each pay period. Significant deviations of actual activity from the predetermined percentages shall be reported and shall result in adjustments to the predetermined distribution of direct labor charges to the affiliate functions.

Overtime shall be reflected in the direct labor rates charged to a Party. For bargaining unit employees, direct labor shall be charged based on the base and overtime pay amounts actually incurred under a Party's collective bargaining agreements. Likewise, for management employees who are compensated for overtime, direct labor shall be charged based on the actual pay amounts incurred for such employees, including overtime. For management employees not compensated for overtime, direct labor charges to affiliates shall be adjusted, on a departmental or organizational basis, to reflect estimated overtime incurred based on an overtime review performed annually.

All direct labor charges shall be increased by a factor to reflect nonproductive time. The nonproductive time factor shall be developed annually based on a review of actual nonproductive time incurred for the previous year. The nonproductive time factor reflects time incurred for training, vacations, holidays, disability, jury duty and other paid absences.

(ii) Direct Materials and Purchased Services. Amounts incurred for materials or purchased services directly attributable to a Party shall be charged directly to the appropriate function for that Party using standard voucher account distribution procedures.

(iii) Costs of Facilities, Equipment, Machinery, Furniture and Fixtures. The costs allocated to any Party for the use of a Party's facilities, equipment, machinery, furniture or fixtures shall include an amount to reflect the cost of such assets (e.g., depreciation, operations, maintenance, etc.) and, for owned assets or assets leased under capital leases, a return equal to the rate of return on rate base most recently allowed to ComEd by the ICC.

(b) Allocated Costs. Costs incurred that are not specifically attributable to a Party but that have joint benefit to two or more Parties shall be charged to the appropriate functions based on specified allocation methodologies. The allocation methodologies used shall be reasonably based on cost causative measures to ensure an equitable allocation among such Parties.

(c) Indirect Costs. The direct and allocated costs apportioned to a Party or Parties shall be increased to reflect indirect labor, administrative and general and other overhead amounts. These indirect costs are not specifically identifiable or attributable to the direct costs incurred on behalf of a Party.

(i) Labor Loading. All direct labor charges apportioned to a Party (either apportioned directly or using an allocation methodology) shall be increased by a loading factor to reflect indirect labor-driven costs. For each Party, this loading factor shall be determined annually based on actual indirect labor-driven charges incurred during the prior year as a percentage of total direct labor charges incurred in that year. The labor loading rate pool shall include payroll taxes; medical, dental and vision insurance costs; pension and other postretirement health care benefits costs; incentive compensation plan costs; employee savings plans' costs; and other labor-driven costs such as payroll department, employee benefits department, mailroom, office facilities and non-customer related postage costs.

(ii) Information Systems Loading. All direct labor costs apportioned to a Party shall be increased by a loading factor to reflect information systems related costs associated with mainframe and local area network usage and operations, hardware and software costs and telecommunications services. For each Party, this loading factor shall be based on the actual costs incurred during the prior year as a percentage of the corresponding actual total direct labor charges incurred in that year.

(iii) Common Costs Loading. All direct labor, direct materials, direct purchased services and indirect labor costs (including the information systems loading amounts) apportioned to a Party shall be increased by a

loading factor to reflect administrative and general and other overhead amounts, including the overhead costs of each Party's information systems function. For each Party, this loading factor shall be determined annually based on actual administrative and general and other overhead charges incurred during the prior year as a percentage of actual total operations and maintenance expense incurred in that year. The common costs loading rate pool shall include costs for departments that support other departments that provide services directly to a Party. In ADDITION to the general and administrative costs of the information systems function, representative costs in the common costs pool shall include printing and duplicating services, forms and office supplies, communications services, library services and other similar costs.

Section 5.3. Costs Charged to/from Unicom. Unicom shall maintain unique function numbers in its general ledger system: Consolidated Pool functions (as described in Section 5.3(a)) and Unallocated Pool functions (as described in Section 5.3(b)). All apportioned and billed to Unicom by other Parties shall be charged to one of these two types of functions.

(a) Consolidated Pool. The Consolidated Pool shall be charged with costs related to activities that jointly benefit all of the Parties. Each month, the costs accumulated in the Consolidated Pool shall be apportioned and billed to the Parties (other than Unicom) using a two /(AMENDMENT 1)/ factor formula methodology. A representative listing of the types of services for which costs shall be charged to the Consolidated Pool is as follows:

- Corporate Services
  - Graphics
  - Library
  - Mail
  - Office and Building
  - Word Processing
- Financial and Accounting Services
- Information Systems
- Investor Relations
- Legal
- Procurement
- Regulatory
- Risk Management
- Secretary's Office
- Shareholder Services



(b) Unallocated Pool. The Unallocated Pool shall be charged with costs that have been determined as not appropriate for apportionment by Unicom to the other Parties. These costs primarily relate to Unicom's diversification, political and philanthropic activities. A representative listing of the types of services for which costs shall be charged to the Unallocated Pool is as follows:

- Advertising
- Corporate Relations
- Philanthropy
- Political Advocacy
- Public Relations
- Diversification Efforts (i.e., new business development)
- Marketing
- Research and Development
- Strategic Analysis

(c) Two Factor Formula Methodology. Monthly, costs charged to the Consolidated Pool shall be apportioned and billed by Unicom to the other Parties based on a two factor formula methodology. Under this approach, each such Party is allocated and billed for a portion of the total costs in the Consolidated Pool based on an average of such Party's gross payroll and total asset amounts relative to the corresponding averages for the other parties. To adjust for seasonality in operations, the gross payroll amount used in this allocation shall be the most recent twelve-month period for which such figure is available. The total asset amount shall reflect the average total assets for the month being allocated. Total assets shall include, without limitation, cash, investments, accounts receivable, the net book value of property, plant and equipment and nuclear fuel, coal and material and supplies inventories, as applicable. /(AMENDMENT 1)/

ARTICLE VI  
Limitations of Liability  
-----

Section 6.1. No Warranties for Facilities or Services. Each Party acknowledges and agrees that any facilities, equipment or capabilities made available, and any services provided, by a Provider to a Requestor hereunder, are so made available or provided WITHOUT ANY WARRANTY (WHETHER EXPRESS, IMPLIED OR STATUTORY AND NOTWITHSTANDING ANY ORAL OR WRITTEN STATEMENT BY A PARTY'S EMPLOYEES, REPRESENTATIVES OR AGENTS TO THE CONTRARY) WHATSOEVER. ALL SUCH WARRANTIES (INCLUDING, WITHOUT LIMITATION, THE WARRANTIES OF MERCHANTABILITY AND

FITNESS FOR A PARTICULAR PURPOSE) ARE HEREBY DISCLAIMED AND EXCLUDED.

Section 6.2. Limited Warranties For Asset Sales. (a) Except as provided in Section 6.2(b), each Party acknowledges and agrees that any real property, interests in real property, tangible personal property or Intangible Assets sold and transferred in accordance with Article III is so sold and transferred WITHOUT ANY WARRANTY (WHETHER EXPRESS, IMPLIED OR STATUTORY AND NOTWITHSTANDING ANY ORAL OR WRITTEN STATEMENT BY A SELLING PARTY'S EMPLOYEES, REPRESENTATIVES OR AGENTS TO THE CONTRARY) WHATSOEVER. ALL SUCH WARRANTIES (INCLUDING, WITHOUT LIMITATION, THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE) ARE HEREBY DISCLAIMED AND EXCLUDED.

(b) In connection with a sale and transfer of real property, interests in real property, tangible personal property or Intangible Assets pursuant to Article III, the Selling Party shall be deemed to have represented and warranted to the Acquiring Party that: (i) title conveyed is good, (ii) conveyance of such title is authorized and rightful, and (iii) the title so conveyed is free and clear of all liens, claims, encumbrances or security interests of persons or entities claiming by or through the Selling Party, except, in the case of this clause (iii), as the Acquiring Party and the Selling Party may otherwise agree.

Section 6.3. No Partnership. The Parties acknowledge and agree that this Agreement does not create a partnership between, or a joint venture of, a Party and any other Party. Each Party is an independent contractor and nothing contained in this Agreement shall be construed to constitute any Party as the agent of any other Party except as expressly set forth in Sections 2.3 and 2.4.

Section 6.4. No Third Party Beneficiaries. This Agreement is intended for the exclusive benefit of the Parties hereto and is not intended, and shall not be deemed or construed, to create any rights in, or responsibilities or obligations to, their parties.

#### ARTICLE VII

##### Term

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Section 7.1. Term. This Agreement will be effective on the date it is approved by the ICC and shall continue, unless terminated as provided in Section 7.2 or renewed as hereinafter provided, until the tenth anniversary of such date (the "Initial Term"). Unless written notice that this Agreement shall terminate on the last day of the Initial Term or any then current renewal term is provided by a Party at least 30 days prior to the expiration of the Initial Term or such renewal term, this Agreement shall continue

for successive renewal terms of five years as to such Party and any other Parties not providing any such termination notice.

Section 7.2. Termination. Any Party may terminate this Agreement as to it by providing at least 30 days prior written notice to the other Parties of the effective date of such termination. In addition, this Agreement shall terminate as to a Party upon the date that Unicom determines that such Party shall no longer be a party to this Agreement and shall automatically terminate as to a Party upon the date that Unicom ceases, directly or indirectly, to own equity securities in such Party. Any such termination shall not affect the terminating Party's accrued rights and obligations under this Agreement arising prior to the effective date of termination or its obligations under Section 9.4.

Section 7.3. Tax Sharing Agreement. Notwithstanding anything to the contrary in Sections 7.1 or 7.2, a Party shall continue to be bound by the provisions of the Tax Sharing Agreement until the earlier of (i) the termination of the Tax Sharing Agreement, as provided in PART C.II.D ("Amendment and Termination") of the Tax Sharing Agreement or (ii) the time at which such Party is not permitted, under applicable law, to be a "Member" or an "Included Member," as those terms are defined in the Tax Sharing Agreement.

ARTICLE VIII  
Confidential Information  
-----

Each Party shall treat in confidence all information which it shall have obtained regarding the other Parties and their respective businesses during the course of the performance of this Agreement. Such information shall not be communicated to any person other than the Parties to this Agreement, except to the extent disclosure of such information is required by a governmental authority. If a Party is required to disclose confidential information to a governmental authority, such Party shall take reasonable steps to make such disclosure confidential under the rules of such governmental authority. Information provided hereunder shall remain the sole property of the Party providing such information. The obligation of a Party to treat such information in confidence shall not apply to any information which (i) is or becomes available to such Party from a source other than the Party providing such information, or (ii) is or becomes available to the public other than as a result of disclosure by such Party or its agents.

ARTICLE IX  
Miscellaneous  
-----

Section 9.1. Entire Agreement; Amendments. Upon its effectiveness as provided in Section 7.1, this Agreement shall constitute the sole and entire agreement among the Parties with respect to the subject matter hereof and shall supersede all previous agreements, proposals, oral or written, negotiations, representations, commitments and all other communications between some or all of the Parties. Except as provided in Section 9.2 with respect to new Parties and except that Unicom may amend Exhibit A to this Agreement to delete any terminated Party, this Agreement shall not be amended, modified or supplemented except by a written instrument signed by an authorized representative of each of the Parties hereto.

Section 9.2. New Parties. Any other entity which is or may become an affiliate of Unicom or any of the other Parties to this Agreement may become a party to this Agreement by executing an agreement adopting all of the terms and conditions of this Agreement. Such agreement must be signed by Unicom in order to become effective, but need not be signed by any other Party to this Agreement. Upon such execution by Unicom, such entity shall be deemed to be a Party and shall be included within the definition of "Party" for all purposes hereof, and Exhibit A shall be amended to add such entity. Before such execution by Unicom, ComEd shall provide the staff of the ICC with thirty days' notice that another Party will be added to this Agreement. /(ALSO SEE ATTACHED STIPULATION)/

Section 9.3. Assignment. This Agreement may not be assigned by any party without the prior written consent of Unicom.

Section 9.4. Access to Records. During the term of this Agreement and for a period of seven years after the expiration or termination of this Agreement as to a Party, such Party shall have reasonable access to and the right to examine any and all books, documents, papers and records which pertain to services and facilities provided by the other Parties under this Agreement to such Party, and such Party shall provide access to, and the opportunity to examine, all such records which pertain to services and facilities provided to the other Parties under this Agreement by such Party. Each Party shall maintain all such records for a period of seven years after expiration or termination of this Agreement as to such Party. In addition, during the term of this Agreement and for a period of seven years after the expiration or termination of this Agreement as to a Unicom Entity, the ICC shall have access to the books and records of such Unicom Entity as set forth in the Order entered by the ICC in Docket No. 95-0615 on March 12, 1997.

/(AMENDMENT 1)/

Section 9.5. Partial Invalidity. Wherever possible, each provision hereof shall be interpreted in such manner as to be effective and valid under applicable law, but in case any one or more of the provisions contained herein shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such provision shall be ineffective to the extent, but only to the extent, of such invalidity, illegality or unenforceability without invalidating the remainder of such invalid, illegal or unenforceable provision or provisions or any other provisions hereof, unless such a construction would be unreasonable. In the event that it is determined that the charges for a particular transaction covered by this Agreement were not determined properly for any reason, such determination and/or finding shall not affect the validity of such transaction; provided, however, that if the transaction involved ComEd and a Unicom Entity, Unicom (or, if Unicom so determines, such Unicom Entity) shall pay to or reimburse ComEd, or ComEd shall pay to or reimburse such Unicom Entity, as the case may be, for the difference between the amount that was charged in connection with the transaction and the charge that is determined to be proper under the provisions of Article V.

Section 9.6. Waiver. Failure by any Party to insist upon strict performance of any term or condition herein shall not be deemed a waiver of any rights or remedies that such Party may have against any other Party nor in any way to affect the validity of this Agreement or any part hereof or the right of such Party thereafter to enforce each and every such provision. No waiver of any breach of this Agreement shall be held to constitute a waiver of any other or subsequent breach.

Section 9.7. Governing Law. This Agreement shall be governed by, construed and interpreted pursuant to, the laws of the State of Illinois.

IN WITNESS WHEREOF, the Parties have each caused this Agreement to be executed by a duly authorized representative as of the day and year first above written.

UNICOM CORPORATION

By: \_\_\_\_\_  
Name: David A. Scholz  
Title: Secretary

COMMONWEALTH EDISON COMPANY

By: \_\_\_\_\_  
Name: David A. Scholz  
Title: Secretary

UNICOM ENTERPRISES INC.

By: \_\_\_\_\_  
Name: David A. Scholz  
Title: Secretary

UNICOM RESOURCES INC.

By: \_\_\_\_\_  
Name: David A. Scholz  
Title: Secretary

UNICOM TECHNOLOGY DEVELOPMENT INC.

By: \_\_\_\_\_  
Name: David A. Scholz  
Title: Secretary

UNICOM THERMAL TECHNOLOGIES INC.

By: \_\_\_\_\_  
Name: David A. Scholz  
Title: Secretary

## ARES CERTIFICATION

 AMENDMENT A  
 TO AFFILIATED INTERESTS AGREEMENT  
 -----

Unicom Corporation, an Illinois corporation ("Unicom"), Commonwealth Edison Company, an Illinois corporation ("ComEd"), and each of the entities identified from time to time on Exhibit A to the Affiliated Interests Agreement dated as of December 4, 1995 (the "Agreement"), hereby agree that the Agreement is amended, pursuant to Section 9.1 of the Agreement, as follows:

1. The purposes and intent of this amendment are to set forth procedures and policies to govern: (a) transactions between Unicom Energy, Inc. ("Unicom Energy"), ComEd's "affiliated interest in competition with alternative retail electric suppliers," as that term is defined by 83 Ill. Adm. Code (S) 450.10 (as amended from time to time), and ComEd's "affiliated interests" as that term is defined by Section 7-101 of the Public Utilities Act (the "Act") (220 ILCS 5/7-101) and which are parties to the Agreement, whether such transactions occur directly or indirectly as the end result of a series of related transactions; and (b) the allocation of certain joint service costs. Notwithstanding subparts (a) and (b), this amendment is not intended to govern transactions between Unicom Energy and ComEd's affiliated interests which are parties to the Agreement except to the extent required by Part 450 of the Illinois Commerce Commission's rules on Non-Discrimination In Affiliate Transactions For Electric Utilities (83 Ill. Adm. Code (S) 450 et seq.) (as amended from time to time).

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2. Any transaction between Unicom Energy and an affiliated interest of ComEd that is a party to the Agreement shall be on whatever terms and conditions Unicom Energy and the affiliated interest agree to, except that if ComEd provided some or all of the facilities and services to the affiliated interest that are the subject of the transaction, then (a) the pricing of those facilities and services shall be at the same price as if ComEd had directly provided the facilities and services to Unicom Energy, i.e., in accordance with

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the Agreement and (b) the transfer of those facilities and services shall be recorded in accordance with the cost allocation guidelines and accounting conventions set forth in the Agreement.

3. Nothing in this amendment should be construed as an admission, concession, or recognition by ComEd, Unicom Energy, or any other signatory to the Agreement and this Amendment A that the Illinois Commerce Commission has the authority and/or jurisdiction to regulate transactions between Unicom Energy and ComEd's "affiliated interests," as that term is defined by Section 7-101 of the Act (220 ILCS 5/7-101).

## ARES CERTIFICATION

SUBSIDIARY AFFILIATED INTERESTS AGREEMENT  
-----

Unicom Energy, Inc. ("Unicom Energy"), Commonwealth Edison Company ("ComEd"), and the subsidiaries of ComEd, Commonwealth Research Corporation, Concomber Ltd., Edison Development Company, Edison Development Canada Inc., ComEd of Indiana, Inc., ComEd Funding LLC, ComEd Transitional Funding Trust, Cotter Corporation, ComEd Financing I, and ComEd Financing II (collectively the "Subsidiaries") hereby agree as follows:

1. The purposes and intent of this agreement ( the "SAIA Agreement") are to set forth procedures and policies to govern: (a) transactions between Unicom Energy, ComEd's "affiliated interest in competition with alternative retail electric suppliers," as that term is defined by 83 Ill. Adm. Code (S) 450.10 (as amended from time to time), and ComEd's Subsidiaries as that term is defined above, whether such transactions occur directly or indirectly as the end result of a series of related transactions; and (b) the allocation of certain joint service costs. Notwithstanding subparts (a) and (b), this amendment is not intended to govern transactions between Unicom Energy and ComEd's Subsidiaries except to the extent required by Part 450 of the Illinois Commerce Commission's rules on Non-Discrimination In Affiliate Transactions For Electric Utilities (83 Ill. Adm. Code (S) 450 et seq.) (as amended from time to time).  
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2. Any transaction between Unicom Energy and ComEd's Subsidiaries shall be on whatever terms and conditions Unicom Energy and the Subsidiaries agree to, except that if ComEd provided some or all of the facilities and services to the ComEd subsidiary that are the subject of the transaction, then (a) the pricing of those facilities and services shall be at the same price as if ComEd had directly provided the facilities and services to Unicom Energy, i.e., in accordance with the Agreement and (b) the transfer of those facilities  
- ----  
and services shall be recorded in accordance with the cost allocation guidelines and accounting conventions set forth in ComEd's Affiliated Interests Agreement dated as of December 4, 1995.

3. Nothing in this SAIA Agreement should be construed as an admission, concession, or recognition by ComEd, Unicom Energy, or ComEd's Subsidiaries that the Illinois Commerce Commission has the authority and/or jurisdiction to regulate transactions between Unicom Energy and Commonwealth Edison Company's "affiliated interests," including the Subsidiaries, as that term is defined by Section 7-101 of the Act (220 ILCS 5/7-101).



STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION

COMMONWEALTH EDISON COMPANY	)	
	)	
Petition pursuant to Sections 7-101,	)	
7-102 and 7-204A of the Illinois	)	
Public Utilities Act for an order	)	No. 95-0615
approving an agreement for the	)	
provision of facilities and services	)	
and the transfer of assets between	)	
Commonwealth Edison Company and Unicom	)	
Corporation and its subsidiaries	)	

STIPULATION

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The Staff of the Illinois Commerce Commission ("Staff") and Commonwealth Edison Company ("ComEd") hereby stipulate and agree as follows:

1. Among the issues addressed in this proceeding is the issue of whether a new ComEd affiliate may become a party to the Affiliated Interest Agreement ("AIA") without ComEd first obtaining separate approval of the Illinois Commerce Commission
2. With respect to his issue, Staff and ComEd hereby agree as follows:
  - (a) As currently provided in the ALA and ComEd's Petition in this proceeding, ComEd will offer information to Staff about the proposed new affiliate and the projected type and frequency of transactions with that affiliate 30 days before that new affiliate will become a party to the AIA. The provision of this information will commence a "30-day review period" during which Staff may investigate whether

the provision of facilities and services to the new affiliate under the terms of the AIA "is not in the public interest" within the meaning of Section 7-101 of the Public Utilities Act.

- (b) If, at any time prior to the expiration of the 30-day review period, Staff notifies ComEd that it believes that the provision of facilities and services to the new affiliate under the terms of the AIA is not in the public interest within the meaning of Section 7-101 of the Public Utilities Act, ComEd must file a petition at the Commission seeking resolution of the issues raised by Staff within 30 days of Staff's notice. Regardless of whether Staff so notifies ComEd, however, at the expiration of the 30-day review period, the affiliate may become a party to the AIA and engage in transactions with ComEd under the terms of the AIA unless and until ordered otherwise by the Commission after a hearing on ComEd's petition pursuant to this section.
- (c) If Staff does not notify ComEd before the expiration of the 30-day review period that Staff believes that the provision of facilities and services to the new affiliate under the terms of the AIA is not in the public interest within the meaning of Section 7-101 of the Public Utilities Act, ComEd will file at the Commission as a Supplemental Report in this docket information about the new affiliate and the projected type and frequency of transactions, substantially in the form attached to ComEd's petition in this proceeding as Attachment B. At that time, the affiliate

may become a party to the AIA and engage in transactions with ComEd under the AIA.

- (d) At the end of the first 12-month period after a new affiliate has been added to the AIA, ComEd will file with the Commission in this docket a second Supplemental Report showing the actual type and frequency of transactions with that affiliate over the previous 12 months, including a listing of any asset transfers and ComEd's monthly billings to the affiliate.

3. Staff and ComEd agree that these procedural provisions are adequate to enforce the requirement that transactions between ComEd and its affiliates do not adversely affect the public interest within the meaning of the Public Utilities Act.

STAFF OF THE ILLINOIS COMMERCE  
COMMISSION

By: \_\_\_\_\_

COMMONWEALTH EDISON COMPANY

By: \_\_\_\_\_

MUTUAL SERVICES AGREEMENT

BETWEEN

PECO ENERGY COMPANY

AND

[INSERT NAMES OF AFFILIATES HERE]

THIS AGREEMENT, made and entered into this \_\_\_ day of \_\_\_\_\_, 1999, by and between the following: \_\_\_\_\_ PECO ENERGY COMPANY ("PECO"), a Pennsylvania Corporation; and [INSERT NAMES OF AFFILIATES HERE], (hereinafter "Affiliates," PECO and its Affiliates are collectively referred to as "Parties.")

WITNESSETH:

WHEREAS, the Parties desire to enter into this Agreement providing for the performance of certain services as more particularly set forth herein; and

WHEREAS, to maximize efficiency, and to achieve cost savings, the Parties desire to avail themselves of the benefits of having services provided by the least cost provider thereof whenever possible, and to compensate such provider appropriately for such services;

NOW, THEREFORE, in consideration of these premises and of the mutual

agreements set forth herein, the Parties agree as follows:

Section 1. Definitions

- - - - -

Commission -- the Pennsylvania Public Utility Commission.

Providing Company -- one or more Parties to this Agreement that have agreed to provide requested services to another Party in accordance with the terms of this Agreement.

Requesting Company -- one or more Parties to this Agreement that are requesting services to be provided by another Party in accordance with the terms of this Agreement.

Section 2. Agreement to Provide Services

- - - - -

PECO and Affiliates agree to provide, upon the terms and conditions set forth herein, services including but not limited to those services hereinafter referred to and described in Section 3, at such times, for such period and in such manner as Requesting Company may from time to time request and Providing Company concludes it is able and willing to provide. Providing Company will keep itself and its personnel available and competent to render to Requesting Company such services so long as it is authorized so to do by the appropriate federal and state regulatory agencies. In providing such services, Providing Company may arrange, as it deems appropriate, for the services of such experts, consultants, advisers, and other persons with necessary qualifications as are required for or pertinent to the provision of the requested services.

Section 3. Services to be Provided

- - - - -

The services expected to be provided by Providing Company hereunder may include, but are not limited to, the services set out in Schedule 1, attached hereto and made a part hereof. In addition to those identified in Schedule 1, a Providing Company shall render such additional general or special services, whether or not now contemplated, as Requesting Company may request from time to time and Providing Company determines it is able and willing to perform.

#### Section 4. New Affiliates

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New direct or indirect affiliates of PECO, which may come into existence after the effective date of this Mutual Service Agreement, may become parties to this Agreement. The Parties hereto shall make such changes in the scope and character of the services to be provided and the method of assigning, distributing or allocating costs of such services as may become necessary to achieve a fair and equitable assignment, distribution, or allocation of costs among all Requesting Companies, including the new affiliates.

#### Section 5. Compensation of Providing Company

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As compensation for the services to be provided hereunder, a Requesting Company shall generally pay to Providing Company charges for services that are no more than the cost thereof (except as otherwise directed or permitted by an appropriate regulatory authority), insofar as costs can reasonably be identified and related to the particular services in question or otherwise fairly and equitably allocated to such services. To the extent that PECO or its affiliated Electric Generation Supplier are participants in a particular transaction, the Requesting Company shall

pay to Providing Company charges for services that comply with the Commission's decisions, rules and regulations, including the Commission-approved settlement of Docket Nos. R-00973953 and P-00971265 and Appendices G and H thereto.

Section 6. Service Requests  
-----

The services described herein or contemplated to be provided hereunder shall be directly assigned, distributed or allocated by activity, project, program, work order or other appropriate basis.

Section 7. Payment  
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Payment shall be by making remittance of the amount billed or by making appropriate accounting entries on the books of the companies involved. Invoices shall be prepared on a monthly basis for services provided hereunder.

Section 8. Effective Date and Termination  
-----

This Agreement is executed subject to the Commission's consent and approval, and if so approved in its entirety, shall become effective as of the date of approval and shall remain in effect from said date unless terminated by the Commission or by mutual agreement. Any Party may withdraw from this Agreement by giving at least sixty days written notice to the other Parties prior to withdrawal.

Section 9. Access to Records

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For the seven years following a transaction under this Agreement, the Requesting Company may request access to and inspect the accounts and records of the Providing Company, provided that the scope of access and inspection is limited to accounts and records that are related to such transaction.

Section 10. Assignment

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This Agreement and the rights hereunder may not be assigned without the mutual written consent of all Parties hereto.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed and attested by their authorized officers as of the day and year first above written.

PECO ENERGY COMPANY

By \_\_\_\_\_

Title \_\_\_\_\_

ATTEST



By \_\_\_\_\_

Title \_\_\_\_\_

[INSERT NAME OF AFFILIATE HERE]

By \_\_\_\_\_

Title \_\_\_\_\_

ATTEST:

By \_\_\_\_\_

Title \_\_\_\_\_

[INSERT NAMES OF AND SIGNATURE BLOCKS FOR ADDITIONAL  
PARTIES AS NEEDED]

PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
Harrisburg, PA 17105-3265

Public Meeting held June 22, 2000

Commissioners Present:

John Quain, Chairman

Robert K. Bloom, Vice Chairman  
Nora Mead Brownell, Statement attached  
Aaron Wilson, Jr.  
Terrance J. Fitzpatrick

Application of PECO Energy Company  
Pursuant to Chapters 11, 19, 21, 22 and 28 of  
the Public Utility Code for Approval of (1) a  
Plan of Corporate Restructuring, Including  
the Creation of a Holding Company and  
(2) the Merger of the Newly Formed Holding  
Company and Unicom Corporation

A-00110550F0147

OPINION AND ORDER

BY THE COMMISSION:

Before the Commission for consideration and disposition are the  
Exceptions of PPL Electric Utilities Corporation (PPL) taken to the Recommended  
Decision of Administrative Law Judge (ALJ) Charles E. Rainey, Jr., issued on  
June 1, 2000, relative to the above-captioned proceeding.

Brief History of the Proceeding

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On November 22, 1999, PECO Energy Company (PECO) filed with the Pennsylvania  
Public Utility Commission (Commission) the "Application of PECO Energy Company,  
Pursuant to Chapters 11, 19, 21, 22 and 28 of the Public Utility

Code, for Approval of (1) a plan of Corporate Restructuring, Including the Creation of a Holding Company, and (2) the Merger of the Newly Formed Holding Company and Unicom Corporation" (Application). The transactions contemplated by the Application include: (1) the creation of NEWHOLDCO Corporation (NewCo.) as a wholly-owned subsidiary of PECO; /1/ (2) the exchange of PECO common stock for NewCo. common stock, such that, after the share exchange, NewCo. will be the parent of PECO; (3) PECO's transfer of its generating assets and wholesale power contracts to a newly-formed generation subsidiary (GenCo.) and its transfer of certain other assets and a common facilities of NewCo. to a newly-formed service company (ServeCo.) and to newly-formed, non-utility business subsidiary (VenturesCo.); (4) PECO's distribution to NewCo. of its shares in GenCo., ServeCo. and VenturesCo., thereby making those companies direct subsidiaries of NewCo.; and (5) concurrent with the consummation of the restructuring, and pursuant to the terms of their Agreement and Plan of Exchange and Merger, the merger of NewCo. and Unicom Corporation (Unicom).

In order to effectuate the requested transactions, PECO requested that the Commission grant the following approvals: (1) the issuance of Certificates of Public Convenience under Section 1.102 of the Public Utility Code (Code) (66 Pa. C.S. (S) 1102); (2) the registration of Securities Certificates under Section 1901 of the Code (66 Pa. C.S. (S) 1901), if required; (3) the approval of contracts with affiliated interests under Section 2102(b) of the Code (66 Pa. C.S. (S)2102(b)); (4)

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/1/ Subsequent to the filing of the Application, PECO announced that NEWHOLDCO Corporation would be renamed Exelon Corporation.

the rendering of the findings described in Sections 2210/2/ and 2811(e)/3/ of the Code (66 Pa. C.S. (S)(S)2210 and 2811(e)); and (5) making the findings required by Sections 32(c) and 32(k) of the Public Utility Holding Company Act (15 U.S.C. (S)793-5a(c) and (k)) for PECO to seek from the Federal Energy Regulatory Commission (FERC) Exempt Wholesale Generator (EWG) status and approval to purchase electric power from an affiliate at market-based rates.

On December 4, 1999, the Commission caused a notice of the filing of PECO's Application to be published in the Pennsylvania Bulletin (29 Pa. B. 6208). The notice provided that protests or petitions to intervene were to be filed with the Commission on or before December 20, 1999.

The proceeding was assigned to ALJ Rainey who granted the following Parties the right to participate in the proceeding as formal Parties: the Office of Consumer Advocate (OCA); Mid-Atlantic Power Supply Association (MAPSA); the Office of Small Business Advocate (OSBA); Eric Epstein; National

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/2/ Section 2210 of the Code (66 Pa. C.S. (S)2210), requires the Commission, when exercising its authority to approve mergers involving natural gas distribution companies to consider: (1) whether the proposed merger "is likely to result in anticompetitive or discriminatory conduct, including the unlawful exercise of market power, which will prevent retail gas customers from obtaining benefits of a properly functioning and effectively competitive retail natural gas market"; and (2) the effect of the proposed merger "on the employees of the natural gas distribution company and on any authorized collective bargaining agent representing those employees."

/3/ Section 2811(e) of the Public Utility Code (66 Pa. C.S. (S)2811(e)), requires the Commission, in the exercise of its authority to approve mergers involving electric utilities, to consider "whether the proposed merger . . . is likely to result in anticompetitive or discriminatory conduct, including the unlawful exercise of market power, which will prevent retail electricity customers in this

Railroad Passenger Corporation (Amtrak); PPL; Conectiv Energy (Conectiv); Shell Energy Services, Inc (Shell); Senator Vincent J. Fumo; Consumers Education and Protective Association, Association of Community Organizations for Reform Now, Action Alliance of Senior Citizens, and Tenants' Action Group (CEPA, et al.); Enron Energy Services (Enron); Councilman David Cohen; Gregory J. Pastore; East Brandywine Township; Allegheny Power and Allegheny Energy Supply Company, LLC (Allegheny); Citizens for Pennsylvania's Future (PennFuture, et al.); Patricia McNamara; the Office of Trial Staff (OTS); Philadelphia Area Industrial Energy Users Group (PAIEUG); and Industrial Energy Consumers of Pennsylvania (IECPA). The ALJ also granted the late-filed Petitions to Intervene filed by New Energy East, LLC (NewEnergy) and the City of Philadelphia (City).

On January 21, 2000, PECO filed with the Commission a Petition requesting that the Commission exercise its authority under Section 335(a) of the Public Utility Code (66 Pa. C.S. (S)335(a)), to dispense with an Initial Decision in this proceeding and have the record certified directly to the Commission for a final decision (Petition for Certification of the Record). At the Public Meeting of March 2, 2000, we denied PECO's Petition for Certification of the Record.

On March 23, 2000, PECO filed with the Commission on behalf of itself and a number of other Parties to this proceeding, a Joint Petition for Settlement (Settlement Petition). Signatories to the Settlement Petition include:

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Commonwealth from obtaining the benefits of a properly functioning and workable competitive retail electricity market."

PECO; PennFuture, et al.; Senator Vincent J. Fumo; Eric Epstein; PAIEUG; Enron; the OCA; Conectiv; Clean Air Council, et al.; Amtrak, CEPA; Patricia McNamara; MAPSA; IECPA; the OTS; the OSBA; NewEnergy; and the City of Philadelphia (collectively, Signatories). Statements or letters in support of the Settlement Petition were filed by the City of Philadelphia; MAPSA; Amtrak; Clean Air Council, et al.; PAIEUG; IECPA; CEPA, et al.; the OCA, Eric Epstein; PECO; the OSBA; PennFuture; and the OTS.

The following Parties submitted letters or have otherwise indicated that they either do not oppose the Settlement Petition or that they will take no position in regard thereto: Allegheny; Greg Pastore; and Shell.

On April 3, 2000, PECO filed a separate agreement dated March 30, 2000, between itself and East Brandywine Township and Wallace Township. (Township Settlement).

Councilman Cohen and PPL opposed the Settlement Petition.

In the Settlement Petition, the Signatories requested a modification of the procedural schedule. The Signatories crafted and recommended that a specific modified schedule be followed. The ALJ rejected the Signatories' proposed modified schedule and established a revised procedural schedule which included seven (7) Public Input Hearings. The revised schedule also provided the Parties an opportunity to file Objections or Comments to the Settlement Petition or replies to the Objections or Comments memorialized in the ALJ's Order Revising Procedural Schedule dated March 28, 2000.

PPL filed Objections to the Settlement Petition on April 12, 2000. PPL also requested that evidentiary hearings be held in regard to the Settlement Petition. Philadelphia City Councilman David Cohen filed Comments and Objections to the Settlement Petition on April 12, 2000. Councilman Cohen also requested that evidentiary hearings be held in regard to the Settlement Petition.

The following Parties filed Replies to the Comments and/or Objections of PPL and/or Councilman Cohen: the OCA; the OSBA; the OTS; PAIEUG; IECPA; Clean Air Council, et al.; and Amtrak.

The following parties filed Replies and testimony: PECO; PennFuture, et al.; Eric Epstein; and CEPA, et al./4/

The following parties filed testimony in lieu of Replies: the City; Senator Vincent Fumo; and East Brandywine Township.

An evidentiary hearing was held on May 10, 2000, before ALJ Rainey. The following parties appeared: PECO; the OTS; the OCA; Eric Epstein; PAIEUG; IECPA; the City; CEPA, et al.; the OSBA; PPL; Amtrak; Allegheny; MAP SA; Clean Air Council, et al.; PennFuture, et al.; and Councilman Cohen,

Initial briefs were filed by: PECO; the OCA; Amtrak; Clean Air Council, et al.; CEPA, et al.; Epstein; the OTS; PAIEUG; the City; the OSBA; PennFuture, et al.; Councilman Cohen; and PPL.

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/4/ CEPA, et al. and Senator Vincent Fumo jointly sponsored testimony.

Reply briefs were filed by: PECO; the OCA; the OTS; the OSBA; Epstein; PennFuture, et al.; PAIEUG; Amtrak; Clean Air Council, et al.; Councilman Cohen; and PPL. CEPA, et al. filed a letter in support of the OCA's reply brief.

In his Recommended Decision issued on June 1, 2000, ALJ Rainey recommended approval of the Settlement Petition and the PECO/Township Settlement. On June 9, 2000, PPL filed Exceptions to the ALJ's recommendations. PECO, the OCA, the OTS, Clean Air Council, et al., PennFuture, et al., the OSBA, PAIEUG, and Amtrak filed Reply Exceptions.

I. DESCRIPTION AND TERMS OF JOINT PETITION FOR SETTLEMENT

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The Settlement Petition consists of:

- (1) Volume I (the terms and conditions of settlement) and Volume II (appendices to the Settlement Petition).
- (2) The written statements of the following Parties in support of the Settlement Petition: PECO; PennFuture, et al.; the OTS; the OSBA; Epstein; OCA; PAIEUG; Clean Air Council, et al.; IECPA; MAPSA; Amtrak; CEPA, et al.; and the City.
- (3) PECO's letter dated April 27, 2000, addressed to and filed with the Commission's Secretary in which it outlined additional commitments it made to the City. Attached to that letter is a copy of a letter dated April 11, 2000, from PECO to the City's Mayor in which PECO confirms its further commitments to maintaining its corporate headquarters for its distribution business in Philadelphia and maintaining its employees in Philadelphia.
- (4) PECO's settlement agreement with Wallace Township and East Brandywine Township dated March 30, 2000. This document, which is styled as a "Joint Petition Regarding Issues Raised By Wallace Township and East Brandywine Township," was filed with the Commission on April 3, 2000.



A. Major Terms and Conditions

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The Settlement Petition contains numerous terms and conditions. The detailed terms and conditions governing the settlement may be found in the Settlement Petition, which is appended to this Opinion and Order. Below are the major terms and conditions contained in the Settlement Petition.

1. Rate Reductions

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Over the four-year period beginning January 1, 2002 and ending December 31, 2005, PECO will reduce its retail electric distribution rates by a total of \$200 million. PECO will reduce its retail electric rates by \$60 million in each of the first two years, and by \$40 million in each of the last two years.

2. Extension of Rate Cap

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PECO will extend for an additional 18 months or until December 31, 2006, the rate cap on its retail transmission and distribution charges. The rate cap was otherwise scheduled to expire on June 30, 2005, pursuant to the Commission-approved settlement reached in regard to PECO's Electric Restructuring Application at docket number R-00973953.

3. Recovery of Nuclear Costs

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PECO will not seek to recover through Pennsylvania retail electric distribution rates, the costs associated with the ownership and operation of any nuclear generating plants which PECO did not hold on December 31, 1999.

4. Reliability and Customer Service

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PECO commits to a Quality of Service Plan (Service Plan) designed to provide higher levels of reliability and customer service in PECO's service territory. Over the period from 2001 through 2005, PECO commits to provide service, which is more reliable, and of a higher quality, as measured against historical data; and/or PECO, Commission and industry standards. PECO will provide to the Commission and other interested parties, a report each year on its performance in achieving the targets for higher levels of service.

5. Universal Service  
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PECO agrees to provide \$1.3 million per year for 2001 and 2002 to the county fuel fund agencies in each county in PECO's electric service territory that currently administers fuel grants.<sup>/5/</sup> PECO also agrees to increase the level of participation in its CAP Rate Program (for payment troubled, low income customers) from 100,000 to 125,000 customers.

6. Environmental Provisions  
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PECO agrees to contribute millions of dollars to fund various programs and projects designed to foster and develop wind and solar generation.

7. Promoting Competition  
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PECO agrees to take the following steps to promote competition:

(a) Release of Customer Historical Billing Data  
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PECO will provide to both licensed EGSs and licensed natural gas suppliers (NGSs) serving PECO customers, via posting on the success website, when customers have authorized release of their information, 12 individual months of historical monthly electric usage and billed demand and/or gas billing data, as applicable, and as provided to PECO customers.

(b) Individual Customer Inquiries  
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PECO shall make all reasonable efforts to respond within 4 business days to customer -- authorized EGS or NGS requests for individual 12 month historical customer usage and measured and billed demand information as historically provided to customers.

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<sup>/5/</sup> The county fuel agencies are: Project Heat, c/o Bucks County Opportunity Council, Inc.; Chester County Cares, c/o Community Service Council of Chester County; Delco Shares Its Warmth, c/o Community Action Agency; Project Reach, c/o Montgomery County Community Development Commission; Utility Emergency Services Fund (Philadelphia County); MasonDixon Cares, c/o MasonDixon Community Services (York County).

(c) Advance Notice of Process Changes  
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PECO agrees to provide EGSs 30 days advance notice of all discretionary, natural Electric Choice process changes, such as, for example, load forecasting and reconciliation, and a reasonable opportunity for comment prior to making such changes.

(d) Customer Load Profile Revision  
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PECO agrees to revise a customer's load profile if an EGS demonstrates to PECO that the customer has experienced significant over or under deliveries relative to their existing load profile for a period of six continuous months.

(e) Dispute Resolution  
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PECO agrees to apply and adhere to the Abbreviated Dispute Resolution Process to resolve disputes involving alleged violations of the Retail Access Code of Conduct, the GenCo Code of Conduct, alleged violations of its Electric Generation Supplier Coordination Tariff or a dispute allegedly affecting or threatening the ability of an entity to provide electric generation or related services to a customer or customers.

(f) Provider of Last Resort (PLR) Marketing  
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Until January 1, 2004, PECO agrees not to market, advertise and promote its PLR service.

(g) Competitive Default Service  
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PECO agrees to certain revisions to its currently existing Competitive Default Service auction process in order to foster electric competition.

8. PECO's Corporate Headquarters  
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PECO will maintain the corporate headquarters for its distribution business in Philadelphia through at least January 1, 2008.

9. Employment and Staffing Levels  
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PECO will maintain employment at 2301 Market Street at no less than the following levels:

1325 through December 31, 2001  
1300 through December 31, 2002  
1275 through January 1, 2004  
1100 through January 1, 2008.

10. Charitable Contributions  
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PECO agrees to maintain at least current levels of charitable and civic giving and economic and community development contributions in Pennsylvania through 2003.

11. Agreement between PECO and Wallace Township and East Brandywine  
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Township  
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PECO and the townships of Wallace and East Brandywine reached an agreement in a jointly signed document styled as "Joint Petition Regarding Issues Raised by Wallace Township and East Brandywine Township" (Township Agreement).

The Township Agreement provides that the parties will develop a mutually acceptable plan to improve reliability in the Townships (Reliability Enhancement Plan/6/). The Township Agreement also provides that the parties will submit the final plan to the Commission by way of Petition or Complaint; request that the Commission open a new docket regarding to the matter; and request that the Commission take jurisdiction over and approve the Township Agreement as an enforceable commitment.

II. RECOMMENDED DECISION

Based on his evaluation of the record as developed through public input testimony, expert witness testimony, Party-stipulated exhibits and other documents admitted into the record, the ALJ determined that the Settlement Petition and Township Settlement were in the public interest and should be approved. The ALJ concluded that the Settlement Petitioners demonstrated that, based on the Settlement Petition, the proposed merger of PECO and Unicom

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/6/ The Township Agreement states that PECO has already submitted to the Townships a proposed Reliability Enhancement Plan which includes twenty-three (23) technical elements to improve reliability in the Townships. PECO's proposed

would affirmatively promote the service, accommodation, convenience, or safety of the public in a substantial way. (R.D., p. 54). The ALJ also concluded that the proposed merger of PECO and Unicom is not likely to result in anticompetitive or discriminatory conduct, including the unlawful exercise of market power, which would prevent retail electricity customers in Pennsylvania from obtaining the benefits of a properly-functioning and workable electricity market.

The ALJ further recommended that the Commission issue a Certificate of Public Convenience to PECO and grant it the right to consummate the transactions in connection with PECO's formation of a holding company structure, PECO's corporate restructuring, and the merger of the new holding company (NewCo.) and Unicom Corporation, including, without limitation: (1) the share exchange between PECO and its proposed holding company (NewCo.) and any associated changes in control; and (2) the transfer of used and useful utility property from PECO to NewCo. and to any existing or newly-created corporate affiliates, including GenCo. recognizing PECO's transfer of generation assets, liabilities and power contracts was approved by the Commission by Order entered May 14, 1998, at Docket No. R-00973953.

### III. LEGAL STANDARD OF REVIEW

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Case law as well as statutory requirements govern our review of a proposed merger. In Pennsylvania, an applicant seeking a certificate of public convenience to effect a proposed merger must demonstrate "that the merger will

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Reliability Enhancement Plan is appended to the Township Agreement as Attachment "A."

affirmatively promote the 'service, accommodation, convenience or safety of the public' in some substantial way." (City of York v. Pa, P.U.C., 449 Pa. 136, 295 A.2d 825, 828 (1972)).

Additionally, pursuant to Section 2811 of the Electricity Generation Customer Choice and Competition Act, 66 Pa. C.S. (S)2811(e), we are required to address whether a proposed merger involving electric utilities is likely to result in anticompetitive or discriminatory conduct, including the unlawful exercise of market power, which will prevent retail electricity customers from obtaining the benefits of a properly-functioning and workable competitive electricity market,

Likewise, under the Natural Gas Choice and Competition Act, we must consider whether a proposed merger involving natural gas distribution companies "is likely to result in anticompetitive or discriminatory conduct, including the unlawful exercise of market power, which will prevent retail gas customers from obtaining the benefits of a properly functioning and effectively competitive retail natural gas market." (66 Pa. C.S. (S)2210). We must also consider the impact of the proposed merger "on the employees of the natural gas distribution company and on any authorized collective bargaining agent representing those employees." (66 Pa. C.S. (S)2210).

IV. DISPOSITION OF PPL EXCEPTIONS  
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Initially, we are reminded that we are not required to consider expressly or at great length each and every contention raised by a party to our proceedings. University of Pennsylvania v. Pennsylvania Public Utility

Commission, 86 Pa. 410, 485 A.2d 1217, 1222 (Pa. Cmwlth. 1984). Any Exception or argument, which is not specifically addressed herein, shall be deemed to have been duly considered and denied without further discussion.

A. Clarification of the Evidentiary or Precedential Value of the Joint Petition

In its Introduction and Summary of Argument, PPL acknowledges that the Settlement Petition, on its face, provides that it may not be cited as legal precedent in a subsequent proceeding. However, PPL asserts that the OCA and the Commission's OTS have "indicated an intention to use provisions of the Settlement Petition as evidence in future proceedings." (PPL Exc., p. 1).

Thus, PPL states that the Recommended Decision failed to address the distinction between the use of the settlement as "binding precedent" and its admissibility as evidence in future proceedings. Consequently, PPL's Exceptions Nos. 1-4 detail its position regarding the necessity for clarification./7/

PPL contends that it is erroneous to assume that it was seeking to restrict what may be proposed in settlement discussions. However, PPL maintains that: (1) the provisions of the Settlement Petition were crafted to the unique circumstances of PECO and can be neither relevant nor material evidence that

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/7/ PPL proposes that the following provision be included:

The fact that a provision is included in the Joint Petition shall not constitute or be cited as relevant or material evidence in support of the adoption of such provision in any other proceeding, including, but not limited to, a proceeding to reopen or modify another Pennsylvania public utility's settlement of its retail restructuring proceeding under the Electricity Generation Customer Choice and Competition Act, 66 Pa. C.S. (S)2801, et seq.

similar relief is appropriate or warranted in proceedings involving other Pennsylvania public utilities; and (2) the Recommended Decision ignored testimony that excluding evidence of settlement provisions in subsequent proceedings involving other public utilities will enhance, not detract from, the Commission's policy of encouraging settlements. The specific Exceptions are addressed, below.

- (1) The Recommended Decision Failed to Clarify that the Settlement Petition May Not Be Used as Evidence to Support Relief Against Another Pennsylvania Electric Utility.

Notwithstanding the express terms of the Settlement Petition, which terms provide that the settlement constitutes a negotiated resolution of issues and shall not constitute or be cited as controlling precedent in any other proceeding, PPL seeks a modification of the Settlement Petition. PPL seeks to clarify that the increased use of the settlement process to resolve complex Commission proceedings does not justify the use of settlements as evidence supporting relief against other Pennsylvania utilities in subsequent proceedings. (PPL Exc., p. 4). PPL is concerned that, absent the modification, it, along with other Pennsylvania public utilities, "can expect to see the Settlement Petition cited as evidence in support of relief sought against them. . . ." (PPL Exc., p. 5).

PPL goes on to recite its observations that settlements have become the predominant means by which major cases before the Commission are resolved. It fully supports the Commission's policy of encouraging settlements of contested cases -- particularly large, complex proceedings. However, PPL fears that:



"[o]nce a favored settlement provision is secured from a utility anxious to avoid a contested proceeding, interest groups seek to characterize that settlement provision as the "model" which all other utilities must follow. All too often, utilities that did not actively participate in the settled proceedings find themselves forced to defend against provisions proffered only upon the basis that they already were agreed to or implemented by another utility." (PPL Exc., p. 5).

PPL argues that in light of the existing confusion and conflict between the Parties concerning the "breadth of support" for the Settlement, the Commission needs to clarify that these Parties cannot cite the said provisions as evidence to support relief in a future proceeding. (PPL Exc., pp. 7-8).

- (2) The Recommended Decision Disregarded 66 Pa. C.S. (S)332(b) in Failing to Find that the Settlement Petition Addresses Concerns That Are Unique to PECO and Are Neither Material Nor Relevant to the Activities of Other Public Utilities

PPL cites Section 332(b) of the Public Utility Code, 66 Pa. C.S. (S)332(b), to support preventing the Joint Petitioners from using the Settlement concessions of PECO in this proceeding to "create their own evidence in support of imposing similar relief on PPL or other Pennsylvania public utilities in other proceedings." PPL, in an astonishing display of alarm, states "[u]nless that ruling is made, the adoption of Settlement provisions in this proceeding would become "substantial evidence" in the next." (PPL Exc., p. 8). It further provides that such a ruling is necessary because the OCA and other Joint Petitioners will cite to this Settlement as evidence against another public utility, even if they cannot cite this case as "controlling precedent." (PPL Exc., p. 9, citing Settlement Petition, p. 41).

PPL does attempt to distinguish its position relative to the due process rights of potential proponents of the terms of the settlement as admissible

evidence. PPL notes that the Parties to the settlement would be free to ask for relief contained in the Settlement Petition, but that they would be required to justify that relief on its merits. (PPL Exc., p. 9).

- (3) The Evidence Submitted in Support of the Settlement Petition Demonstrates that the Settlement is Relevant Only to PECO and its Merger with Unicom.

PPL relies upon the evidentiary hearings conducted on the Settlement to argue that the hearings and the rest of the record demonstrate that the provisions of the Settlement Petition are unique to PECO and should not be considered relevant or material to any issue in any proceeding involving another Pennsylvania public utility solely on the basis that they were approved here. (PPL Exc., p. 12). PPL details certain of the specific provisions of the settlement regarding: (1) Rate and Reliability provisions; (2) Nuclear provisions; (3) Environmental provisions; (4) Electric Generation Supplier Benefits; and (5) Large Customer Agreements, to conclude that the testimony supporting the negotiated resolution of these specific issues should be declared, in advance of any future proceeding, to be irrelevant and immaterial.

- (4) The Recommended Decision is Contrary to the Unrebutted Testimony that Excluding Evidentiary Use of Settlements in Subsequent Proceedings Involving Other Public Utilities Will Make Settlements More, Rather than Less, Likely

PPL offered testimony supporting its view that reasons exist for the Commission to articulate a "clear" policy that the specific terms of a settlement agreement will not be admitted as evidence in any subsequent proceeding on the sole basis of prior approval of those terms in another settlement. (PPL Exc., p. 22).

PPL proffers that its position will not interfere with the Commission's policy of promoting settlements. Rather, it relies on its witness Gioia for the proposition that the failure to limit the evidentiary use of settlements could actually make it more difficult to achieve settlements in the future. (PPL Exc., p. 23). PPL cites Pennsylvania and Federal Rules of Evidence which prohibit a party's compromise or offer of settlement to be used to establish liability. PPL would extend the rationale of these rules of civil practice to the situation which it feels obtains at present. PPL concludes this argument by stating "[i]f parties perceive that the terms of a previous settlement which they consider inappropriate will be given evidentiary weight just because another utility agreed to those terms, they may be discouraged from proceeding with a proposed transaction even though that transaction, under its specific terms, would be in the public interest." (PPL Exc., p. 26).

- (5) The Recommended Decision Erroneously Assumed that PPL Utilities Was Seeking to Prevent Parties from Using the Settlement Petition in Future Settlement Discussions

Finally, PPL cites the pertinent portion of the Recommended Decision (R.D., p. 33), and complains that it did not ask that the Commission restrict what parties to a settlement conference may propose. PPL clarifies that the policy it seeks to preserve is directed toward evidence submitted in Commission proceedings. (PPL Exc., pp. 26-27).

Disposition  
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Virtually all Parties to this proceeding filed Replies to the Exceptions of PPL taking issue with the relief sought. We generally agree with the

observations of the parties that the relief sought by PPL currently exists by virtue of Commission administrative precedent, Commission administrative practice and procedure, and the express terms of the Settlement itself.

PECO, among others, correctly notes that Section 72 of the instant Settlement provides protection to PPL against the terms arid conditions being used or cited as precedent in a future proceeding. Also, PECO cites Pa. PUC v. The Bell Telephone Co. of Pa., 1988 Pa. PUC LEXIS 571 (November 10, 1988) and Application of West Penn Power Co. for Approval of Its Restructuring Plan Under Section 2806 of the Public Utility Code, Docket No. R-00973981 (Order entered March 13, 1998), as cases standing for the proposition that the Commission has rejected the position offered by a witness in a proceeding on the grounds that the support of his position was based on the mere settlement in another utility's case. Thus, Commission precedent clearly indicates that PPL would have the protection to exclude the use of a negotiated provision being offered as the sole evidentiary basis against it in any event. (PECO R. Exc., p. 3). We do not have before us, nor has PPL cited, a Commission decision where a party was able to introduce as admissible evidence a term agreed to by a signatory to a settlement merely on that basis. This Commission would distinguish those determinations which involve questions of policy. These questions do not necessarily turn on contested facts and are to be distinguished. See *Diamond Energy, Inc. v. Pa. PUC*, 635 A.2d 1360 (Pa. Cmwlth. 1995).

What PPL seeks to accomplish in the context of the instant settlement is analogous to a motion in limine. A motion in limine is a procedure

for obtaining a ruling on the admissibility of evidence prior to or during trial, but before the evidence has been offered. See Commonwealth v. Johnson, 399 Pa. Superior Ct. 266, 582 A.2d 336 (1990), citing L. Packel & A.B. Poulin, Pennsylvania Evidence (S) 103.3 (1987). PECO also articulates the essence of the relief sought by PPL:

In essence, PPL is asking this Commission for a declaratory order, regulation or policy statement that would prejudice the relevance and materiality of a settlement's terms in future proceedings before the factual scenario and substantive issues are known and before the parties in interest have had the opportunity to present their arguments. Not only is this contrary to sound administrative and evidentiary principles, but it denies due process of law to parties in future proceedings.

(PECO R. Exc., p. 4).

The nature of the relief sought by PPL, which amounts to the exclusion of evidence in advance or an advance determination of the relevance and materiality of evidence for any purpose whatsoever, is overly broad. Also, we agree with those Parties who reply that such a determination would be violative of the due process rights of participants in a future proceeding. We find PPL's apprehension concerning the issues settled in this proceeding to have some basis, but to be inherently premature. Without a proceeding or matter before this Commission concerning PPL, we find it unwise to issue a pronouncement or foreclose participants to future proceedings involving PPL to the extent requested.

As a general rule, each Commission proceeding must result in an adjudication on its own merits. See 52 Pa. Code (S)5.401 -- Admissibility of evidence; and 52 Pa. Code (S) 5.407 -- Records of other proceedings. We cannot,

under the circumstances presented in this case, preempt the ability of parties, i.e., the OCA and the OTS to argue, as a matter of policy, that similar circumstances should be addressed in a similar manner from a policy perspective. However, concerning the admissibility of evidence, we emphasize that each utility has a right to have a record developed based upon the facts adduced and admitted in the case sub judice. Approval of the instant Settlement does not change the Commission's administrative and legal responsibilities in this regard. These adjudicatory responsibilities are consistent with and promote the policy objectives of encouraging settlements.

On the basis of the foregoing, the Exceptions of PPL are denied.

B. PPL's Standing to Object to Various Provisions of the Settlement Petition

PPL contends that the ALJ improperly ruled that it lacked standing to object to various provisions of the Settlement. PPL also takes the position that the ALJ applied the wrong standard of law in reaching his conclusion that it lacked standing to challenge the Settlement. The ALJ's holding, PPL adds, is contrary to his earlier decision which granted PPL's uncontested request to participate in the proceeding as a party.

PPL further disputes the ALJ's conclusion, arguing that it clearly demonstrated that it has a direct, immediate, and substantial interest in the outcome of this proceeding. PPL observes that a number of the Signatories have filed statements in which they indicate that they may rely on the concessions made in the instant Settlement to support a requested relief against other electric utilities.

For this reason, PPL adds, it has a substantial interest in the outcome of this proceeding since it may be placed in a position of defending itself in future proceedings. PPL maintains that the fact that it may not be subject to PECO's rate cuts or will not have to pay PECO's decommissioning costs should not have any bearing on its objections. PPL points out that no Signatory has provided assurance that it will not seek relief from PPL similar to that found in the Settlement Petition on the ground that it was previously part of an earlier agreement with PECO.

The OTS responds that this argument is not available to PPL because the ALJ's recommendation is based on his consideration on the merits of each of PPL's other issues. The OTS notes that the ALJ did not simply dismiss PPL's other issues for lack of standing, but rather engaged in a review on the merits concerning PPL's other issues. For this reason, the OTS argues that PPL has no basis upon which to challenge the ALJ's belief that he could dismiss the other issues for lack of standing. (OTS Exc., pp. 14-15).

The OSBA makes a similar observation in its Reply Exceptions and argues that ALJ Rainey reviewed all of PPL's objections on the merits. The OSBA further contends that the question of whether PPL does or does not have standing to raise any objections to the Joint Settlement is of no moment because PPL's objections, procedural and substantive, were reviewed and subsequently dismissed on the merits. (OSBA Exc., p. 8).

In its Reply Exceptions, the OCA concedes that, while PPL had standing to raise issues that directly and immediately affect its interests, PPL

lacked standing to challenge the merits of the substantive settlement provisions in which it did not have any direct, substantial or immediate interest. The OCA submits that the ALJ properly concluded that PPL does not have the standing to challenge the substantive provisions of the Settlement. (OCA Exc., p. 22).

#### Disposition

We note at the outset that permission to intervene in a Commission proceeding does not automatically confer standing on the intervenor on any or all issues. Specifically, Section 5.75(b) of our Regulations, 52 Pa. Code (S)5.75(b), provides that:

Admission as an intervenor will not be construed as recognition by the Commission that the intervenor has a direct interest in the proceeding or might be aggrieved by an order of the Commission in the proceeding.

In *William Penn Parking Garage v. City of Pittsburgh* (William Penn), 464 Pa. 168, 346 A.2d 269 (1975) the Pennsylvania Supreme Court delineated and defined the principles of standing which it has applied in Commission proceedings. The Court held that a party must have an interest that is substantial, direct and immediate. The Court defined the requirement of substantial, direct and immediate in the following manner:

Thus, the requirement of a "substantial" interest simply means that the individual's interest must have substance-there must be some discernible adverse effect to some interest other than the abstract interest of all citizens in having others comply with the law.

(William Penn, p. 282).



The requirement that an interest be "direct" simply means that the person claiming to be aggrieved must show causation of the harm to his interest by the matter of which he complains.

(William Penn, p. 282).

The remaining requirements of the traditional formulation of the standing test are that the interest be "immediate" and "not a remote consequence of the judgment." As in the case of "substantial" and "pecuniary," these two requirements reflect a single concern. Here that concern is with the nature of the causal connection between the action complained of and the injury to the person challenging it.

(William Penn, p. 283).

We find that the ALJ properly concluded that PPL's only actionable interest in the substantive provisions of the Settlement was its concern that it may find these provisions objectionable if applied in future proceedings. Despite concluding that he could dismiss PPL's objections on other issues for lack of standing, the ALJ categorically reviewed PPL's objections to the individual provisions of the Settlement (See pp. 31-45 of the Recommended Decision). We agree with the ALJ that PPL's only recognizable interest with respect to the Settlement is based on PPL's speculative assertion regarding the precedential value of the Settlement provisions in future proceedings.

The ALJ properly concluded that PPL does not have a legally-recognizable interest in the rate reductions for PECO customers, the rate cap extension for PECO's customers, the decommissioning fund for PECO's nuclear plants, the universal service provisions regarding the CAP for PECO's customers, the environmental benefits provided for PECO's service territory and customers, the competitive benefits that will benefit PECO's customers, or the contact

provisions with certain of PECO's customers. For example, the ALJ notes that, while PPL argued that the rate reductions and extension of the rate cap provided in the Settlement Petition were contrary to Commission policy, PPL produced no evidence to support this contention. The ALJ found, to the contrary, that the evidence presented during the proceeding showed that, as a result of the merger, PECO will achieve savings, which will enable it, financially, to reduce retail distribution rates and extend the cap on retail transmission and distribution charges. (R.D., p. 37).

The record evidence in this proceeding clearly indicates that PPL was afforded full opportunity to be heard. In our view, the fact that the ALJ may have stated that he could dismiss PPL's objections for lack of standing is inconsequential since the ALJ reviewed and considered each of PPL's challenges on the merits. The ALJ's dismissal of PPL's objections was based on the record evidence in this proceeding. The ALJ properly held that PPL lacked standing to challenge the substantive provisions of the Settlement. (William Penn). The ALJ was also correct in finding, after a review on the merits of PPL's objections, that the challenges were without merit. We adopt the ALJ's recommendation.

#### Conclusion

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Based on our review of the record as developed in this proceeding, we conclude that the Settlement Petition is just and reasonable and will provide substantial benefits to the public. We further conclude that the ALJ's finding that the Township Agreement is just, reasonable and in the public interest. We also find that the record evidence demonstrates that the proposed merger will affirmatively

promote the service, accommodation, convenience, or safety of the public in a substantial way. City of York v. Pa. P. U. C., cited supra. There is no credible record evidence that the proposed merger will result in anticompetitive or discriminatory conduct, including the unlawful exercise of market power, which would prevent retail electricity customers in Pennsylvania from obtaining the benefits of a properly-functioning and workable either in the competitive electricity market, 66 Pa. C.S. (S)2811(e), or in a retail natural gas market, (66 Pa. C.S. (S)2210). As such, we approve the Settlement Petition and adopt the ALJ's recommendation in its entirety; THEREFORE,

IT IS ORDERED:

1. That the Exceptions of PPL Electric Utilities Corporation filed on June 9, 2000, are denied.

2. That the Joint Petition for Settlement filed on March 23, 2000, at Docket No. A-110550F0147, is approved.

3. That the Joint Petition Regarding Issues Raised by Wallace Township and East Brandywine Township filed on April 3, 2000, at Docket No. A-00110550F0147, is approved.

4. That PECO Energy Company is hereby granted a Certificate of Public Convenience which shall be issued upon compliance with the conditions herein set forth, and which includes the right to consummate the transactions in connection with PECO Energy Company's formation of a holding company structure, PECO Energy Company's corporate restructuring, and the merger of the

new holding company (NewCo) and Unicom Corporation, including, without limitation: (1) the share exchange between PECO Energy Company and its proposed holding company (NewCo) and any associated changes in control; and (2) the transfer of used and useful utility property from PECO Energy Company to NewCo. and to any existing or newly-created corporate affiliates, including GenCo., recognizing that PECO Energy Company's transfer of generation assets, liabilities and power contracts was previously approved by the Commission in its Order entered May 14, 1998, at Docket No. R-00973953.

5. That the contracts between PECO Energy Company and affiliated interests, the forms of which appear as Exhibits H-1, H-2, H-3, P and Q to the Application at Docket No. A-00110550F0147, are approved.

6. That the findings required under Section 32(c) of the Public Utility Holding Company Act, 15 U.S.C. (S)793-5a(c), for GenCo to be eligible for Exempt Wholesale Generator (EWG) status are hereby made, namely, that PECO Energy Company's transfer of generating assets, liabilities and power contracts to a newly-formed corporate affiliate GenCo.: (1) will benefit customers; (2) is in the public interest; and (3) does not violate Pennsylvania law.

7. That the findings required under Section 32(k) of the Public Utility Holding Company Act, 15 U.S.C. (S)793-5a(k), with respect to purchases of power from GenCo., as governed by the Competitive Safeguards set forth in Appendix G to PECO's 1998 Electric Restructuring Settlement at Docket No. R-00973953, are hereby made, namely, that: (1) the Commission possesses

sufficient regulatory authority, resources and access to books and records of PECO Energy Company and any relevant associate, affiliate or subsidiary company to exercise its duties under Section 32(k); and (2) the purchase by PECO Energy Company of energy and capacity from an affiliated Exempt Wholesale Generator, GenCo., will benefit customers, does not violate Pennsylvania law, would not provide the Exempt Wholesale Generator, GenCo. an unfair competitive advantage, and is in the public interest.

8. That PECO Energy Company shall file on one (1) day's notice tariff supplements in the forms attached as Appendices A and D to the Joint Petition for Settlement revising PECO Energy Company's current Distribution Tariff and Supplier Coordination Tariffs, respectively.

9. That the Agreement between PECO Energy Company and the National Railroad Passenger Corporation granting the National Railroad Passenger Corporation an option to execute a lump-sum buy-out of its Transition Charges, as set forth in Appendix F to the Joint Petition for Settlement, is approved.

10. That the rights and options granted to the City of Philadelphia under its existing Rule 4.6 Contract between the City of Philadelphia and PECO Energy Company, as set forth in Appendix G to the Joint Petition for Settlement, is approved.

11. That, except as expressly modified by the terms of the Joint Petition for Settlement, the terms and conditions of PECO Energy Company's

1998 Electric Restructuring Settlement, approved by the Commission by Order entered May 14, 1998. at Docket No. R-00973953, remain in full force and effect.

12. That all other approvals necessary for the proposed PECO Energy Company corporate restructuring and merger with Unicom Corporation, including but not limited to, those granted in this Order, are granted.

13. That, upon acceptance and approval by the Commission of the tariff supplements filed by PECO Energy Company, consistent with this Order, the record in this proceeding shall be marked closed.

BY THE COMMISSION

James J. McNulty  
Secretary

(SEAL)

ORDER ADOPTED: June 22, 2000

ORDER ENTERED: June 22, 2000

PENNSYLVANIA PUBLIC UTILITY COMMISSION  
Harrisburg, Pennsylvania 17105-3265

PECO Energy Company/  
Unicom Corporation Merger

PUBLIC MEETING  
June 22, 2000  
JUN-2000-OSA-0195\*  
A-00110550F0147

STATEMENT OF COMMISSIONER NORA MEAD BROWNELL  
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I am voting to approve the proposed merger of PECO Energy Company and Unicom Corporation today. I am able to support this merger and the associated corporate restructuring in part because provisions of this settlement are supportive to the developing competitive market, and support renewable and distributed generation facilities.

Several provisions of the settlement directly increase the competitiveness of the generation market. Specifically, PECO will provide 600MW of installed capacity (ICAP) for three years on a first-come/first-served basis to licensed suppliers, providing them with capacity and price certainty. The agreement provides enough installed capacity to allow over 50,000 new Philadelphia-area customers to participate in the competitive market. The lack of available ICAP at reasonable prices has been one of the biggest hindrances in the development of the competitive market to date.

ISO New England (ISO-NE) recently petitioned the Federal Energy Regulatory Commission to terminate its ICAP markets. Although ICAP was designed as a way to send price signals for long term generation investment decisions, ISO-NE found, instead, that the market was heavily gamed, resulting in frequent price spikes, unusual market behavior and the need for market intervention by the ISO. Thus, ISO-NE has concluded that the ICAP market has outlived its usefulness and is a barrier to competition. While there are some market structure differences between ISO-NE and PJM, I have concerns that similar affects are occurring here and that the usefulness of ICAP in our market should be reexamined.

This settlement provides significant improvements in the terms, procedures and investment for new renewable and distributed generation facilities to interconnect to PECO's facilities. The renewable provisions provide a clean and safe source of generation that previously was barely available in the market, improves customer product choices, are likely to reduce the price of such products, and make interconnection and net metering much simpler and less costly. Customers have clearly spoken that they are interested in distributed generation.

In addition, the Settlement offers several other beneficial provisions that are important to provide for an equal playing field. These include:

- . Retail electric distribution rates will be reduce by a total of \$200 million over four years;
- . retail transmission and distribution charges will be capped;
- . a commitment to a Quality of Service Plan designed to provide higher levels of reliability and customer service;
- . provision of \$1.3 million per year for 2001 and 2002 to the county fuel fund agencies;
- . increase the level of participation in its CAP Rate Program;
- . financial support for developing wind and solar power;
- . provide electric generation supplies with customer information in a timely fashion;
- . not marketing, advertising or promoting its Provider of Last Resort service until January 1, 2004;
- . reconcile transition charge revenues for commercial and industrial account thereby minimizing volatility of the charges;
- . providing large industrial customers with a one-time option to switch to a competitive supplier;
- . modification of the Competitive Default Supply provisions of the restructuring settlement to improve the opportunity for successful competitive bidding.
- . and, maintaining at least current levels of charitable and civic giving, and economic and community development contributions.

I am pleased that provisions of this settlement are supportive to the developing competitive market, and support renewable and distributed generation facilities. This Settlement provides an example of workable means to directly increase the competitiveness of the generation market.

DATED: \_\_\_\_\_

\_\_\_\_\_  
Nora Mead Brownell  
Commissioner



BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

APPLICATION OF PECO ENERGY :  
COMPANY, PURSUANT TO CHAPTERS :  
11, 19, 21, 22 AND 28 OF THE PUBLIC :  
UTILITY CODE, FOR APPROVAL :  
OF (1) A PLAN OF CORPORATE :  
RESTRUCTURING, INCLUDING THE : APPLICATION  
CREATION OF A HOLDING COMPANY : DOCKET NO. A-110550F0147  
AND (2) THE MERGER OF THE NEWLY :  
FORMED HOLDING COMPANY AND :  
UNICOM CORPORATION :

JOINT PETITION FOR SETTLEMENT

March 23, 2000

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BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

APPLICATION OF PECO ENERGY :  
COMPANY, PURSUANT TO CHAPTERS :  
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AND (2) THE MERGER OF THE NEWLY :  
FORMED HOLDING COMPANY AND :  
UNICOM CORPORATION :

JOINT PETITION FOR SETTLEMENT

This Joint Petition for Settlement ("Joint Petition") is submitted by the following parties in the above-captioned proceeding: PECO Energy Company ("PECO" or the "Company"); the Office of Trial Staff ("OTS"); the Office of Consumer Advocate ("OCA"); the Office of Small Business Advocate ("OSBA"); Citizens for Pennsylvania's Future and the ten named individuals that joined in its Protest and Petition to Intervene (collectively, "PennFuture"); Senator Vincent J. Fumo; the City of Philadelphia; Clean Air Council and the three named individuals that joined in its Protest and Petition to Intervene ("CAC"); the Consumers Education and Protective Association et al. ("CEPA")<sup>1</sup>; Enron Energy Services, Inc. ("Enron"); the Philadelphia Area Industrial Energy Users Group ("PAIEUG"); the Industrial Energy Consumers of Pennsylvania ("IECPA"); Conectiv Energy ("Conectiv"); Eric Joseph Epstein; Patricia

<sup>1</sup> As used herein, "CEPA" refers collectively to the Consumer Education and Protective Association ("CEPA"), the Association of Community Organizations for Reform Now ("ACORN") and the Tenants' Action Group ("TAG"), which are represented by common counsel and submitted a joint protest and petition to intervene.

McNamara; the National Railroad Passenger Corporation ("Amtrak"); and the Mid-Atlantic Power Supply Association ("MAPSA") (all such parties collectively referred to as the "Joint Petitioners").

The terms and conditions set forth in this Joint Petition represent a comprehensive settlement ("Settlement") among the aforementioned parties that resolves all issues pertaining to the above-captioned Application.<sup>2</sup> The Joint Petitioners aver that this comprehensive Settlement is in the public interest and, therefore, request that the Commission: (1) approve without modification the proposed Settlement as set forth herein; (2) issue the Certificates of Public Convenience and enter Orders granting the approvals and making the findings requested in PECO's Application; and (3) approve the tariff supplements, appended hereto, that are necessary to implement the rate reductions and other changes agreed to as part of the proposed Settlement.

In support of their request, the Joint Petitioners state as follows:

#### I. SUMMARY OF SETTLEMENT

The Joint Petitioners have agreed to the proposed Settlement terms and conditions set forth in this document as a means to resolve, fairly and equitably, all issues arising from the Application filed by PECO for approval of the proposed corporate restructuring and merger. As a result of this Settlement, further protracted litigation is avoided and customers can begin to realize the benefits of this Settlement sooner.

The Joint Petitioners have agreed to terms and conditions that fairly balance the interests of all parties and affirmatively promote the public interest. In particular, on January 1, 2002,

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<sup>2</sup> The Joint Petitioners understand that West Penn Power Company, The Potomac Edison Company and Monogahela Power Company ("Allegheny Power") and Allegheny Energy Supply Company, LLC ("AESC") will submit a separate letter indicating they do not oppose or take exception to the Settlement. Additionally East Brandywine Township and Wallace Township have indicated that they are taking no position on the Settlement at this time. PECO agrees that East Brandywine Township and Wallace Townships are in no way precluded from pursuing a separate agreement with PECO as to additional reliability upgrades and assurances.

PECO will reduce its retail electric distribution rates by \$60.0 million annually.<sup>3</sup> Such \$60.0 million reduction will remain in effect until January 1, 2004, when the annual rate decrease will become \$40.0 million. The \$40.0 million rate reduction will remain in effect through December 31, 2005. PECO will also extend the cap on its retail transmission and distribution charges agreed upon in the settlement of PECO's restructuring proceeding at Docket No. R-00973953 (the "1998 Electric Restructuring Settlement"), which would otherwise expire on June 30, 2005, for an additional eighteen months, or through December 31, 2006.

In addition, the Settlement: (1) imposes limitations on PECO's right to request recovery of any increases in nuclear decommissioning costs; (2) establishes benchmarks and measurement criteria for reliability and customer service and commits PECO to develop, with other parties, and implement, a quality of service plan to provide higher levels of reliability and customer service; (3) provides for enhancements in PECO's electric and gas universal service programs; (4) commits PECO to implement various initiatives to foster and promote renewable energy and related economic development; (5) promotes increased retail electric competition in PECO's service area, through a variety of commitments; (6) adopts various corporate structure protections to insulate retail customers from the risks of unregulated ventures and avoid the potential for improper cross-subsidization; (7) provides for PECO to maintain a strong corporate presence in Southeastern Pennsylvania through specific commitments regarding its corporate headquarters, employment and staffing levels and charitable and civic giving; and (8) enhances PECO's customer relationship with the City of Philadelphia.

The other Joint Petitioners agree, in turn, to resolve all objections to the Application and

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<sup>3</sup> PECO has already agreed to reduce its retail rates by \$60.0 million for the duration of 2001 pursuant to the terms of a separate settlement of PECO's recent securitization filing at Docket No. R-00005030. The settlement was approved by the Commission on March 16, 2000.

the granting of the various approvals requested therein and, subject to certain exceptions and qualifications as more fully set forth in Section 71, infra, to withdraw all actions, interventions or protests filed, and to terminate all other participation by themselves and their affiliates, in all proceedings involving or related to the merger of PECO and Unicom or the PECO, Unicom or Commonwealth Edison corporate restructurings, transfers of assets and related transactions. The other Joint Petitioners also agree to fully support the Settlement and to make reasonable good faith efforts to obtain its approval by the Commission and, if necessary, any Courts.

## II. BACKGROUND

1. This proceeding was initiated by the filing, on November 22, 1999, of the Application Of PECO Energy Company, Pursuant To Chapters 11, 19, 21, 22 and 28 Of The Public Utility Code, For Approval Of (1) A Plan Of Corporate Restructuring, Including The Creation Of A Holding Company And (2) The Merger Of The Newly Formed Holding Company And Unicom Corporation ("Application").

2. The transactions comprehended by the Application consist of the following: (1) the creation of NEWHOLDCO Corporation ("NewCo.") as a wholly owned subsidiary of PECO/4; (2) the exchange of PECO common stock for NewCo. common stock, such that, after the share exchange, NewCo. will be the parent of PECO; (3) PECO's transfer of its generating assets and wholesale power contracts to a newly formed generation subsidiary ("GenCo.") and its transfer of certain other assets and common facilities to NewCo., to a newly formed service company

("ServeCo.") and to newly formed non-utility business subsidiaries ("VenturesCo.");

(4) PECO's distribution to NewCo. of its shares in GenCo., ServeCo. and VenturesCo., thereby making those companies direct subsidiaries of NewCo.; and (5) concurrent with the consummation of the restructuring, and pursuant to the terms of their Agreement and Plan of Exchange and Merger, the merger of NewCo. and Unicom Corporation ("Unicom"). Hereafter, the transactions identified in (1)-(4), above, are referred to collectively as the "Corporate Restructuring," and the transaction identified in (5), above, is referred to as the "Merger." The Corporate Restructuring and Merger are described in greater detail in Paragraph Nos. 7-16 of the Application.

3. In the Application, PECO requested that the Commission grant the approvals necessary to effect the transactions described above, which consist of (1) the issuance of Certificates of Public Convenience under Section 1102 of the Public Utility Code (66 Pa.C.S. (S)1102), as more fully described in Paragraph Nos. 18-22 of the Application; (2) the registration of Securities Certificates under Section 1901 of the Public Utility Code (66 Pa.C.S. (S)1901), if required, as more fully described in Paragraph No. 22 of the Application; (3) the approval of contracts with affiliated interests under Section 2102(b) of the Public Utility Code (66 Pa.C.S. (S)2102(b)), as more fully described in Paragraph Nos. 23-25 of the Application; (4) making the findings described in Sections 2210 and 2811(e) of the Public Utility Code (66 Pa.C.S. (S)(S)2210 and 2810(e)), as more fully described in Paragraph No. 26 of the Application; and (5) making the findings required by Sections 32(c) and 32(k) of the Public Utility Holding Company Act (15 U.S.C. (S)793-5a(c) and (k)) for PECO to seek from the Federal Energy Regulatory Commission ("FERC") Exempt Wholesale Generator ("EWG") status and approval to purchase electric power from an affiliate at market-based rates, as more fully described in Paragraph Nos. 27-29 of the

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4 Subsequent to the filing of the Application, it was announced that NEWHOLDCO Corporation would be renamed Exelon Corporation.

Application.

4. Along with its Application, PECO submitted Appendices A-0 and Statement Nos. 1-5 and accompanying exhibits. The statements and exhibits are summarized in Paragraph No. 38 of the Application. An element of PECO's supporting information is the market power analysis conducted by William H. Hieronymus, Senior Vice President of PHB Hagler Bailly, Inc. (PECO Statement No. 5 and Exhibit WHH-1), that was conducted in accordance with the Competitive Analysis Screen described in Appendix A to the FERC's Merger Policy Statement, which in turn is intended to comport with the Department of Justice and Federal Trade Commission Horizontal Merger Guidelines. In addition, on February 2, 2000, PECO submitted supplemental testimony to explain certain amendments made to the Agreement and Plan of Merger after the filing of the Application (PECO Statement No. 2S).

5. PECO notified its customers of the filing of the Application by bill inserts. In addition, PECO issued a press release announcing and describing the Merger. PECO also served copies of its filing on the OTS, the OCA and the OSBA and served notice of the filing on all of the active parties to PECO's electric restructuring proceeding at Docket No. R-00973953 and all active parties to PECO's natural gas restructuring proceeding at Docket No. R-00994787, as more fully explained in Paragraph No. 51 of the Application and its accompanying Certificate of Service.

6. On December 4, 1999, the Commission caused a notice of the filing of PECO's Application to be published in the Pennsylvania Bulletin (29 Pa. Bulletin 6208), which allowed interested parties until December 20, 1999 to file protests and petitions to intervene. Twenty-



four parties filed protests or petitions to intervene in response to the Commission's Order.<sup>5</sup> In addition, the OTS entered its appearance.

7. The Commission assigned this matter to Administrative Law Judge Charles E. Rainey to conduct hearings and issue an initial decision. By its Order entered March 4, 2000, the Commission denied PECO's request that, in lieu of an initial decision, the Administrative Law Judge certify the record to the Commission for final decision pursuant to Section 335(a) of the Public Utility Code (66 Pa.C.S. (S)335(a)). On January 20, 2000, a Prehearing Conference was held in Philadelphia at which various procedural matters were addressed and resolved, including the establishment of a schedule in the event that litigation of the proceeding proved necessary.

8. Commencing shortly after PECO filed its Application, the parties engaged in extensive formal and informal discovery. To date, PECO has responded to approximately 500 interrogatories and requests for production of documents, which provided extensive additional information about the transactions for which approval is requested and about other issues of importance to the parties.

9. All parties actively engaged in a collaborative process to address what they perceive to be the issues raised by the Application. To that end, the schedule established at the Prehearing Conference committed the parties to two days of face-to-face meetings, on March 1 and 2, 2000, to attempt to resolve their differences. The success of those meetings prompted further rounds of negotiation, which ultimately led to the Settlement set forth herein.

### III. TERMS AND CONDITIONS

<sup>5</sup> Twenty-two of the filings were made before the Commission-imposed deadline. Two parties, New Energy and the City of Philadelphia, filed protests and petitions to intervene after December 20, 1999. NewEnergy was permitted to intervene over PECO's objection. PECO chose not to contest the intervention of the City of Philadelphia. Additionally, the Department of the Navy filed a Notice to Intervene Out of Time, which it withdrew pursuant to a Notice of Withdrawal filed on March 22, 2000.

The Joint Petitioners, intending to be legally bound and for due consideration given, agree that the Application should be approved and the relief requested therein granted, subject to the following terms and conditions:

A. Rate Reductions and Extension of Transmission and Distribution Rate Cap

10. Rate Reductions. On January 1, 2002, PECO will reduce its retail electric distribution rates by \$60.0 million annually from the levels that otherwise would be in effect pursuant to the Commission's Order, entered May 14, 1998, approving the 1998 Electric Restructuring Settlement.<sup>6/</sup> That \$60.0 million distribution rate reduction will remain in effect until January 1, 2004, at which time the annual rate decrease will become \$40.0 million. The \$40.0 million rate reduction will remain in effect through December 31, 2005. The following distribution rate reductions will apply to all retail rate classifications and all customers within those rate classifications as set forth on a system average basis in Schedule 1 below:<sup>7/</sup>

<sup>6</sup> PECO has already agreed to reduce its retail rates by \$60.0 million for the duration of 2001 pursuant to the terms of a separate settlement of PECO's recent securitization filing at Docket No. R-00005030. The settlement was approved by the Commission on March 16, 2000.

<sup>7</sup> Rates reflecting the distribution rate reductions agreed to herein will be reflected on customers' bills commencing with regular billing cycles beginning after January 1 of the respective years shown on Schedule 1 and ending with the first regular billing cycle of the next subsequent year.

Schedule 1

SCHEDULE OF SYSTEM-WIDE AVERAGE RATES (a)

Effective Date	Transmission	Distribution	T&D Rate Cap	CTC or ITC	Shopping Credit	Generation Rate Cap
	(b) (1)	(2)	(3) = (1) + (2)	(4)	(5)	(6) = (4) + (5)
	c/kwh	c/kwh	c/kwh	c/kwh	c/kwh	c/kwh
January 1, 2002	0.45c	2.35c	2.80c	2.51c	4.47c	6.98c
January 1, 2003	0.45c	2.35c	2.80c	2.47c	4.51c	6.98c
January 1, 2004	0.45c	2.41c	2.86c	2.43c	4.55c	6.98c
January 1, 2005	0.45c	2.41c	2.86c	2.40c	4.58c	6.98c
January 1, 2006	0.45c	2.53c(c)	2.98c(c)	2.66c	4.85c	7.51c

(a) All prices reflect average retail billing for all classes of service (including gross receipts tax). Detail of actual individual rates for each class of service is provided in Appendix A. The average prices as presented in this Schedule 1 reflect the profile of service contained in PECO's proof of revenue set forth in Appendix A.

(b) The transmission prices listed are for unbundling only. The Pennsylvania Public Utility Commission does not regulate the rates for transmission service.

(c) The cap on PECO's transmission and distribution rates under Section 2804(4) of the Electric Competition Act will be extended until December 31, 2006.

11. a. Extension of Rate Cap. The cap on PECO's retail transmission and distribution charges, under Paragraph 21 of the 1998 Electric Restructuring Settlement, entitled "Rate Caps and Transmission and Distribution Charges," which otherwise would expire on June 30, 2005, will be extended an additional eighteen months, or through December 31, 2006. The other provisions of Paragraph 21 of the 1998 Electric Restructuring Settlement will remain in full force and effect and will apply for the duration of the new transmission and distribution rate cap period through December 31, 2006.

b. Other Costs. PECO agrees that expenses directly attributable to achieving the synergies under the merger will be incurred prior to the conclusion of the transmission and distribution rate cap period. PECO also hereby confirms that the Merger is a merger of equals and does not include an acquisition premium.

B. Recovery of Nuclear Costs, Including Decommissioning Expense; Nuclear Monitoring and Waste Storage.

12. Recovery of Nuclear Costs. PECO agrees that it will not seek to recover through Pennsylvania retail electric distribution rates the costs associated with the ownership and operation of any nuclear generating plants, or any fractional interests in such nuclear generating plants, that it did not hold on December 31, 1999 ("PECO's Pre-Existing Nuclear Interests").<sup>8</sup> For purposes of this section, such costs include, inter alia, nuclear decommissioning expense obligations, but do not include nuclear-related costs included in purchased power costs, or other nuclear costs. To the extent otherwise not prohibited by the Distribution Rate Cap established pursuant to this Settlement, the Generation Rate Cap established under the 1998 Electric

Restructuring Settlement, or by this Settlement, PECO shall not be precluded from recovery of purchased power costs related to nuclear generation, or other nuclear-related costs, that are incurred by PECO based on market pricing principles.

13. Except as specifically provided herein, nothing in this Settlement is intended to limit or otherwise modify PECO's rights to seek recovery through Pennsylvania retail electric rates of nuclear decommissioning costs associated with PECO's Pre-Existing Nuclear Interests. However, PECO agrees that if and when it seeks to increase its annual nuclear decommissioning expense allowance above the base \$29.162 million annual accrual level used for the purpose of calculating its Nuclear Decommissioning Cost Adjustment Charge ("NDCAC"), it will, under specifically defined circumstances as set forth in the Distribution Tariff attached as Appendix A, voluntarily forego recovery of (1) \$50 million of its total decommissioning cost obligations, plus (2) 5% of any additional increase in the annual accrual level above the base \$29.162 million annual accrual level.

14. To the extent permitted under applicable law, separate decommissioning trust funds, or sub-funds, shall be established for the decommissioning liability associated with any nuclear generating plant, or any fractional interest in a nuclear generating plant, that is not included in the definition of PECO's Pre-Existing Nuclear Interests ("Acquired Nuclear Interests"). To the extent permitted under applicable law, each Acquired Nuclear Interest fund or subfund shall be maintained separately and apart from the decommissioning funds established and existing for PECO's Pre-Existing Nuclear Interests ("PECO's Pre-Existing Nuclear Interest Funds"). No part of the cost of decommissioning Acquired Nuclear Interests shall be paid from

8 The Joint Petitioners agree that the PECO Pre-Existing Nuclear Interests consist of a 100% ownership interest in Peach Bottom Unit No. 1, a 42.49% ownership interest in Peach Bottom Unit Nos. 2 and 3, a 42.59% ownership interest in Salem Unit Nos. 1 and 2 and a 100% ownership interest in Limerick Unit Nos. 1 and 2.

PECO's Pre-Existing Nuclear Interest Funds.

15. The Joint Petitioners agree that if the actual expenditures necessary to accomplish the full decommissioning of PECO's Pre-Existing Nuclear Interests are less than the full balance of PECO's Pre-Existing Nuclear Interest Funds, PECO is entitled to obtain release of such funds for the purpose of sharing the amount between customers and shareholders. In the event of such release, PECO will be permitted to retain for its own benefit (1) the first \$50.0 million of the net after tax released amount and (2) 5.0% of the remaining net after-tax released amount. The balance of the released funds not retained by PECO shall be returned to retail customers in a manner to be directed by the Commission.

16. Nothing in this Settlement is designed to prevent PECO from entering into purchase power agreements with any entity, affiliated or otherwise, for the procurement of nuclear generation.

17. PECO also agrees that, in the event that any nuclear generating unit owned by PECO or a PECO affiliate experiences an incident or accident that results in uninsured damage claims in excess of \$1 billion, PECO shall: (i) notify the PUC within 60 days of such incident or accident, and (ii) within 90 days thereafter, demonstrate that PECO's net cash flows are sufficient for PECO to provide safe, adequate, continuous, efficient, reliable and reasonable distribution service to its Pennsylvania customers at reasonable rates.

18. Nuclear Monitoring and Waste Storage. PECO shall enter into an agreement with Eric Joseph Epstein which shall be substantially in the same form as that attached hereto as Appendix B. This Agreement shall specifically address certain issues relating to the continued safe operation of Peach Bottom 2 and 3, robotics research, and community involvement concerns raised by Mr. Epstein. This Agreement is referenced for informational purposes only. The

parties do not specifically request the Commission to approve this Agreement as part of the Joint Petition for Settlement.

C. Reliability And Customer Service.

19. PECO commits to a Quality of Service Plan ("Service Plan") designed to provide higher levels of reliability and customer service in PECO's service territory. The Company also agrees to continue its commitment and efforts to resolve reliability problems identified in several specific areas, which include, but are not limited to, the on-going efforts in East Brandywine Township, Aston Township, Wallace Township, York County as well as other areas. The Company agrees that it will continue to respond to customer and community concerns regarding reliability and will not argue that this Settlement or Service Plan limits or eliminates its responsibility to address reliability concerns throughout its service territory.

20. The Company agrees to establish service quality standards that enhance reliability and customer service over the period from January 1, 2001 to December 31, 2005. The Company and the Joint Petitioners further agree to reconvene in 2005 to determine if further action is necessary and, if so, the nature and scope thereof.

21. The Company, OCA, OTS, the City of Philadelphia and other interested parties agree to work cooperatively to provide higher levels of reliability and customer service over the period from January 1, 2001 through December 31, 2005. The parties also agree to work cooperatively to determine necessary action to be implemented pursuant to the Service Plan each year.

22. The Service Plan will include specific measurement areas where the Company will be expected to provide higher levels of service. In addition, the Service Plan will identify areas where performance must be maintained and areas that must be reported to the OCA, the

OTS, the Commission, the City of Philadelphia and other interested parties.

23. Reliability. The Joint Petitioners have set targets utilizing, where available, five-year historic data from 1994 through 1998 and reflecting agreed upon higher levels of service over the period 2001 through 2005. The following indices, utilizing Commission definitions where available, will be measured and/or reported. A mutually agreed upon range and/or reporting requirement for higher levels of service for these indices is set forth below:

- . Customer Average Interruption Duration Index (CAIDI): The Company agrees to move, by 2005, to a level of reliability measured by CAIDI that is 10% higher than the level set by the Commission in its Reliability Benchmarks and Standards (PUC Docket No. M-00991220).
- . System Average Interruption Frequency Index (SAIFI): The Company agrees to move, by 2005, to a level of reliability measured by SAIFI that is 10% higher than the level set by the Commission in its Reliability Benchmarks and Standards (PUC Docket No. M-00991220).
- . Repeat Outages: The Company agrees to provide a yearly plan, beginning in 2001, to reduce the number of customers with repeat outages and agrees to a yearly reporting requirement regarding this index.
- . Five Worst Circuits: The Company agrees to provide yearly plan, beginning in 2001, to provide a higher level of service for the five worst circuits and agrees to provide a yearly report of its results in achieving this plan.
- . System Average Interruption Duration Index (SAIDI): Reporting Requirement. The levels for SAIDI expected to be consistent with CAIDI and SAIFI.
- . Momentary Average Interruption Frequency Index (MAIFI): Reporting Requirement.
- . Storm Management: The Company will provide to the OCA , the OTS, The City of Philadelphia, and the Commission individual storm performance reports addressing the Company's storm management efforts for storms excluded by the Commission's definition.

24. Customer Service. Initial targets have been developed from historical data, where available, and from Company standards, Bureau of Consumer Services ("BCS") standards and



industry practices, reflecting agreed upon higher levels of service over the period 2001 through 2005. The indices may be increased to reflect the PUC standards as set forth in the Commission's future rulemaking. A mutually agreed upon range and/or reporting requirement for higher levels of services for these indices is set forth below:

- . Percentage of calls answered within 30 seconds (as defined by the Company): The Company agrees to a target of 70% through 2005, which reflects a higher level of performance. The Company will be considered non-compliant for this index if the percentage of calls answered within 30 seconds is below 65% in any year of the Service Plan.
- . Average "Busy-Out" rate (% of calls that encounter a busy signal): The Company agrees to a target of 4% through 2005, which reflects a higher level of performance. The Company will be considered non-compliant for this index if the percentage of calls that encounter a busy signal is above 5% in any year of the Service Plan.
- . Number of residential customer disputes not issued a Company report within 30 days. The Company agrees to 50% decrease in this index over the period 2001 through 2005.
- . Gas Response Time to Safety Calls. The Company commits to maintain its current high level of performance, by continuing to respond to 99% of all gas emergency calls within one hour. The Company agrees to provide OCA with copies of monthly reports on gas emergency call response submitted to the Commission's Bureau of Safety and Compliance.
- . Worker/Employee Safety-OSHA Loss Work Day Cases The Company commits, as its target, to remain in the top 10% of EEI comparable utilities (companies with 1500-4000 employees). The Company will be considered non-compliant for this index if it falls below the top 20% of the EEI comparable utilities.

25. Customer Service Reports. The following indices will be reported annually:

- . Average call abandonment rate.
- . Average number and % of residential bills not rendered once every billing period.
- . Average number and % of small commercial bills not rendered once every billing period.
- . Number and % of residential meters not read as required by 52 Pa. Code

(S)56.12(4) (ii).

- . Number and % of residential meters not read as required by 52 Pa. Code (S)56.12(4)(iii)
- . Number of residential customers not read as required by 52 Pa. Code (S)56.12(5)(i).
- . Justified consumer complaint rate. Report only the data contained in the BCS Annual Report.
- . PUC Infraction Rate. The Company to report only until necessary data are available.
- . Customer satisfaction surveys.
  - % satisfied with recent contact.
  - % appointments met.

26. The Company agrees to include overall performance under the above identified Service Plan in the annual performance appraisal and compensation for the management and supervisory employees in its Distribution Operations and the Customer and Marketing Services groups.

27. Evaluation of Compliance. The Company will provide a report each year to the PUC, the OCA, the OTS, the OSBA, the City of Philadelphia and other interested parties analyzing its performance in each area and its performance in achieving the targets for higher levels of service. The Company will analyze each of the performance indicators in its report.

28. Response to Failure to Achieve the Targets in the Improvement Plan.

a. The Company agrees that, in any year during the Service Plan, if its performance is outside of the agreed upon range for any performance area being measured pursuant to Sections 23 and 24, the Commission will open a formal proceeding to investigate the Company's performance under the Service Plan. The Company, as an initial part of this

proceeding, will provide the PUC, OCA, OTS, OSBA, the City of Philadelphia and other interested parties with a report that analyzes the root cause of the failure and specifies the steps to be taken over the next 12 months to meet the required standard in the following year. The report shall include specific measurements of progress over the 12 months. A prehearing conference will be convened within 60 days of the filing of the Report. At the prehearing conference, the parties to the proceeding must indicate whether they wish to proceed to full litigation of the matter or whether the matter has been resolved among the parties.

b. In any proceeding convened to investigate the Company's non-compliance with the Service Plan, any party may request the Commission to order penalties for the service quality non-compliance. The Commission shall consider the degree of non-compliance and the number of indices in the Service Plan in which PECO failed to achieve agreed upon performance in determining whether to impose penalties and the level of penalties. The Commission can consider other methods of ensuring compliance with the Service Plan.

c. The Company agrees that the parties retain their right to petition the Commission for an on-the-record investigation or file a complaint in response to the storm management reports, storm response, other reported indices that are not directly measured in the Service Plan, individual or community complaints, or under other Commission Regulations.

d. Nothing contained herein is intended to limit the authority of the Commission, BCS, the Bureau of Safety and Compliance, or other Bureaus of the Commission from performing their duties and making recommendations, including recommendations regarding fines, for failure of PECO to perform in any of the areas contained in the Service Plan.

D. Universal Service

29. The Company agrees to provide \$1.3 million per year for 2001 and 2002 to the

county fuel fund agencies in each county in PECO's electric service territory that currently administer fuel grants.<sup>9</sup> These payments shall be made on or before January 15 of each year in which a payment is to be made pursuant to this Section. Payments made pursuant to this Section shall be distributed to the county fuel fund agencies in accordance with the existing allocation formula for PECO's Matching Energy Assistance Fund ("MEAF") funds to each county. If PECO has not implemented a "special needs" component to its CAP Rate program by January 1, 2003, it shall provide an additional \$400,000 to the county fuel fund agencies on or before January 15, 2003, to be allocated among such agencies in the same manner as the payments to be made pursuant to this Section in 2001 and 2002. PECO shall take all steps necessary to ensure that its CARES Program efficiently draws on the resources provided by this provision. These contributions do not limit or replace PECO's commitment to its hardship funds. The county fuel fund agencies will provide annual reports to the Company detailing how payments made pursuant to this section were spent.

30. The Company agrees to institute and maintain a customer data warehouse that will include appropriate Universal Service data. The data warehouse shall be designed to gather, to the extent technically feasible, historic data for Universal Service customers, including data back to at least December 1, 1998. In addition, the data warehouse shall be designed to enable the Company to monitor and manage its Universal Service programs. H. Gil Peach, Ph.D. ("Dr. Peach") will be included on the distribution list for communications in defining the content of the data warehouse, and will routinely interact with the PECO representatives that are developing the data warehouse. By January 31, 2001, the data warehouse will be in place and will begin its data

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<sup>9</sup> The county fuel fund agencies are: Project Heat, c/o Bucks County Opportunity Council, Inc.; Chester County Cares, c/o Community Service Council of Chester County; Delco Shares Its Warmth, c/o Community Action Agency; Project Reach, c/o Montgomery County Community Action Development Commission; Utility Emergency Services Fund (Philadelphia County); MasonDixon Cares, c/o Mason-Dixon Community Services (York County).

population. The Company agrees to provide Dr. Peach with timely and convenient on-site access to the customer data and statistical analysis tools, that will be necessary for him to effectively analyze the CAP Rate programs and the need, and structure of, if necessary, any "special needs" program. The Company agrees that the information contained in its data warehouse will be treated in accordance with the Commission's May 18, 1999 Enrollment Order at PUC Docket No. M-00991230, the Company's Electric Generation Supplier Coordination Tariff and other Commission Orders and Regulations.

31. The Joint Petitioners agree that a determination of the need for a "special needs" program and the components of such a program are more properly determined after sufficient Universal Service data are compiled. To that end, the Company agrees to review the Universal Service data contained in the data warehouse and other relevant sources to evaluate, with the LIURP Advisory Committee, whether a "special needs" component should be added to the Company's CAP Rate programs. A "special needs" component shall include, but is not limited to, program changes that address the special needs of customers with incomes at or below 50% of the federal poverty level. The determination of whether a "special needs" program is necessary, and the formulation of the program, if necessary, shall be completed by June 30, 2002. If PECO and the LIURP Advisory Committee are unable to achieve consensus on a program by that date, PECO shall, within 60 days thereafter, make a recommendation to the Commission concerning a "special needs" component. Nothing in this Settlement shall be interpreted to preclude earlier action from being taken to implement a "special needs" component in conjunction with the LIURP Advisory Committee or as the result of any other proceeding or Commission requirement. The contributions to the county fuel funds, as described in Section 29, above, will be in lieu of the Company implementing a "safety net" or "special needs" component

in years 2001 and 2002. As described in this Settlement, the Company agrees to use its best efforts to develop data, to study, and to evaluate this issue during this time frame.

32. As committed to in its Gas Restructuring Settlement at Docket No. R-00994787, the Company agrees to an updated evaluation of the CAP Rate program by Dr. Peach.<sup>10</sup> In this evaluation, Dr. Peach will assess the need for a "special needs" component to the CAP Rate. Dr. Peach's evaluation shall be completed by January 31, 2002.

33. By June 30, 2001, the Company agrees to provide the LIURP Advisory Committee with a status report on the Company's data warehouse and a report on the contributions to the county fuel funds.

34. The initial maximum participation level of 100,000 customers in the Electric CAP program specified in Paragraph 34 of the 1998 Electric Restructuring Settlement is increased. Consistent with Paragraph 34 of the 1998 Electric Restructuring Settlement, the CAP Rate remains an open enrollment program for all eligible customers with a provisional maximum participation level of 125,000 customers subject to revision and adjustment in consultation with the LIURP Advisory Committee when that level is reached.

35. In the event that Electric CAP Rate enrollment reaches 90,000 customers, the cost credit recoverable in the Universal Service Fund Cost ("USFC") Section 1307 recovery mechanism for each CAP Rate customer in excess of 90,000 will be \$383 per year in order to recover revenue shortfalls from the CAP Rate discounts. The USFC mechanism will recover only the revenue shortfalls described above, and the Company relinquishes the right to recover

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<sup>10</sup> Dr. Peach is the consultant who has conducted recent evaluations of PECO's CAP Rate Program. In the event that Dr. Peach declines or is unable to provide the service as set forth herein, a substitute shall be chosen who is mutually acceptable to PECO and the LIURP Advisory Committee.

administration, credit and collection costs, Uncollectible Accounts expenses, LIURP expense and similar costs related to the CAP program through the USFC mechanism. The \$383 per customer per year amount will remain in effect until the Company's next base rate case, will not be challenged in Section 1307 proceedings, and will be deemed acceptable for the purpose of Section 1307 audits. The annual recoverable amount will be calculated on the basis of the \$383 cost credit multiplied by the total number of electric customers over 90,000 enrolled in the CAP Rate program (prorated for partial year participants). The Joint Petitioners further agree that the Company will be permitted to recover the annual recoverable amount beginning January 1, 2002. Accordingly, this Section modifies the cost credit recovery calculation of the Section 1307 mechanism described in Paragraphs 33 and 34 of the 1998 Electric Restructuring Settlement.

36. In the event that Gas CAP Rate enrollment reaches 17,500 customers, the cost credit recoverable in the USFC Section 1307 recovery mechanism for each Gas CAP Rate customer in excess of 17,500 will be \$200 per year in order to recover revenue shortfalls from the Gas CAP Rate discounts. The USFC mechanism will recover only the revenue shortfalls described above, and the Company relinquishes the right to recover administration, credit and collection costs, Uncollectible Accounts expenses, LIURP expense and similar costs related to the Gas CAP program through the USFC mechanism. The \$200 per customer per year amount will remain in effect until the Company's next base rate case, will not be challenged in Section 1307 proceedings, and will be deemed acceptable for the purpose of 1307 audits. The annual recoverable amount will be calculated on the basis of the \$200 cost credit multiplied by the total number of gas customers over 17,500 enrolled in the CAP Rate program (prorated for partial year participants). Except as modified herein, the Joint Petitioners further agree that Company will be permitted to recover the annual recoverable amount beginning June 30, 2002, in

accordance with the Gas Restructuring Settlement at Docket No. R-00994787.

37. Additional electric and gas program costs for any new Universal Service programs, such as a "special needs" program (other than amounts committed above for 2001, 2002, and 2003 of \$1.3 million, \$1.3 million, and \$0.4 million, respectively), will be eligible to be recovered through the USFC Section 1307 recovery mechanism.

E. Environmental Provisions

38. Wind Block Program.

a. Funding. PECO agrees to contribute to Community Energy, Inc. ("CEI")/11/ the sum of three and one-half million dollars (\$3,500,000.00) for its Pennsylvania Wind Energy Program, payable to CEI in the following four installments: the first one million dollar installment to be paid on the first business day following the date of the consummation of the Merger; the second one million dollar installment to be paid within two business days after January 1, 2002; the third one million dollar installment to be paid within two business days after January 1, 2003; and the remaining \$500,000 to be paid within two business days after January 1, 2004. The funding will be used to advance the Pennsylvania Wind Energy Program to Pennsylvania electric customers in a manner that is non-exclusive to the Electric Generation Supplier a participating customer may select. Semiannually during 2001, 2002, 2003 and 2004, CEI shall submit a report to PECO, the PUC, and the OCA detailing its expenditure of the funds received from PECO. This report shall be in a form reasonably satisfactory to PECO.

b. Co-operative Marketing. Separate from the provisions in subsection (a)

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<sup>11</sup> CEI is a Delaware corporation with its offices in Philadelphia and Doylestown, Pennsylvania. CEI's corporate mission is to develop and market renewable and clean energy options in a customer choice environment. The principal project of CEI at this time is "Pennsylvania Wind Energy," under which new wind turbines are constructed with the generation marketed in "blocks" to retail customers. The program has developed new wind facilities near Hazleton, Pennsylvania, that commenced commercial operation in December, 1999 with wind blocks sold to commercial customers in the PECO service territory. Brent Alderfer, a former Public Utilities Commissioner in Colorado, is President of CEI.



above, CEI will work in conjunction with PECO Energy and/or Exelon Energy (or its successor EGS) to develop the business relationship necessary for PECO and/or Exelon Energy to successfully offer wind blocks to their customers. PECO Energy and/or Exelon Energy (or its successor EGS) will provide resources to CEI to help CEI develop this program.

39. Photovoltaic Project.

a. The Company agrees to provide four million dollars (\$4,000,000.00) to fund a four-year photovoltaic project to purchase, install, finance and/or write down the cost of the minimum number of rooftop units in each year of the project, as indicated below, with at least 1/3 of each year's minimum production operational by May 15 of that year and the remainder operational by the end of the respective year.

- . 2001 - 100 Units
- . 2002 - 100 Units
- . 2003 - 125 Units
- . 2004 - 125 Units

Each unit shall have a capacity ranging from 1.0 kW to 5 kW.

b. The payments to fund the project shall be made in four equal installments to the Sustainable Development Fund ("SDF") within two business days after January 1 of each respective project year, except that in the event the Merger has not been consummated by January 1, 2001, the first payment shall be made on the first business day following said consummation.

c. SDF shall submit a report on this project as a distinct section of each SDF semi-annual report that is required to be submitted to the Commission and the Joint Petitioners pursuant to the SDF bylaws and applicable Commission order(s). Program investments, loans, revenue and expenditures shall be reported in SDF's fiscal audits.

d. The SDF shall use its best efforts to implement the program as described herein and to maximize effective use of the funds to install photovoltaic systems, consistent with its chartered purpose and its normal operating procedures managed by its Board of Directors.

40. Tariff Issues.

a. The Company will make changes to Rate RS and Competitive Transition Charge sections of the Electric Service Tariff as reflected in the red-lined versions attached hereto as Appendix A.

b. To effectively implement Rate RS, a committee composed of representatives from PennFuture, CAC, OCA and PECO shall, in consultation with Electric Generation Suppliers ("EGSs"), establish standardized metering and billing practices for that rate.

41. New Pennsylvania Wind Facilities.

a. To enable the development of new wind facilities in Pennsylvania, the Company will provide the SDF three payments of four (4) million dollars each for a total amount of twelve (12) million dollars for the development of new wind powered generation projects in Pennsylvania, with the first payment to be made upon the consummation of the merger and the subsequent two payments on the following two anniversaries of that date.

b. The SDF shall submit a report on this project as a distinct section of each SDF semi-annual report that is required to be submitted to the Commission and the Joint Petitioners pursuant to the SDF bylaws and applicable Commission order(s). Program investments, loans, revenue and expenditures shall be reported in the SDF's fiscal audits.

c. The SDF shall use its best efforts to implement the program as described

herein and to maximize effective use of the funds to develop new wind facilities in Pennsylvania, consistent with its chartered purpose and its normal operating procedures managed by its Board of Directors. The Company will be able to promote its funding of these facilities.

42. Renewables Education.

a. PECO agrees to pay the SDF the amount of five hundred thousand dollars (\$500,000.00) a year for five (5) years to help fund consumer education on electricity from renewable sources, including environmental, financial and technical considerations. Funds shall be payable within two business days after January 1 of each year, except that in the event the merger is not consummated on or before January 1, 2001, the first year's payment shall be made upon consummation of the merger.

b. The SDF shall submit a report on this project as a distinct section of each SDF semi-annual report that is required to be submitted to the Commission and the Joint Petitioners pursuant to the SDF bylaws and applicable Commission order(s). Program investments, loans, revenue and expenditures shall be reported in SDF's fiscal audits.

c. The SDF shall use its best efforts to implement the program as described herein and to maximize effective use of the funds to provide public education on renewable electricity, consistent with its chartered purpose and its normal operating procedures managed by its Board of Directors.

d. In no event may the SDF use the funds provided by PECO to promote the generation product of any particular company.

43. Sustainable Development Fund. The Company agrees to accelerate the annual payments otherwise due to the SDF by paying into said fund a lump sum payment of \$9.98 Million before the later of consummation of the merger or January 1, 2001, representing

estimated collections during the period January 1, 2001 to December 31, 2006. Such payment shall be in complete satisfaction of all existing obligations of the Company to make payment to the fund and will not be subject to reconciliation.

44. Interconnection Issues.

a. Facilities under 40 kW. PECO agrees to modify the provisions of its "Requirements for Parallel Operation of Generation," including Appendix II thereto, such that all standards and procedures for certification and interconnection of facilities not exceeding 40 kW are stated within Appendix II. Proposed changes shall be submitted for review and discussion with other parties, as more fully delineated in Subsection B, below, prior to adoption by PECO.

b. Facilities over 40 kW. Additionally, in order to facilitate the interconnection of distributed and renewable energy sources, while maintaining system safety and reliability, PECO agrees to review, and adopt, where appropriate, new technical standards, procedural requirements and expense requirements for interconnection. PECO will do so based upon discussions with CAC, PennFuture, the SDF, and other interested parties regarding modifications to the "Requirements for Parallel Operation of Generation," including Appendix II thereto. The revisions to be considered shall provide for: (1) pre-certification of various categories of such facilities to minimize individualized review; (2) standardization of engineering and other pre-interconnection study costs; (3) inclusion of the system benefits of distributed generation in determining distribution system costs charged to the customer and those borne by the system; and (4) incorporation of relevant standards of the Institute of Electronic and Electrical Engineers ("IEEE") and National Fire Protection Association ("NFPA"). Facilitating interconnection by maximizing time, procedural, technical and expense certainty while maintaining system safety and reliability shall be of primary importance in considering any

modifications (as discussed above) to the current procedures. After consultation with the interested parties, as described herein, PECO shall make the final determination as to what changes are incorporated. PECO shall not impose any distribution or transmission charges on the interconnecting generator unless such charges are imposed on all similarly situated generators regardless of owner or purchaser, do not duplicate charges to retail customers, and have been approved by the appropriate regulatory agency.

F. Promoting Competition

45. Access to Installed Capacity ("ICAP"). The Joint Petitioners expressly acknowledge that specified quantities of ICAP will be provided to EGSS pursuant to PECO's FERC Electric Market-Based Rate Tariff or the GenCo successor thereto as described in Appendix C. The Joint Petitioners do not request the Commission to specifically approve the terms of this Appendix C as part of the Joint Petition for Settlement, and the Joint Petitioners acknowledge that Appendix C is referred to here for informational purposes only. The Joint Petitioners further acknowledge that, by referencing and attaching Appendix C, the Joint Petitioners do not intend to confer jurisdiction on the PUC that does not otherwise exist under applicable law.

46. a. Release of Customer Historical Billing Data. Via posting on the Success website, or its successor thereto, for all customers who, pursuant to applicable Commission orders, secretarial letters, rules or regulations, have authorized release of their information, PECO shall provide, without charge, to both licensed EGSS and licensed natural gas suppliers ("NGSS") serving PECO customers, twelve individual months of historical monthly electric usage and billed demand and/or gas billing data, as applicable, and as provided to PECO customers. Said data shall be provided per customer account. The website customer lists

containing such data shall be maintained until January 1, 2004, unless the Commission shall make a generic determination (whether by order, secretarial letter, rule or regulation) that such program shall continue and, if so, under what terms. Nothing in this Section releases PECO from complying with such a generic determination by the Commission before the effective date of the Merger. The Success website customer lists shall be updated quarterly and shall include individual monthly electric usage and billed demand and/or gas billing data for the most recent twelve month period preceding the respective quarter, for which data is available. However, the lag time shall not exceed 2 billing cycles. The relevant Supplier Coordination Tariff language shall be attached hereto as Appendix D.

b. Individual Customer Inquires. PECO shall make all reasonable efforts to respond within four (4) business days to customer-authorized EGS or NGS requests for individual 12 month historical customer usage and measured and billed demand information as historically provided to customers.

47. Advance Notice of Process Changes. PECO Energy agrees to provide EGSs thirty (30) days advance notice of all discretionary, material Electric Choice process changes, such as, for example, load forecasting and reconciliation, and a reasonable opportunity for comment prior to making such changes.

48. Customer Load Profile Revisions. If an EGS demonstrates to the Company that a specific customer or customers experienced significant over or under deliveries relative to their load profile(s) for a period of six continuous months, then the Company agrees to have a representative of its Supplier Administration Group meet with the EGS to evaluate whether to assign such customer(s) different prospective load profile(s) and, if such reassignment is justified, to mutually agree to a prospective change in the load profile(s) of such customer(s).

49. EDI. PECO and all EGSs shall comply with all electronic data interchange ("EDI") standards and protocols as developed and defined by the Electronic Data Exchange Working Group ("EDEWG") and as approved by the PUC. PECO and all EGSs shall provide an individual point of contact skilled in EDI processes and systems for discussion and remediation of any process failure or information transfer failure. All process or information transfer failures caused by PECO or an EGS shall be remediated by the responsible party as soon as reasonably possible but not to exceed four (4) business days. In the event of frequent and repetitive process or information transfer failures, the responsible party will provide additional resources, including EDI consultants, to meet promptly with the other party's point of contact to identify causal factors and develop a remediation plan for such failures. The responsible party shall inform the other party of the progress of all corrective actions taken. Nothing contained herein shall prevent the party alleging harm from filing a complaint with the PUC or pursuing other available remedies.

50. Dispute Resolution. PECO Energy agrees to apply and adhere to the Abbreviated Dispute Resolution Process set forth in Appendix E hereto to resolve disputes involving alleged violations of the Retail Access Code of Conduct, the GenCo Code of Conduct, alleged violations of its Electric Generation Supplier Coordination Tariff or a dispute allegedly affecting or threatening the ability of an entity to provide electric generation or related services to a customer or customers.

51. PLR Marketing. Until January 1, 2004, PECO agrees not to market, advertise and promote its Provider of Last Resort ("PLR") service. This agreement, however, shall not preclude PECO from providing objective information to customers of the availability and terms of PLR service as part of a Commission-approved consumer education program or in response to

a specific consumer inquiries nor shall it prohibit PECO from continuing to conduct general corporate image advertising concerning, for example, PECO's role as a corporate citizen in the community or the reliability of PECO's distribution system, such as the current "Be Prepared" advertising campaign.

52. Competitive Default Service. PECO agrees to revise the currently existing Competitive Default Service ("CDS") auction process as follows:

a. As of April 1, 2000, the Company will issue a Request for Proposal ("RFP") for electric generation supply and capacity only, excluding customer care functions (such as call center, collections and billing, etc.), that requires bids to be received on or before May 1, 2000. The winning bidder will be selected by the Commission by July 1, 2000. As required by the terms of its 1998 Electric Restructuring Settlement, PECO's divisional or affiliated EGSs may not bid, and the RFP will cover 20% of all of PECO's residential customers determined randomly from both shopping and non-shopping customers. The Company will adjust downward, as appropriate, the currently required surety to reflect the reduced risk to the Company associated with bids for only the energy and capacity component of PLR service.

b. In the event no winning bidder is selected through the RFP process, the Company agrees to engage in good faith negotiations with qualified suppliers to enter into a bilateral CDS agreement or agreements between PECO and one or more suppliers for provision of electric generation supply and capacity to the twenty percent (20%) of PECO's residential customers included in the CDS auction. PECO's divisional or affiliated EGSs may not participate in this process. For the bilateral agreements, EGSs are free to propose the stranded cost buy down. Any CDS bilateral agreement(s) resulting from these negotiations shall: (1) include a schedule for implementation; (2) shall not require CDS customers to pay generation



rates in excess of the otherwise applicable shopping credits; (3) unless PECO otherwise agrees, shall not impose additional costs on PECO as compared to costs PECO would have incurred if the CDS load had been awarded in accordance with the terms of the 1998 Electric Restructuring Settlement; and (4) shall be filed with the Commission on or before October 1, 2000. Unless expressly provided herein, the CDS provisions in Paragraph 38 of the 1998 Electric Restructuring Settlement shall remain in effect.

c. In the event that PECO is unable to reach agreement with any supplier on a CDS bilateral agreement by October 1, 2000, or in the event the Commission, by November 1, 2000, modifies, rejects or fails to approve any filed bilateral CDS agreement, and if, on January 1, 2001, less than 35% of all PECO's residential and commercial customers, by class, are obtaining generation service from an alternate EGS or PECO supplier affiliate or division, then PECO shall, as provided in the Company's 1998 Electric Restructuring Settlement, randomly assign, by class, to all licensed suppliers serving residential and/or commercial customers on its system, except PECO's divisional or affiliated EGSS, the percentage of such customers required to fulfill the January 1, 2001 thirty five (35%) market share threshold. Nothing contained herein shall absolve, limit or qualify PECO's obligation to randomly assign, by class, customers sufficient to achieve the 35% target, as set forth in Paragraph M. 39.a. of the 1998 Electric Restructuring Settlement. PECO shall assign said percentage of such customers among eligible suppliers in accordance with Commission-approved procedures. Any such assignment resulting from this process shall not require the assigned customers to pay generation rates in excess of the otherwise applicable shopping credits.

d. If, for reasons beyond PECO's reasonable control, the schedules outlined in Sections 53. a. and/or b., above, are not met, such that PECO is unable to select a CDS

provider thereunder by January 1, 2001, then, for purposes of the assignment required by Section 53.c., above, the twenty percent (20%) of customers otherwise covered under Sections 53. a. and b. will nonetheless be included in calculating the required thirty-five percent (35%) market share threshold. Notwithstanding the above, in the event that, by September 1, 2000, a CDS provider has not been selected pursuant to either Sections 53. a. or b., above, the Company shall, pursuant to the process set forth in Section 53. c., above, assign the percentage of customers necessary to reach the 35% market share threshold. This assignment shall fully satisfy the Company's CDS auction requirement.

53. Shopping Credits (CTC/ITC True -Up). The Company will reconcile all Competitive Transition Charge ("CTC") and Intangible Transition Charge ("ITC") (collectively "Transition Charge") revenues on an annual basis in two categories: (a) Residential; and (b) Commercial/Industrial (encompassing all commercial and industrial accounts). This change will become effective for the Section 1307 reconciliation proceeding determining rates for the year 2001. This modification of the reconciliation process will minimize changes to shopping credits in commercial and industrial rate classes by expanding the reconciliation base. The Company will notify customers by bill insert of the applicable shopping credits that result from the annual CTC/ITC reconciliation. Whenever possible, the Company will attempt to provide such notice in advance of the change becoming effective.

54. "Fresh Start" For Special Contract Customers. Notwithstanding any contrary contract term or condition, each customer that is party to an existing contract with PECO entered into under Rule 4.6, the Economic Efficiency Rider, the Incremental Process Rider or the Large Interruptible Load Rider of PECO's Tariff Electric-Pa. PUC ("Special Contracts") shall have a unilateral, one-time option to terminate such contract with PECO for Competitive Energy

Supply. The customer may exercise the option by providing written notice via certified mail, return receipt requested, to the Vice President, Customer and Marketing Services, PECO Energy Company, 2301 Market Street, Philadelphia, Pennsylvania 19101 to be received during the sixty (60) day period commencing ninety (90) days after the date of closing on the merger of PECO and Unicom. If exercised, such termination will be effective as of the meter-read date immediately following the expiration of the sixty (60) day exercise period. Customers exercising the "Fresh Start" option will not be subject to an extra-contractual "Fresh Start" penalty or charge, but will be required to fulfill any otherwise applicable contractual obligations for the remainder of the contract term. For customers exercising this option who were parties to Special Contracts as of January 1, 1997, the charges for Electric Delivery Service, which consist of the unbundled charges for distribution services and Transition Charges, shall be those charges as unbundled effective as of January 1, 1999, subject to any applicable increases that result from the expiration of the distribution and/or generation rate caps. Where the Special Contract expressly specifies unbundled charges or methodology, the contract shall govern. For customers who were parties to Special Contracts entered into after December 31, 1996, the charges for Electric Delivery Service shall be the same as those for customers receiving service under Rate HT, unless the Special Contract otherwise specifies those charges. In such case, the Special Contract shall govern.

55. Information Reporting. Upon the request of an EGS, PECO will provide to the requesting party a copy of the monthly report filed with the Commission pursuant to the GenCo. Code of Conduct, excluding sales by the GenCo to PECO for Provider of Last Resort Service.

56. Distribution Of A Shopping Guide. In cooperation with the OCA, PECO will distribute to all of its residential customers copies of the OCA's "Shopping Guide" or a similar

shopping guide that shows the prices, relative to PECO's price to compare, being offered by competitive suppliers for residential generation service in PECO's service territory. PECO will provide copies and distribute the shopping guide at its own expense at least twice per year during calendar years 2000, 2001 and 2002.

#### G. Corporate Structure Protections

57. Cost of Capital of Regulated Distribution Operations. The cost of capital used in establishing PECO's rates for retail electric and gas distribution service regulated by the Commission shall not reflect any risk adjustment associated with its corporate parent, Exelon, or any affiliate not regulated by the Commission. For purposes of this section, PECO's cost of capital shall include its cost rates for debt, preferred stock and common equity as applied to PECO's capital structure ratios.

58. Investment Conditions. From and after the effective date of this Settlement, PECO shall not: (1) guarantee the debt or credit instruments of Exelon or any affiliate not regulated by the Commission; (2) grant a mortgage or other lien or otherwise pledge as security for repayment of the principal or interest of any loan or credit instrument of Exelon or any affiliate not regulated by the Commission any property used and useful in providing retail utility service to the public subject to the Commission's jurisdiction; or (3) make any loan or otherwise extend credit to Exelon or any affiliate not regulated by the Commission for a term of one year or more. Upon PECO's request, as set forth in a Securities Certificate registration or other appropriate filing, the Commission may waive any one or more of these prohibitions if it finds that PECO's retail customers receiving service subject to the Commission's jurisdiction will be fully protected from bearing any increased costs as a result of granting the requested exception and that such customers will obtain some benefit from the transaction(s) made possible by the

requested exception.

59. Transactions Between PECO and Its Affiliates. PECO will maintain reasonable accounting controls and other procedures for the allocation of overhead and other costs of jointly used assets and personnel. Such controls and procedures will be designed to provide reasonable assurance that PECO does not bear costs associated with the business activities of affiliated companies, which costs are not regulated by the Commission. PECO will also maintain reasonable pricing protocols for determining transfer prices for transactions between PECO and affiliated companies involved in business activities not regulated by the Commission. PECO will provide for appropriate ratemaking recognition, after expiration of its transmission and distribution rate cap, of all after-tax net proceeds, or other benefits, from the sale to, or use by, affiliates of used and useful utility assets that were allowed in PECO's retail distribution base rates.

60. Limitation on Affiliate Purchased Power Rate Cap Exception. PECO agrees that it cannot argue, in any proceeding before the PUC involving the applicability of the rate cap exception (66 Pa. C.S. (S)2804(4)), that increases in the price of purchased power are outside the control of PECO simply because the purchase is from Exelon Generating Company or another affiliate. PECO agrees that the Call Contract between it and Exelon GENCO, filed with the FERC on December 16, 1999, cannot form the basis of a rate cap exception and that the PUC retains authority to review the reasonableness of rates charged to PECO's retail distribution customers as a result of the Call Contract.

61. Continuation of Jurisdiction. The Commission's approval of the Application does not affect PECO's existing legal obligation to comply with all provisions of the Code, including Chapters 11 and 21 thereof.

62. Access to Books, Records and Personnel. Upon written request, PECO will provide to the Commission, the OTS, the OCA and the OSBA reasonable access to the books, records, officials and staff of PECO's affiliates not regulated by the Commission to the extent: (1) such affiliates provide goods or services to PECO; and (2) access to such books, records, officials or staff is necessary for the Commission to perform its regulatory oversight responsibility with respect to PECO's purchases of goods or services from those affiliates. PECO agrees to accept service in Philadelphia, Pennsylvania, of any requests made pursuant to these provisions and, in responding to such requests, PECO will make available within the Commonwealth of Pennsylvania the books, records and personnel responsive to those requests. However, nothing set forth herein shall constitute or be interpreted as a waiver by PECO of its right to raise traditional discovery objections to any such requests, including, but not limited to, objections on the basis of relevance and privilege. Additionally, before responding to any such requests, PECO shall be permitted to require the imposition of protections it deems necessary to prohibit disclosure of proprietary or confidential information.

63. Annual Reports. PECO shall provide the OCA and the OTS with a copy of its annual report filed with the Securities and Exchange Commission ("SEC") and its Annual Report to Shareholders applicable to each of the years 2001 through 2006.

#### H. Corporate Presence And Commitment To Local Communities

64. PECO's Corporate Headquarters. PECO will maintain the corporate headquarters for its distribution business in Philadelphia through at least 2005.

65. Employment and Staffing Levels. PECO Energy will maintain employment at 2301 Market Street at no less than 1250 employees through 2003 and will verify compliance with this provision by filing an annual statement with the Commission. In addition, PECO

commits to maintain the staffing levels required to ensure the adequate, efficient, safe, reasonable and reasonably continuous operation of its regulated distribution business.

66. Contributions. PECO agrees to maintain at least current levels of charitable and civic giving and economic and community development contributions in Pennsylvania through 2003.

I. Large Customer Provisions

67. Amtrak Options for Transition Charge Buyout. Amtrak shall have the option to execute a lump-sum buyout of its Transition Charges as set forth in Appendix F. The Commission is requested to approve this provision.

68. City of Philadelphia Options Under Rule 4.6 Contract. PECO shall grant the City of Philadelphia additional rights and options under its Rule 4.6 contract, as set forth in Appendix G. The Commission is requested to approve the changes reflected in Appendix G.

J. General Settlement Provisions

69. Effectiveness of Settlement. The Settlement will go into effect upon the Commission's issuance of a final order approving the Settlement without modification. If the Commission rejects the Settlement, the Settlement automatically will terminate and be null and void. If the Commission, in approving the Settlement, should modify any terms or conditions of the Settlement or add any conditions, any Joint Petitioner may elect to withdraw from the Settlement by filing a notice of withdrawal with the Commission's Secretary and serving a copy thereof upon all Joint Petitioners by facsimile or overnight delivery service within five business days of the entry of the Commission's Order. In addition, the consummation and closing of the Merger and Corporate Restructuring constitute conditions precedent to the Settlement; provided, however, that Section 53 of the Settlement (dealing with Competitive Default Service), and

Sections 69 and 70 of the Settlement (dealing with Commission approvals necessary to consummate the Corporate Restructuring and Merger, withdrawal of intervenors' actions at other agencies and the parties' obligations to support the Settlement), are not subject to these conditions precedent; and provided further that Sections 58 through 63 (dealing with Corporate Structure Protections) shall have as a condition precedent only the consummation of the Corporate Restructuring. Once the Merger and Corporate Restructuring have been consummated and closed, this Settlement and its terms shall be implemented and enforceable notwithstanding the pendency of a petition for reconsideration or a legal challenge to the Commission's approval of this Joint Petition and Settlement unless such implementation and enforcement of the Settlement is stayed or enjoined by the Commission, another regulatory agency, or a court having competent jurisdiction over the matter.

70. All Issues Resolved. The Settlement resolves with prejudice all issues related to PECO's Application for Merger and Corporate Restructuring. The approvals requested in PECO's Application are approved, as modified by the Settlement. This Settlement precludes the Joint Petitioners from asserting contrary positions in derogation of this Settlement with respect to any issue addressed herein during subsequent litigation against PECO; provided, however, that this Settlement is made without admission against or prejudice to any factual or legal positions which any of the Joint Petitioners may assert in (a) the subsequent litigation of this proceeding in the event that the Commission does not issue a final, non-appealable Order approving this Settlement without modification; or (b) in any proceeding involving another Pennsylvania utility. This Settlement is determinative and conclusive of all of the issues addressed herein and constitutes a final adjudication as to the Joint Petitioners of the matters thereof. All Joint Petitioners shall support the Settlement and make reasonable and good faith efforts to obtain



approval of the Settlement by the Commission and any Courts.

71. Intervenors to Withdraw Other Actions. All Joint Petitioners other than PECO ("Intervenors") shall, immediately upon entry of a final Commission order approving the Settlement, withdraw any actions, interventions or protests filed and terminate all other participation, formal or informal, direct or indirect, by such Intervenors and their affiliates in all proceedings involving or related to the Merger, the Corporate Restructuring, the comparable corporate restructuring of Unicom and Commonwealth Edison and related transfers of assets and transactions thereunder before other agencies or courts including, but not limited to, FERC, SEC, NRC, DOJ, FTC, FCC, IRS, and Illinois Commerce Commission ("Other Forum").<sup>12</sup> Upon execution of the Joint Petition, Intervenors and their affiliates shall not initiate any such action, protest, intervention or participation before any Other Forum; provided, however, if, before the Commission enters an order granting, denying or modifying this Joint Petition, a filing is required in a proceeding before an Other Forum which, if not made, would cause the Intervenor to waive its right to participate in such proceeding in the event this Settlement is not approved, a filing, which does not state a position adverse to PECO in such proceeding, may be filed to preserve such Intervenor's right to participate in such proceeding. Any such filing will be withdrawn immediately upon entry of a final Commission order approving the Settlement. Additionally, if any court reverses, vacates or modifies the Commission's final order approving the Settlement, the Intervenors may intervene or revive a prior intervention in any then-pending proceeding in an Other Forum and, in that event, PECO shall not object to such intervention or revival on the grounds that it is untimely.

<sup>12</sup> However, this provision does not require any Intervenor to withdraw from the FERC proceeding at Docket No. EL00-25-000 wherein Commonwealth Edison, et al., requested a declaratory order containing, inter alia, findings that an independent transmission company subject to oversight by the Midwest Independent Transmission System Operator would have the

72. Other Proceedings. Acknowledging that it is expressly understood and agreed that the Settlement constitutes a negotiated resolution solely of issues addressed herein, the Merger and the Corporate Restructuring, the Joint Petitioners agree that this Settlement shall not constitute or be cited as controlling precedent in any other proceeding, including a proceeding involving a merger or an acquisition by another Pennsylvania electric utility.

73. Unless expressly modified by this Settlement, all of the terms and conditions of the 1998 Electric Restructuring Settlement remain in full force and effect.

#### IV. PUBLIC INTEREST CONSIDERATIONS

The Joint Petitioners submit that this Settlement is in the public interest and should be approved in full for the following reasons:

74. Rates Will Be Reduced. The Settlement provides for \$200 million of rate reductions over a four-year period commencing January 1, 2002.

75. Transmission And Distribution Charges Will Be Capped For An Additional Eighteen Months. The Settlement extends the cap on PECO's transmission and distribution charges, which otherwise would expire on June 30, 2005 under the 1998 Electric Restructuring Settlement, until December 31, 2006.

76. Post-Cap Distribution Rate Increases Will Be Mitigated. The Merger will create the opportunity to achieve cost savings through the sharing of best practices, purchasing economies and the elimination of duplicative functions. In addition, PECO has agreed that any future increases in nuclear decommissioning costs will be shared between shareholders and customers.

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characteristics and would fulfill the functions of a Regional Transmission Operator ("RTO") under FERC's Notice of Proposed Rulemaking at Docket No. RM99 - -2-000

77. Reliability And Customer Service Will Be Enhanced. The Settlement requires PECO to develop enhanced reliability and customer service standards and to hold management and supervisory personnel accountable if those standards are not met.

78. Competition Will Be Promoted. The separation of electric generation and marketing functions from regulated delivery services will facilitate compliance with the Code of Conduct and Competitive Safeguards (GenCo Code of Conduct) adopted as part of the 1998 Electric Restructuring Settlement. In addition, the Settlement promotes increased retail electric competition in PECO's service area through power sale commitments under its FERC market-based tariff; grants special contract customers a sixty-day "fresh start"; facilitates the exchange of information between PECO and third party suppliers; imposes restrictions on PECO's promotion of its provider of last resort (PLR) service; implements an Abbreviated Dispute Resolution Process; and establishes transition cost reconciliation procedures designed to reduce annual swings in shopping credits.

79. Universal Service Coverage Will Be Expanded. The Settlement removes the 100,000 customer limit on the CAP Program, reduces the level of cost recovery of the Universal Service Program, calls for consideration of institution of a "special needs" program and provides for additional contributions by PECO to county fuel fund agencies in PECO's service territory.

80. The Environment Will Benefit. The Settlement promotes the use of renewable energy sources through the funding of one of the largest investments in wind generation in the Eastern United States; educational outreach; the development and/or funding of a retail wind block program; the development of photovoltaic generation; expanded availability of Rate RS for renewable energy installations; and the acceleration of payments to the Sustainable Development Fund.

81. Customers Will Be Protected Against Unregulated Risk And Cross-Subsidization. One of PECO's objectives in adopting a holding company structure is to insulate utility customers from the risks attendant to unregulated businesses. Consistent with that objective, the Settlement provides that the determination of regulated rates shall not be affected by the success or failure of nonregulated businesses; requires PECO to adhere to reasonable accounting controls and pricing protocols in its dealings with affiliates; imposes conditions on PECO's extension of credit; and ensures reasonable access to the books, records and personnel of affiliated entities.

82. PECO Will Maintain A Strong Corporate Presence In Southeastern Pennsylvania. The Settlement ensures that PECO will maintain corporate staffing at 2301 Market Street at no less than 1250 through 2003 and maintain charitable and civic giving in Pennsylvania at no less than current levels through 2003.

83. Substantial Litigation And Associated Costs Will Be Avoided. The Settlement amicably and expeditiously resolves a number of important and contentious issues. The administrative and appellate burden and costs to litigate these matters to conclusion would be substantial.

84. The Settlement Is Consistent With Commission Policies Promoting Negotiated Settlements. The Joint Petitioners arrived at the Settlement terms after conducting extensive discovery and engaging in in-depth discussions over many weeks. The Settlement terms and conditions constitute a carefully crafted package representing reasonable negotiated compromises on the issues addressed herein. Thus, the Settlement is consistent with the Commission's rules and practices encouraging negotiated settlements (see 52 Pa. Code (S)(S) 5.231, 69.391, 69.401) and Chairman Quain's admonition specific to this proceeding that the parties

"work diligently, in the spirit of compromise repeatedly endorsed by this Commission, to reach an amicable resolution of this matter, if at all possible." See Separate Statement of John M. Quain, Chairman, issued March 2, 2000 in conjunction with the PUC's Order denying PECO's Petition for certification of the record under Section 335(a).

V. CONCLUSION

WHEREFORE, the Joint Petitioners, intending to be legally bound, respectfully request that the Commission: (1) approve this Joint Petition, including all terms and conditions contained herein, without modification; (2) issue Certificates of Public Convenience under Section 1102 of the Code authorizing the proposed Corporate Restructuring and Merger and the transfer of assets contemplated therein; (3) approve the agreements with affiliated interests attached as Exhibits "H-1", "H-2" and "H-3" to the Application; (4) make the findings required by Sections 2210 and 2811(e) of the Code; (5) make the findings required by Sections 32(c) and 32(k) of the Public Utility Holding Company Act regarding EWG status; (6) approve the Tariff Supplements attached as Appendix A to become effective pursuant to terms set forth therein; and (7) terminate and mark closed the proceedings at Docket No. A-110550F0147.

Respectfully submitted,

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Paul R. Bonney, Esquire  
Ward L. Smith, Esquire  
Delia W. Stroud, Esquire  
Kent D. Murphy, Esquire  
PECO Energy Company  
2301 Market Street  
P.O. Box 8699  
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Kenneth L. Mickens, Esquire  
Kandace F. Melillo, Esquire  
Pennsylvania Public Utility Commission  
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Bernard A. Ryan, Jr., Esquire  
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For the Office of Small Business

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John Hanger, Esquire  
Peter Meadows Adels, Esquire  
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For Citizens for Pennsylvania's Future  
et al.

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Christopher B. Craig, Esquire  
Senate Democratic Appropriations  
Committee  
Room 545, Main Capitol Building  
Harrisburg, PA 17120  
For State Senator Vincent J. Fumo

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Daniel Clearfield, Esquire  
Gerald Gornish, Esquire  
Kevin Moody, Esquire  
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Craig A. Doll, Esquire  
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For Conectiv Energy

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Edward A. McCool, Esquire  
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For CEPA, ACORN, TAG and Action  
Alliance

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Industrial Energy Users Group

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---

Marc Machlin, Esquire  
Pepper Hamilton LLP  
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For the National Railroad Passenger  
Corporation

---

Joseph A. Dworetzky, Esquire  
Hangley, Aronchick Segal & Pudlin  
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Philadelphia, PA 19103  
For the Mid-Atlantic Power Supply  
Association



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David M. Kleppinger, Esquire  
McNees, Wallace & Nurick  
100 Pine Street  
Harrisburg, PA 17108  
For the City of Philadelphia

July 7, 2000

U.S. Nuclear Regulatory Commission  
ATTN: Document Control Desk  
Washington, DC 20555-0001

Peach Bottom Atomic Power Station, Units 1, 2, and 3  
Facility Operating License Nos. DPR-12, DPR-44 and DPR-56  
NRC Docket Nos. 50-171, 50-277, and 50-278  
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Limerick Generating Station, Units 1 and 2  
Facility Operating License Nos. NPF-39 and NPF-85  
NRC Docket Nos. 50-352 and 50-353  
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Salem Generating Station, Units 1 and 2  
Facility Operating License Nos. DPR-70 and DPR-75  
NRC Docket Nos. 50-272 and 50-311  
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Subject: Application for Indirect License Transfers

- References:
- (1) PECO Energy letter, Application for License Transfers and Conforming Administrative License Amendments, dated December 20, 1999
  - (2) PECO Energy letter, Additional Information Regarding Application for License Transfers and Conforming Administrative License Amendments, dated March 10, 2000
  - (3) PECO Energy letter, Response to Request for Additional Information Regarding Application for License Transfers and Conforming Administrative License Amendments, dated March 23, 2000
  - (4) PECO Energy letter, Additional Information Regarding Application for License Transfers and Conforming Administrative License Amendments, dated June 15, 2000

Dear Sir/Madam:

Pursuant to 10 CFR 50.80, "Transfer of Licenses," PECO Energy Company (PECO) requests NRC consent to the indirect transfer, on an interim basis, of PECO's Facility Operating Licenses for Peach Bottom Atomic Power Station, Units 1, 2, and 3; Limerick Generating Station, Units 1 and 2; and Salem Generating Station, Units 1 and 2. The indirect transfer would result from the

merger of PECO and Unicom Corporation (Unicom). As a result, all of the stock of PECO will be owned by Exelon Corporation (Exelon), a newly registered holding company resulting from the proposed merger. PECO would, under this proposed NRC indirect transfer consent, continue to own and operate the assets and would continue to be the NRC licensee. There are no corresponding proposed changes to the Facility Operating Licenses or the Technical Specifications.

In References 1 through 4, which are incorporated in this application by reference, PECO requested NRC consent to the transfer of the Facility Operating Licenses for the above nuclear units to Exelon Generation Company (EGC), LLC, a new generating company subsidiary to be formed under Exelon. In Reference 4, PECO indicated there is a possibility that certain regulatory rulings associated with some of the related restructuring transactions may not be received to permit the restructuring transactions to be completed at the same time the PECO/Unicom merger is consummated. Proceedings in progress at the Illinois Commerce Commission, and private letter rulings from the Internal Revenue Service, may not be concluded at the time the merger is consummated. As a result, the transfer of ownership of and operational responsibility for PECO's generating assets to EGC may not occur simultaneously with the merger. PECO may continue to own and operate its nuclear units as a direct, wholly-owned subsidiary of Exelon for an interim period before these units are transferred to EGC.

General corporate information concerning the organization, management, and businesses of Exelon, and its respective directors and officers was provided in Section III of Reference 1. As this information demonstrates, all of the directors and officers of Exelon will be U.S. citizens and neither Exelon nor PECO will be subject to foreign ownership, control, or domination.

During this interim period, PECO would continue to hold its existing ownership interests in its nuclear units and continue to be the NRC licensee until the transfer of the assets to EGC occurs. The only significant change that will occur is that, upon the consummation of the merger, PECO's current shareholders will become shareholders of Exelon, and PECO will become a direct, wholly-owned subsidiary of Exelon. PECO will continue to be a public utility organized under the laws of the Commonwealth of Pennsylvania. Although the size and membership of the Board of Directors of PECO may change following the merger, all of the Directors of PECO will be U.S. citizens, and the principal officers of PECO will remain unchanged.

The technical qualifications of PECO to carry out its licensed responsibilities will remain as they are now during this interim period. The PECO nuclear organization would continue to operate its units in accordance with the terms of the existing licenses. With respect to the stations, the onsite management and technical support structure will continue to conform to the pertinent provisions in each facility's Updated Final Safety Analysis Report or Technical Specifications, as applicable. The offsite technical support organizations and personnel will continue to perform technical support functions for the stations. The functions, responsibilities, and reporting

relationships of these organizations, especially as they relate to activities important to the safe operation of each station, will continue to be clear and unambiguous.

PECO will also continue to be financially qualified to be the NRC licensee during this interim period, because becoming a subsidiary of Exelon will not affect PECO's current sources of operating and decommissioning funds. Becoming a subsidiary of Exelon will not affect PECO's status during the interim period as an "electric utility" within the meaning of 10 CFR 50.2 "Definitions." During this interim period, PECO will continue, as is currently the case, to recover decommissioning costs from ratepayers. PECO will continue to deposit decommissioning funds to the existing external sinking funds in accordance with 10 CFR 50.75 "Reporting and recordkeeping for decommissioning planning". The decommissioning funding changes discussed in Reference 1 will occur only upon the transfer of the PECO nuclear generating assets to EGC.

In summary, the establishment of Exelon as the parent holding company of PECO will not result in any change in: (a) the management or technical qualifications of PECO's nuclear organization; (b) the design or licensing basis of any of the units; (c) any of PECO's licenses or Technical Specifications; (d) the day-to-day operation and maintenance of any of these units; or (e) the financial qualifications of PECO with respect to operating costs and decommissioning assurance.

This application does not contain any Restricted Data or any change in access to Restricted Data. PECO's existing restrictions on access to Restricted Data xviii remain in place during the interim period of operations.

The consummation of the proposed merger between PECO and Unicom is currently scheduled to occur as soon as possible after receipt of all required regulatory approvals. Orders approving the merger have already been obtained from the Pennsylvania Public Utility Commission and the Federal Energy Regulatory Commission. We are requesting NRC review of this application to proceed in parallel with the completion of the review of the application for license transfers to EGC requested in References 1 through 4. PECO is hopeful that approval of the proposed merger by the Securities and Exchange Commission will be received in time to support consummation of the merger at the end of September 2000. Accordingly, we are requesting NRC approval of this application for indirect license transfers before the end of September 2000. If the regulatory rulings related to the restructuring transactions described above occur sufficiently in advance of when we plan to consummate the merger, we will notify the NRC that the need for approval of the requested indirect license transfer no longer exists and withdraw this application.

Similar requests dealing with the indirect transfer of control of the ComEd and AmerGen Energy Company, LLC (AmerGen) licenses during this interim period are being submitted on the ComEd and AmerGen dockets.

Indirect License Transfers  
July 7, 2000  
Page 4

If you have any questions about this letter, please contact Mr. James A. Hutton  
at (610) 640-6722.

Sincerely,

James A. Muntz  
Vice President - Power Generation Group

Attachments:

1. Affidavit

cc: NRC Regional Administrator, Region I  
NRC Senior Resident Inspector (Peach Bottom)  
NRC Senior Resident Inspector (Limerick)  
NRC Senior Resident Inspector (Salem)  
D.M. Skay, USNRC  
R.R. Janati, Pennsylvania Bureau of Radiological Protection

bcc: Manager, Financial Controls and Co-owner Affairs,  
Public Service Electric & Gas  
R.I. McLean, State of Maryland  
A.F. Kirby, III, Delmarva Power & Light Company  
G.R. Rainey - 63C-3  
J.J. Hagan - 63C-3  
J.W. Langenbach - 62C-3  
J.D. von Suskil - LGS, SMB1-1  
J. Doering - PBAPS, SMB4-9  
E.J. Cullen - MOB, S23-1  
G.L. Johnston - PBAPS, A4-1S  
R.C. Braun - LGS, GML5-1  
P.J. Davison - PBAPS, SMB3-2A  
J.M. Armstrong - LGS, SSB3-1  
J.P. Grimes - 63B-1  
R.W. Boyce - 63C-3  
R.A. Kankus - 63C-2  
A.A. Winter - PBAPS, A4-5S  
K.W. Gallogly - LGS, SSB2-4  
J.G. Hufnagel - 62A-1  
D.P. Helker - 62A-1  
PA DEP BRP Inspector - LGS, SSB2-4  
Commitment Coordinator - 62A- 1  
Correspondence Control Desk - 61B-5  
DAC - 61B-5  
K.A. Ainger - Commonwealth Edison Company  
J.E. Matthews - Morgan, Lewis & Bockius LLP

COMMONWEALTH OF PENNSYLVANIA :  
 : ss  
COUNTY OF YORK :

AFFIDAVIT

J.A. Muntz, being first duly sworn, deposes and says:

That he is Vice President, PECO Energy Company, the Applicant herein; that he has read the enclosed letter "Application for Indirect License Transfers" involving Peach Bottom Atomic Power Station Units 1, 2, and 3, Limerick Generating Station Units 1 and 2, and Salem Generating Station Units 1 and 2, and knows the contents thereof; and that the statements and matters set forth therein are true and correct to the best of his knowledge, information and belief.

/s/ James A. Muntz  
-----  
James A. Muntz  
Vice President - Power Generation Group

Subscribed and sworn to  
before me this 7th day  
of July, 2000.

/s/ Carol A. Walton  
-----  
Notary Public

December 20, 1999

U.S. Nuclear Regulatory Commission  
ATTN: Document Control Desk  
Washington, DC 20555-0001

Braidwood Station, Units 1 and 2  
Facility Operating License Nos. NPF-72 and NPF-77  
NRC Docket Nos. STN 50-456 and STN 50-457  
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Byron Station, Units 1 and 2  
Facility Operating License Nos. NPF-37 and NPF-66  
NRC Docket Nos. STN 50-454 and STN 50-455  
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Dresden Nuclear Power Station, Units 1, 2 and 3  
Facility Operating License Nos. DPR-2, DPR-19 and DPR-25  
NRC Docket Nos. 50-10, 50-237 and 50-249  
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LaSalle County Station, Units 1 and 2  
Facility Operating License Nos. NPF-11 and NPF-18  
NRC Docket Nos. 50-373 and 50-374  
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Quad Cities Nuclear Power Station, Units 1 and 2  
Facility Operating License Nos. DPR-29 and DPR-30  
NRC Docket Nos. 50-254 and 50-265  
-----

Zion Nuclear Power Station, Units 1 and 2  
Facility Operating License Nos. DPR-39 and DPR-48  
NRC Docket Nos. 50-295 and 50-304  
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Subject: Application for License Transfers and Conforming Administrative License Amendments

Pursuant to 10 CFR 50.80, "Transfer of Licenses," Commonwealth Edison (ComEd) Company requests NRC consent to the transfer of ComEd's interests in the Facility Operating Licenses for Braidwood Station, Units 1 and 2; Byron Station, Units 1 and 2; Dresden Nuclear Power Station, Units 1, 2 and 3; LaSalle County Station, Units 1 and 2; Quad Cities Nuclear Power Station, Units 1 and 2; and Zion Nuclear Power Station, Units 1 and 2. These interests would be transferred by ComEd to a new generating company, GENCO, to be formed in connection with the proposed merger of Unicom Corporation (Unicom), the parent company of ComEd, and PECO Energy Corporation (PECO). The actual name of GENCO will be provided to the NRC



as soon as it is determined, which will be well in advance of the time requested for NRC approval of the proposed license transfers.

ComEd requests that the NRC consent to these transfers and authorize GENCO to possess, use, and operate the nuclear facilities under essentially the same terms and conditions included in the present operating licenses. No physical changes will be made to any of these facilities as a result of the merger, and there will be no change in day-to-day operation of the facilities. In addition, pursuant to 10 CFR 50.90, "Application for Amendment of License or Construction Permit," ComEd requests NRC approval of certain administrative amendments to conform the operating licenses and Technical Specifications (TS) for the above nuclear stations to reflect the proposed transfers.

On September 22, 1999, Unicom and PECO entered into a merger agreement. The merger will result in the formation of a new holding company, Exelon Corporation (Exelon), which will be registered under the Public Utility Holding Company Act of 1935. As a result of the merger, the existing utility and non-utility businesses of Unicom and PECO will be organized into subsidiaries of Exelon.

Exelon will have several subsidiaries, including ComEd, PECO, and GENCO. ComEd will remain an Illinois regulated public utility that will continue to perform its current transmission and distribution (T&D) functions. PECO will remain a Pennsylvania regulated public utility that will continue to perform its current T&D functions. GENCO will be a Pennsylvania corporation that will own, operate, and market power from the electrical generating Units currently owned and operated by PECO and ComEd, and will engage in power marketing operations. GENCO will also acquire PECO's ownership interest in AmerGen Energy Company, LLC (AmerGen). ComEd and PECO will obtain all or part of their generation supply from GENCO.

PECO will separately apply to the NRC for consent to direct license transfers for the nuclear stations currently owned and/or operated by PECO. AmerGen also will be submitting separately a request for NRC consent to the transfer of PECO's interest in AmerGen to GENCO.

ComEd's and PECO's existing nuclear organizations and personnel will be assigned to GENCO, and the nuclear employees will become employees of GENCO or a wholly-owned subsidiary of GENCO. A Nuclear Group (NG) will be created within GENCO to operate the nuclear Units that are owned and operated by ComEd and PECO. Oliver D. Kingsley, Jr., the current President and Chief Nuclear Officer (CNO) of ComEd's Nuclear Generation Group, will become the President and CNO of the GENCO NG. The NG management team, including the respective Site Vice Presidents, will be responsible for safe nuclear operations. It will establish standards, programs and processes, provide support, and exercise oversight to maintain safe and reliable operation of the nuclear Units. The existing onsite organizations will remain essentially unchanged as a result of the creation of the NG.

The merger and the creation of the GENCO NG will bring together two strong and experienced nuclear management teams. In integrating the current nuclear management teams and organizations of ComEd and PECO, the GENCO NG will maintain effective programs, processes, and management controls, including the adoption of best practices, to meet high standards for safe and reliable nuclear operation. The NG will, to the extent practicable, standardize processes and work practices across the organization. In addition, ComEd has previously implemented thirteen Strategic Reform Initiatives for its nuclear Units, focusing the organization on operating fundamentals such as operational excellence, material condition, and regulatory required programs. These initiatives have been fundamental to ComEd's success in achieving and sustaining high levels of performance at its plants. All nuclear operations will be guided by the operating principles embodied by these initiatives. Specifically, the management approach that supports these initiatives, which includes an emphasis on high standards, clearly defined responsibilities, accountability, and top performance, will be applied by the GENCO NG senior management team to all of the nuclear Units operated by GENCO.

The attached application contains the information as required by 10 CFR 50.80 to demonstrate that:

- (1) GENCO will possess the requisite technical and financial qualifications to own and operate these facilities;
- (2) GENCO will not be owned, controlled, or dominated by an alien, a foreign corporation or a foreign government;
- (3) The proposed transfers and conforming administrative amendments do not raise any significant safety or regulatory issues; and
- (4) The proposed transfers do not require antitrust review by the NRC.

In summary, GENCO will be qualified to hold the licenses for these facilities, and the proposed transfers will be consistent with the requirements set forth in the Atomic Energy Act, NRC regulations, and relevant NRC licenses and orders, and will not have any adverse impact on the public health and safety or be inimical to the common defense and security.

With regard to the conforming amendments to the license and TS, these changes fall within the NRC's generic finding of no significant hazards consideration under 10 CFR 2.1315(a). Information supporting categorical exclusion from environmental review under 10 CFR 51.22 is also provided. The proposed conforming administrative license and TS changes have been reviewed and approved in accordance with the ComEd Quality Assurance Program.

ComEd is notifying the State of Illinois of this request for approval of conforming license and TS changes by transmitting a copy of this letter and attachments to the designated State Official.

The Closing Date of the PECO/Unicom merger, and the proposed transfer of assets and personnel to GENCO, is dependent upon completing certain regulatory notifications and receipt of certain regulatory approvals, including notification to the Illinois Commerce Commission and approvals from the Pennsylvania Public Utility Commission, the Securities and Exchange Commission, and the Federal Energy Regulatory Commission. The Closing Date is also dependent upon the expiration of the waiting period under the Hart-Scott-Rodino Antitrust Improvements Act of 1978. Unicom and PECO intend to consummate the merger at the earliest practicable date following receipt of all required regulatory approvals. Therefore, ComEd requests that the NRC issue an order approving the transfers to GENCO and the associated conforming license and TB changes by June 30, 2000. ComEd also requests that the NRC specify that the license transfers end amendments be effective immediately, authorizing completion of the transfers at any time through 12 months following the date of NRC approval. This will allow sufficient time for receipt of other regulatory approvals needed prior to closing on the merger, completion of administrative actions necessary to complete the transactions, and contingencies. ComEd and PECO will keep the NRC Informed if there are any significant changes in the status of the other required approvals or other developments that have an impact on this schedule.

This submittal includes proprietary information in Enclosure 7P. Because this enclosure contains confidential financial information, as described in the Affidavit of Robert E. Berdelle, provided in Enclosure 9, ComEd requests that this information be withheld from public disclosure pursuant to 10 CFR 2.790(a)(4), "Public Inspections, Exemptions, Requests for Withholding. A non-proprietary version of this attachment, suitable for public disclosure, is provided as Enclosure 7.

If you have any questions about this letter, please contact R. M. Krich at (630) 663-7330.

Respectfully,

O.D. Kingsley, Jr.  
President and Chief Nuclear Officer  
Nuclear Generation Group

Attachment

cc: Regional Administrator -- NRC Region III  
NRC Senior Resident Inspector -- Braidwood Station  
NRC Senior Resident Inspector -- Byron Station  
NRC Senior Resident inspector -- Dresden Nuclear Power Station  
NRC Senior Resident Inspector --, LaSalle County Station

NRC Senior Resident Inspector -- Quad Cities Nuclear Power Station  
Office of Nuclear Facility Safety -- IDNS

APPLICATION FOR LICENSE TRANSFERS AND CONFORMING

ADMINISTRATIVE LICENSE AMENDMENTS

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- Enclosure 8 Affidavit of Oliver D. Kingsley, Jr.
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- Enclosure 15 Marked-up Pages for Proposed Nuclear Power Station, Units 1 and 2





LIST OF ENCLOSURES IN PROPRIETARY ADDENDUM

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The following proprietary enclosure is in a separately bound Proprietary Addendum to the Application:

Enclosure 7P Projected Income Statement and Opening Balance Sheet of GENCO (Proprietary Version)

APPLICATION FOR LICENSE TRANSFERS AND CONFORMING  
ADMINISTRATIVE LICENSE AMENDMENTS

I. INTRODUCTION

Unicom Corporation (Unicom), an Illinois corporation, is the parent company of Commonwealth Edison (ComEd) Company. ComEd is currently the licensed owner and operator of Braidwood Station, Units 1 and 2; Byron Station, Units 1 and 2; Dresden Nuclear Power Station, Units 1, 2, and 3; LaSalle County Station, Units 1 and 2; and Zion Nuclear Power Station, Units 1 and 2. ComEd is also licensed to own 75% of Quad Cities Nuclear Power Station, Units 1 and 2, and to operate the Quad Cities Units./1/

PECO Energy Company (PECO), a Pennsylvania corporation, is currently the owner of Peach Bottom Atomic Power Station, Unit 1, holds a 42.49% ownership interest in Peach Bottom Atomic Power Station, Units 2 and 3, and is the licensed operator of all three Peach Bottom Units./2/ PECO is also the sole owner and operator of the Limerick Generating Station, Units 1 and 2, and holds a 42.59% ownership interest in the Salem Generating Station, Units 1 and 2, which are operated by Public Service Electric & Gas Company (PSE&G)./3/

On September 22, 1999, Unicom and PECO entered into an Agreement and Plan of Exchange and Merger (Merger Agreement) which will result in the formation of a combined company, Exelon Corporation (Exelon). Exelon will be a Pennsylvania corporation and a registered holding company under the Public Utility Holding Company Act (PUHCA) of 1935, as amended. Exelon will have several principal subsidiaries, including: ComEd; PECO; and GENCO./4/ ComEd will remain an Illinois regulated public utility that will continue to own and operate the transmission and distribution (T&D) assets currently held by ComEd. PECO will remain a Pennsylvania regulated public utility that will continue to own and operate the T&D assets currently held by PECO. GENCO will be a Pennsylvania corporation that will own and operate the nuclear electrical generating Units currently owned and operated by ComEd and

/1/ MidAmerican Energy Company is the owner of 25% of Quad Cities Nuclear Power Station, Units 1 and 2. MidAmerican's non-operating ownership share is not involved in this application.

/2/ Pursuant to Purchase Agreements with Delmarva Power & Light Company and Atlantic City Electric Company, dated September 27, 1999, PECO will acquire an additional 7.51 % ownership interest in Peach Bottom Atomic Power Station, Units 2 and 3. When these transactions are completed, PECO will hold a 50% ownership interest in each of these Units.

/3/ The ownership and operating interests in the Peach Bottom Atomic Power Station and Salem Generating Station Units that are not held by PECO, including those held by Public Service Electric & Gas Company (PSE&G), are not involved in this application. A request for conforming changes to the licenses and technical specifications for the Salem Generating Station Units will be submitted separately by PSE&G.

/4/ The actual name of GENCO has yet to be determined. The parties will notify the NRC once the actual name is selected, which will be well in advance of the time requested for issuance of an NRC order approving the license transfers and associated conforming license amendments.

PECO and the fossil-fired electrical generating Units currently owned and operated by PECO, and will engage in other business activities, including the sale of electricity at wholesale./5/ A schematic of the corporate structure resulting from the Unicom/PECO merger is presented in Enclosure 1.

In connection with these transactions, and in accordance with 10 CFR 50.80, "Transfer of Licenses" ComEd requests that the NRC issue an order consenting to the transfer to GENCO of ComEd's interests in the following Facility Operating Licenses:

- License No. NPF-72 (Braidwood Station, Unit 1)
- License No. NPF-77 (Braidwood Station, Unit 2)
- License No. NPF-37 (Byron Station, Unit 1)
- License No. NPF-66 (Byron Station, Unit 2)
- License No. DPR-2 (Dresden Nuclear Power Station, Unit 1)
- License No. DPR-19 (Dresden Nuclear Power Station, Unit 2)
- License No. DPR-25 (Dresden Nuclear Power Station, Unit 3)
- License No. NPF-11 (LaSalle County Station, Unit 1)
- License No. NPF-18 (LaSalle County Station, Unit 2)
- License No. DPR-29 (Quad Cities Nuclear Power Station, Unit 1)
- License No. DPR-30 (Quad Cities Nuclear Power Station, Unit 2)
- License No. DPR-39 (Zion Nuclear Power Station, Unit 1)
- License No. DPR-48 (Zion Nuclear Power Station, Unit 2)

ComEd requests that the NRC consent to these transfers and authorize GENCO to own and/or operate the facilities on essentially the same terms and conditions included in the existing licenses. No physical changes will be made to the facilities as a result of the transfers, and there will be no significant changes in their day-to-day operation. ComEd's and PECO's existing nuclear organizations will be transferred to GENCO, and nuclear employees of ComEd and PECO will become employees of GENCO or a wholly-owned subsidiary of GENCO.

ComEd also requests, in accordance with 10 CFR 50.90, "Application for Amendment of License or Construction Permit," NRC approval of certain administrative amendments to conform the licenses and Technical Specifications (TS) for these facilities to reflect the proposed transfers. Mark-ups of the licenses and TS showing the necessary conforming changes are provided in Enclosures 10 through 16, as are the associated evaluations conducted in accordance with 10 CFR 50.91, "Notice for Public Comment; State Consultation," confirming that these changes do no more than reflect the proposed license transfer and involve no significant hazards consideration, consistent with the generic finding of no significant hazards in 10 CFR 2.1315(a).

Additionally, PECO is a 50% owner of AmerGen Energy Company, LLC (AmerGen), a company owned by PECO and British Energy, Inc., which owns and operates nuclear power plants in the United States. AmerGen is submitting a separate application pursuant to 10 CFR

/5/ Other activities or assets being transferred to GENCO include PECO's and Unicom's power marketing operations and PECO's interests in hydroelectric generating facilities.

50.80, seeking NRC consent for the transfer to GENCO of PECO's ownership interest in AmerGen./6/

II. PURPOSE OF THE TRANSFERS AND NATURE OF THE TRANSACTION MAKING THE TRANSFERS NECESSARY OR DESIRABLE

The merger of Unicom and PECO, and the coincident transfer of electrical generating assets to GENCO, are in response to the overall restructuring of the electric utility industry in the United States, and are in furtherance of legislation and regulatory orders in Pennsylvania and Illinois to promote restructuring and competition in the electric industry. The merger of Unicom and PECO will strengthen the merged companies' T&D capability, will create a diversified and efficient generating company to provide power for sale in the restructured competitive electricity market, and will improve the safety, reliability, and efficiency of all of the functions of the merging companies. The creation of GENCO will enhance competition in the restructured electric industry, will separate Exelon's generation activities from regulated T&D activities, and will enhance the overall financial and operational flexibility of Exelon,

The integration of ComEd's and PECO's nuclear organizations will enhance the continued safe operation of the nuclear facilities currently owned and operated by ComEd and PECO. ComEd and PECO are among the largest and most experienced owners and operators of nuclear power plants in the United States. The nuclear management teams of both companies have demonstrated the ability to operate their nuclear facilities reliably and safely, and to achieve and sustain performance improvement. The senior members of these management teams will be part of the GENCO management team. A Nuclear Group (NG) will be created within the GENCO to operate the nuclear Units. The NG will combine the resources and expertise of both organizations under one Chief Nuclear Officer of the GENCO NO. The NG organization will be built on a model enabling it to support all of the nuclear Units operated by GENCO and to maintain high standards and effective programs, processes, management controls, and best practices.

In addition, the transfer to GENCO of all of the existing nuclear, fossil, and hydroelectric generating assets of PECO and ComEd, along with the existing power marketing operations of PECO and ComEd, will provide GENCO with substantial assets, revenues, and other financial

/6/ AmerGen is a Delaware limited liability company owned by PECO and British Energy, Inc. AmerGen owns and operates nuclear plants in the United States. The NRC has recently consented to the transfers of ownership and operating responsibility for Three Mile Island Unit 1 (TMI-1) (License No. DPR-50) and Clinton Power Station (Operating License No. NPF-62) to AmerGen. See GPU Nuclear, Inc. (Three Mile Island, Unit No. 1), Order Approving Transfer of License and Conforming Amendment, 64 Fed. Reg. 19,202 (April 19, 1999); Illinois Power Company (Clinton Power Station), Order Approving Transfer of License and Conforming Amendment, 64 Fed. Reg. 67598. AmerGen has also recently submitted License Transfer Applications to the NRC for the Nine Mile Point Nuclear Station (Operating License Not DPR-'63 and NPF-69) and the Oyster Creek Nuclear Generating Station (Operating License No. DPR-16). See Application for Orders and Conforming Administrative Amendments for License Transfers for Nine Mile Point Units 1 & 2 (DPR-63 and NPF-69) (September 10, 1999); Application for Order and Conforming Administrative Amendments for License Transfer for Oyster Creek Station (DPR-16) (November 5, 1999).

resources to pay for any capital expenditures or operations and maintenance costs required to ensure nuclear safety.

As described previously, coincident with the transfer of licensee and generating assets, PECO and Unicom will combine to form Exelon as of the "Closing Date," as defined in the Merger Agreement, once all conditions precedent are satisfied and regulatory approvals are obtained. The Merger Agreement is included as Enclosure 2. On or about the Closing Date, the following events will occur:

- (a) GENCO will assume ownership of the nuclear, fossil, and hydroelectric generating Units currently owned by ComEd and PECO, excluding certain switchyard and transmission facilities which will remain with PECO and ComEd; GENCO also will assume responsibility for the safe operation, maintenance, and eventual decommissioning of the nuclear facilities;
- (b) PECO's nuclear employees located at the Limerick Generating Station, Peach Bottom Atomic Power Station, in PECO's nuclear support offices in Wayne, Pennsylvania, and other locations, will become employees of GENCO or a wholly-owned GENCO subsidiary, and will support GENCO's nuclear operations. Similarly, ComEd's nuclear employees at the Braidwood Station, Byron Station, Dresden Nuclear Power Station, LaSalle County Station, Quad Cities Nuclear Power Station, and Zion Nuclear Power Station, and ComEd's nuclear support personnel in Downers Grove, Illinois, and other locations will become employees of GENCO or a wholly-owned GENCO subsidiary and will support GENCO's nuclear operations;
- (c) Interconnection Agreements and/or operating protocols between GENCO and PECO, and between GENCO and ComEd, will take effect, ensuring the continued availability of offsite power to the nuclear Units in accordance with all applicable regulatory requirements. GENCO may also contract for additional transmission service and for back-up power to the sites consistent with NRC requirements,

### III. GENERAL CORPORATE INFORMATION REGARDING EXELON AND GENCO

GENCO will be a wholly-owned subsidiary of Exelon, a corporation formed under the laws of Pennsylvania resulting from the merger of PECO and Unicom. Exelon will be a registered holding company subject to Securities and Exchange Commission (SEC) regulation under the PUHCA. Exelon's headquarters and principal place of business will be located at 10 South Dearborn Street, Chicago, Illinois, 60690-3000. Upon the receipt of the necessary regulatory approvals, Exelon will become a publicly traded company on the New York Stock Exchange, whose shares will be widely held, initially by the current shareholders of PECO and Unicom. Exelon will become the parent holding company of GENCO, PECO, ComEd, and non-utility subsidiaries. The entire Exelon Board of Directors has not yet been named, but Mr. Corbin A. McNeill, Jr. will become Chairman of the Board of Directors of Exelon upon completion of the merger of PECO and Unicom, and Mr. John W. Rowe will be the Chairman of

the Executive Committee of Exelon's Board of Directors. Other directors of Exelon will be selected from the existing Boards of Directors of PECO and Unicom.

A. NAME OF TRANSFEREE

GENCO

B. ADDRESS

GENCO's headquarters will be located at:  
960 Chesterbrook Boulevard  
Wayne, Pennsylvania 19087-5691

C. DESCRIPTION OF BUSINESS OR OCCUPATION

GENCO will be a corporation formed to own, operate, and acquire nuclear and other electric generating stations; to engage in the sale of electrical energy; and to perform other business activities. GENCO will be a wholly-owned corporate subsidiary of Exelon, a corporation formed under the laws of Pennsylvania.

Copies of the PECO and Unicom 1996, 1997, and 1998 Annual Reports are provided in Enclosures 3 and 4, respectively.

D. ORGANIZATION AND MANAGEMENT

1. State of Establishment and Place of Business

GENCO will be organized under the laws of the Commonwealth of Pennsylvania. GENCO's principal place of business will be in the Commonwealth of Pennsylvania.

2. Board of Directors

The business and affairs of GENCO will be conducted under the direction of a Board of Directors, who will be elected by Exelon, the sole shareholder of GENCO. Mr. Corbin A. McNeill, Jr. will be the Chairman of the Board. Mr. McNeill is a United States citizen. The parties will provide the names, addresses, and citizenship of the remaining members of the GENCO Board of Directors once they are identified. Currently, the intention is for these members to be initially drawn from the current senior management and/or Boards of Directors of PECO, Unicom, and ComEd.

3. Principal Executives and Officers

The names, titles, addresses, and citizenship of the principal executives and officers of GENCO are as follows. Mr. Corbin A. McNeill, Jr. will be the Chief Executive Officer. Mr. McNeill is a U.S. citizen. His address is 965 Chesterbrook Boulevard, Wayne, Pennsylvania 19087-5691. Mr. Oliver D. Kingsley, Jr. will be President of GENCO's Nuclear Group and Chief Nuclear Officer. Mr. Kingsley is a U.S. citizen. His address is 1400 Opus Place, Suite 900, Downers Grove, Illinois 60515. GENCO's Nuclear Group will also have a Chief Operating

Officer, who has yet to be named. The names, addresses, and citizenship of additional executives and officers will be provided.

#### E. FOREIGN PARTICIPATION

GENCO will not be owned, dominated, or controlled by foreign interests. GENCO will be a U.S. corporation that is a wholly-owned subsidiary of Exelon, a U.S. corporation. Pursuant to the Merger Agreement, Exelon's stock will initially be held by the current shareholders of PECO and Unicom, and will continue to be widely held and traded on the New York Stock Exchange.

#### IV. TECHNICAL QUALIFICATIONS OF GENCO

##### A. OVERVIEW

The technical qualifications of GENCO to carry out its licensed responsibilities will meet or exceed the technical qualifications of ComEd's and PECO's current organizations as described in the Updated Final Safety Analysis Reports (UFSARs) or the Defueled Safety Analysis Reports (DSARs) for the facilities involved. Indeed, the proposed merger will bring together two of the nation's most experienced nuclear management teams, with demonstrated experience in achieving and sustaining safe and reliable nuclear unit operations.

When the proposed license transfers and amendments become effective, GENCO will assume responsibility for, and control over, the operation of the current ComEd and PECO nuclear plants. Additional plants may be integrated into the NG in the future. The nuclear organizations of ComEd and PECO will be combined into one organization - the NG - which will be responsible for appropriate standards, programs, processes, management controls, and support for the nuclear facilities being transferred to GENCO. Oliver D. Kingsley, Jr., the current President and Chief Nuclear Officer of ComEd's Nuclear Generation Group, will become the President and Chief Nuclear Officer (CNO) of the new GENCO NG. PECO's existing nuclear employees at the Limerick Generating Station and Peach Bottom Atomic Power Station, and its nuclear employees at PECO's Wayne, Pennsylvania office and other locations, will be transferred to GENCO and will become employees of GENCO or a wholly-owned GENCO subsidiary. Similarly, the nuclear employees of ComEd at its nuclear sites, its Downers Grove, Illinois office and other locations will be transferred to GENCO and will become employees of GENCO or a wholly-owned GENCO subsidiary. The NO headquarters will be located in the Greater Chicago, Illinois area (currently Downers Grove, IL). Headquarters employees may be deployed at other NO locations.

In light of the size of the combined ComEd and PECO nuclear operating fleet, an organizational model will be adopted, designed to provide:

- 1) a single CNO accountable for overall management, leadership, performance, and nuclear safety;
- 2) a manageable span of control over the nuclear Units by the nuclear management team;

- 3) implementation of high standards, best practices, effective programs and processes, and management controls; and
- 4) effective oversight, support and service functions for the nuclear Units,

The NG structure is based upon an overriding philosophy of an engaged nuclear management team that establishes and enforces high standards and clear accountabilities, focuses on effective nuclear support, assures the sharing and implementation of best practices, and effectively exercises oversight of licensed activities. The NG organization will be managed as a single cohesive entity, with a common vision, a shared mandate for regulatory compliance and performance excellence, and consistent standards, programs, practices, and management controls. Management will apply a philosophy emphasizing operational excellence, excellent material condition, and the use of a well-defined process to identify and address performance gaps relative to industry top performers by monitoring of meaningful performance indicators.

#### B. ORGANIZATIONAL STRUCTURE

Enclosure 5 is an organizational chart for GENCO illustrating the post-transfer management structure and reporting relationships for the nuclear stations thin GENCO will own, operate, and manage.

The organization model consists of the NG headquarters functions, Regional Operating Groups (ROGs), and the nuclear sites. Span of control and geographic location will be the principal considerations in the makeup of the ROGs. Additional plants may be integrated into these initial ROGs or additional ROGs may be formed as necessary to ensure effective management controls, support, and oversight.

Direct responsibility and accountability for the safe and reliable operation of the plants will reside in line management, from the Site Vice Presidents up through the Regional Operating Group Vice Presidents and Chief Operating Officer, ultimately residing with the CNO. The NG will also include senior managers and their staffs responsible for the areas of nuclear support services, nuclear oversight, business operations, human resources, and administrative functions. The support services will include generation support (e.g., radiation protection, operations, maintenance), engineering, regulatory services, and training, which are currently provided by the PECO and ComEd corporate nuclear organizations. The NG headquarters, in conjunction with the ROGs, will to the extent practicable implement standardized programs, processes, and management controls that support the highest level of operation. Support for the nuclear plants in areas such as regulatory programs, oversight and assessment of the implementation of these programs, and development of consistent standards, programs, processes, and practices will be provided by these organizations.

As described above, each of the individual facilities will be assigned to a ROG. The existing onsite organizational structures, responsibilities, and reporting chains are not being changed as a result of the proposed license transfers. The onsite management and technical support structure will continue to conform to the pertinent provisions in each facility's UFSAR, DSAR, or Technical Specifications, as applicable.



With respect to the permanently shutdown Units, the onsite staffs will have responsibility for maintaining the facilities in their long term, safe storage mode until decontamination and dismantlement begins. The headquarters support organizations, ROG, and associated operating nuclear unit organizations will provide additional support.

#### C. MANAGEMENT PERSONNEL AND RESPONSIBILITIES

As shown in Enclosure 5, the reporting relationships among the principal GENCO executive officers and managers involved in the management of nuclear power facilities will be as follows:

- . The Co-Chief Executive Officer (CEO) of Exelon, Corbin A. McNeill, Jr., will serve as the CEO of GENCO. The NG, the other generation organizations (i.e., fossil-fueled, hydroelectric), and the power marketing and trading businesses of GENCO will report to the CEO. The CEO will have responsibility for overall GENCO corporate policy.
- . The Chief Nuclear Officer (CNO) of the NG, Oliver D. Kingsley, Jr., will report to the GENCO CEO. The CNO will be the senior corporate executive with all the necessary authority and full responsibility for the safe and reliable operation of the nuclear facilities operated by GENCO. The CNO will not have any non-nuclear ancillary responsibilities.
- . The Chief Operating Officer (COO) of the NG will report to the CNO. The COO of the NG will have responsibility for the overall day-to-day operations of the Regional Operating Groups. The COO position will be filled by an individual who possesses senior nuclear management experience.
- . The Vice Presidents for the ROGs will report to the COO. The ROG Vice Presidents will be responsible and accountable for the safe and reliable operation of the nuclear Units within their particular ROG. The ROG Vice President positions will be filled with individuals who possess senior nuclear management experience.
- . A Vice President, Corporate Nuclear Support, will report to the CNO and will have responsibility, in conjunction with the ROGs and the COO, for providing support to the sites in defining and implementing standards, programs, processes and best practices in areas such as engineering, nuclear supply, regulatory services, nuclear fuels, generation support (e.g., chemistry, radiation protection), project management, and information services, and will monitor performance in these areas. This Vice President will also manage projects associated with those Units that are permanently shutdown (i.e., Peach Bottom Atomic Power Station, Unit 1, Dresden Nuclear Power Station, Unit 1, and Zion Nuclear Power Station, Units 1 and 2).
- . A Vice President, Nuclear Oversight and Safety Review, will report directly to the CNO and be the executive responsible for ensuring that the activities of the oversight organization, including audits, quality control, and assessments of the

operating organization, are carried out. A Nuclear Oversight Director responsible for Quality Assurance will be assigned to each ROG. The ROG Nuclear Oversight Directors will report directly to the Vice President, Nuclear Oversight and Safety Review.

- . A Vice President, Human Resources and Administration, will report to the CNO and will be responsible for human resource policies and programs in support of the NG organization, and for carrying out other administrative duties. This Vice President will be responsible for monitoring performance in implementing the above.
- . A Vice President, Business Operations, will report to the CNO and will be responsible for NG business management processes, including annual and long-term business planning and goals, performance indicator data, and operating efficiencies and cost controls. This Vice President will be responsible for monitoring performance in implementing the above.
- . A Site Vice President will be assigned for each operating nuclear site. The Site Vice President will report to the Vice President of the appropriate ROG. The Site Vice President will be the senior executive on site responsible for overall plant nuclear safety and for compliance with the NRC operating license. The Site Vice President will provide day-to-day direction and management oversight of activities associated with the safe and reliable operation of the facility. It is expected that the incumbents will remain as the Site Vice Presidents once the merger is complete.
- . Chairpersons of the Nuclear Safety Review Boards (NSRBs) will report directly to the CNO and will advise the Vice President, Nuclear Oversight and Safety Review. These Chairpersons will be responsible for the independent review and audit function for the nuclear Units operated by GENCO.

Enclosure 6 includes resumes detailing the specific educational background and experience for the key GENCO and NG executive management personnel who will be responsible for the nuclear program- Specifically, resumes are included for Mr. McNeill and Mr. Kingsley./7/

/7/ The personnel at each nuclear station, including senior managers, will be essentially unchanged as a result of the merger. However, as is common for the management and staff at operating nuclear power plants, individuals routinely transfer to other positions within the same company, retire, resign, or transfer to positions at other sites. Thus, it is to be expected that additional experienced personnel may join the site organizations during the period leading up to and after the license transfer. Similarly, changes in titles within the organization may occur. Similar changes may be expected to occur within the PECO and ComEd corporate nuclear organizations. Prior to the transfer, decisions regarding such changes will be made by the current licensee, and following the transfer, such decisions will be made by GENCO. Any new personnel assigned to the nuclear stations will meet all existing qualifications requirements in accordance with the licenses and technical specifications of those stations.

#### D. TECHNICAL SUPPORT

The existing technical support organizations for the nuclear stations currently operated by ComEd and PECO, as described in the UFSAR or DSAR for those stations, are currently located at the plant sites or at the Wayne, Pennsylvania or Downers Grove, Illinois, nuclear support offices. These organizations and personnel will continue to perform technical support functions for their respective stations on behalf of GENCO. The functions, responsibilities, and reporting relationships of these organizations, especially as they relate to activities important to the safe operation of each station, will continue to be clear and unambiguous.

Support functions relating to information technology, the Public Information Centers, and the back-up Emergency Operations Facilities will either be transferred from PECO/ComEd to GENCO, provided by another organization within Exelon, provided by contract, or created within GENCO.

PECO and ComEd will also transfer the assets related to the nuclear Units that GENCO will need to maintain and operate the Units in accordance with NRC requirements. In addition to plant and equipment, necessary books, operating records, operating safety and maintenance manuals, engineering design plans, documents, blueprints and as-built plans, specifications, procedures, and similar items will be transferred. The records that the NRC requires a licensee to maintain are located and maintained at the nuclear plant sites or, in the nuclear support offices and will be transferred to GENCO. GENCO will also ensure that it acquires custody or control of, or access to, any important documents needed for operation at the nuclear plants or compliance with NRC requirements presently owned by PECO or ComEd that may currently be in other locations. Further, any necessary contracts with Architect Engineers, Nuclear Steam Supply System (NSSS) suppliers, and other major vendors, will be assigned to GENCO, if possible, or other appropriate contracts will be obtained by GENCO on a timely basis. Other contracts and contractor relationships relating to these nuclear facilities will also be assigned or transferred to GENCO.

#### E. CONCLUSIONS

The information presented above describes the organizational groups, key executive positions, reporting relationships, and responsibilities that will exist in the GENCO NG for accomplishing the activities associated with the support and operation of the nuclear Units to be owned and operated by GENCO. Clear management control and effective lines of authority and communications will exist between the organizational Units involved in the management, operation, and support of the nuclear Units. Breadth and level of experience, and availability of personnel off site, will exist to provide support for operation of the facilities. Moreover, following the proposed merger, the nuclear onsite organizations and staff will be essentially the same as currently approved by the NRC and as reflected in the governing UFSARs, DSARs and Technical Specifications. Accordingly, GENCO will be technically qualified to become the licensee for the nuclear Units which are the subject of the proposed license transfers.

V. FINANCIAL QUALIFICATIONS OF GENCO

A. PROJECTED OPERATING REVENUES AND OPERATING COSTS

GENCO will own, operate, and market power from nuclear, fossil, and hydroelectric generating Units. GENCO will sell electricity to electric utility affiliates and will market electricity pursuant to rate tariffs approved by the Federal Energy Regulatory Commission. GENCO will also possess the financial qualifications to meet the applicable requirements of it) CFR 5033(1), "Contents of Applications; General Information," for non-electric utility licensees. Specifically, GENCO will possess, or will have reasonable assurance of obtaining, the funds necessary to cover the estimated operating costs for the period of the facility licenses in accordance with 10 CFR 50.33(f)(2).

ComEd and PECO have prepared a Projected Income Statement for GENCO operations from January 1, 2001 through December 31, 2005. The GENCO Projected Income Statement is included in Enclosures 7 and 7P/8/ In accordance with the NRC Standard Review Plan on Power Reactor Licensee Financial Qualifications and Decommissioning Funding Assurance (NUREG-1557, Rev. 1) (SRP), this Projected Income Statement provides the estimated total annual operating costs for the nuclear facilities to be owned by GENCO. The source of funds to cover these operating costs will be operating revenues. The Projected Income Statement shows that the anticipated revenues from sales of capacity and energy by GENCO provides reasonable assurance of adequate funds to meet GENCO's ongoing operating expenses. The projected revenues from the sale of electricity from the nuclear Units alone are expected to provide sufficient income to cover the total operating costs of GENCO's nuclear Units. In addition, there will be substantial additional revenues available from sales of electricity from the more than 5000 MWe of capacity in the fossil-fired and hydroelectric generating stations to be owned and operated by GENCO, as well as revenues from power marketing and other business operations.

GENCO's projected assets and revenue streams are more than sufficient to cover its share of costs that might be associated with a six-month shutdown of one or more of the nuclear Units it will own. The GENCO Projected Income Statement and Projected Opening Balance Sheet provided in Enclosure 7P demonstrate that GENCO will have total assets exceeding \$9 billion, and annual gross revenues of more than \$6 billion. Furthermore, based upon the financial stature of the company, GENCO is expected to have an investment-grade bond rating, which will enable it to raise additional funds as necessary. Accordingly, GENCO will fully meet or exceed the financial qualifications requirements of 10 CFR 50.33(f) and the guidelines of the SRP.

B. DECOMMISSIONING FUNDING ASSURANCE

In accordance with 10 CFR 50.75(b), "Reporting and Recordkeeping for Decommissioning Planning," GENCO will maintain financial assurance for decommissioning

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/8/ Enclosure 7P is separately bound in a proprietary Addendum to this Application. The parties request that Enclosure 7P be withheld from public disclosure pursuant to 10 CFR 2.790, "Public Inspections, Exemptions Requests for Withholding," since it contains confidential commercial or financial information, as described in the Affidavit of Robed E. Berdelle, provided as Enclosure 9. A redacted version, suitable for public disclosure, is provided in Enclosure 7.)

funding that meets the requirements of 10CFR 50.75(e), by maintaining external sinking funds for each of the Units. The mechanism for obtaining funds for future contributions to the external sinking funds differs between Illinois and Pennsylvania, depending upon each state's restructuring legislation./9/

ComEd, as a rate-regulated electric utility, currently maintains Nuclear Decommissioning Trusts (NDTs) for its Braidwood Station, Byron Station, Dresden Nuclear Power Station, LaSalle County Station, Quad Cities Nuclear Power Station, and Zion Nuclear Power Station Units. The NDTs utilize the external sinking fund financial assurance mechanism provided in 10 CFR 50.75(e)(1)(ii). ComEd currently recovers decommissioning costs through a special tariff authorized by Sections 9-201.5 (220 ILCS 5/9-201.5) and 16-114 (220 ILCS 5/16 - 114) of the Illinois Public Utilities Act, and then makes periodic deposits to the funds over the generating life of the Units. On March 31, 1999, ComEd submitted information to the NRC regarding the status of the NDTs.

Following the proposed merger, the nuclear decommissioning obligation for the Illinois plants will be assumed by GENCO. The existing NDTs will be dissolved pursuant to 220 ILCS 5/8 - 505.1 and the funds will be transferred to GENCO. GENCO, as the new licensee, will establish new NDTs for the plants and deposit the monies received from ComEd in these trusts. Although ComEd will not be an NRC licensee, ComEd will, pursuant to 220 ILCS 5(16 - 114, retain an obligation to collect going-forward decommissioning fund contributions through the Illinois tariff mechanism, and, as a matter of contract and as necessary to fund decommissioning, will pay the amounts collected to GENCO for deposit to the new NDTs. Therefore, GENCO will have a source of revenues for decommissioning the former ComEd Units that is established by a "cost-of-service" or similar ratemaking regulation within the meaning of 10 CFR 50.75(e)(1)(ii)(A). Also, because ComEd will collect decommissioning funds as a wire charge imposed on electricity in its service area, GENCO will have as its source of revenues for the NDTs a "non-bypassable" charge within the meaning of 10 CFR 50.75(e)(1)(ii)(B).

#### VI. ANTITRUST CONSIDERATIONS

The NRC has determined that antitrust review of post-operating license transfers is not required by the Atomic Energy Act, and that from a policy, as well as legal perspective, such a review should not be conducted. See Kansas Gas and Electric Company (Wolf Creek Generating Station, Unit 1), CLI-99-1 9, June 18, 1999.

#### VII. RESTRICTED DATA AND CLASSIFIED NATIONAL SECURITY INFORMATION

This application does not contain any Restricted Data or classified National Security Information, and it is not expected that any such information will become, involved in the licensed activities, However, in the event that such information does become involved, and in

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/9/ Certain private letter rulings may be required from the Internal Revenue Service in connection with these matters. This is discussed in Section K

accordance with 10 CFR 50.37, "Agreement Limiting Access to Classified Information," ComEd agrees that it will appropriately safeguard such information and will not permit any individual to have access to such information until the individual has been appropriately approved for such access under the provisions of 10 CFR Part 25, Access Authorization for Licensee Personnel," and/or Part 95, "Security Facility Approval and Safeguarding of National Security Information and Restricted Data."

#### VIII. ENVIRONMENTAL CONSIDERATIONS

This license transfer application and accompanying administrative amendments are exempt from environmental review, because they fell within the categorical exclusion appearing at 10 CFR 51.22(c)(21), "Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions," for which neither an Environmental Assessment nor an Environmental Impact Statement is required. Moreover, the proposed license transfer and conforming amendments do not involve any amendment to the license or other change that would directly affect the actual operation of the facilities involved in any substantive way. The proposed transfer and amendments to the license do not involve an increase in the amounts, or a change in the types, of any radiological effluents that may be allowed to be released off-site, and do not involve any Increase in the amounts or change in the types of any non-radiological effluents that may be released off-site. Further, no increase in the individual or cumulative occupational radiation exposure is expected.

#### IX. ADDITIONAL INFORMATION REGARDING SPECIFIC REGULATORY REQUIREMENTS, PLANS, PROGRAMS AND PROCEDURES

##### A. OFFSITE POWER CONSIDERATIONS

The physical systems for supplying offsite power to the nuclear plants will tie unchanged as a result of the transfers. However, as a result of the merger and the transfer of the nuclear plants, operation of the nuclear plants by GENCO will be separated from the operation of the transmission and distribution systems by ComEd and PECO. Accordingly, by closing on the restructuring transactions, interconnection agreements and/or operating protocols will be established between GENCO and the T&D entities addressing offsite power to the nuclear sites, including issues such as notifications, maintenance of the transmission facilities, coordination of switching voltage levels, and emergency power restoration. The existing transmission facilities, along with the proposed interconnection agreements and/or operating protocols, will assure that the sources of offsite power to the nuclear plants will continue to be reliable and in full compliance with 10 CFR 50, Appendix A, General Design Criterion 17.

##### B. EMERGENCY PLANNING

Upon transfer of the licenses, GENCO will assume authority and responsibility for functions necessary to fulfill the emergency planning requirements specified in 10 CFR 50.47(b), "Emergency Plans," and Part 50, Appendix E, "Emergency Planning and Preparedness for Production and Utilization Facilities." Either before or after the transfer, any changes to the emergency plans for the facilities will be made in accordance with 10 CFR 50.54(q), "Conditions

of Licenses." Neither PECO nor ComEd anticipates any changes that will result in a decrease in the effectiveness of the plans.

No substantive changes are anticipated to the existing emergency organizations for the nuclear plants. However, certain functions may be performed by ComEd, PECO, or other GENCO corporate affiliates pursuant to an appropriate services agreement. The current off-site emergency facilities and equipment will be transferred or leased to GENCO. Existing agreements for support from organizations and agencies not affiliated with PECO or ComEd will be assigned to GENCO.

#### C. EXCLUSION AREAS

By virtue of the transfer of ownership of the nuclear plants and transfer of the NRC licenses to GENCO, ComEd and PECO will transfer to GENCO the authority to determine and control all activities within the exclusion areas for the nuclear plants to the extent required by 10 CFR 100, "Reactor Site Criteria"

GENCO is not acquiring certain switchyard and other transmission assets owned by ComEd and PECO, which are located within the exclusion area. These T&D facilities will be retained by ComEd or PECO, as the case may be. However, GENCO will have authority, with respect to ComEd's or PECO's ownership of and accepts to switchyard and transmission facilities, to determine and control all activities in the exclusion area, including exclusion of personnel and property from the area, to the extent necessary to comply with applicable NRC requirements. This authority will be confirmed in the interconnection agreements and/or operating protocols for these switchyard and transmission facilities.

#### D. SECURITY

Upon transfer of the nuclear Units, GENCO will assume authority and responsibility for the functions necessary to fulfill the security requirements specified in 10 CFR 73, "Physical Protection of Plants and Materials." Any changes made to the existing, NRC-approved physical security, guard training and qualification, and safeguards contingency plans will be made in accordance with 10 CFR 50.54(p). No changes are anticipated that will result in a decrease in the effectiveness of the plans.

No material changes are anticipated to the existing security organization. Existing agreements for support from organizations and agencies not affiliated with PECO or ComEd will be assigned to GENCO.

#### E. QUALITY ASSURANCE PROGRAM

Upon the transfer of the nuclear Units, GENCO will assume authority and responsibility for the functions necessary to fulfill the quality assurance (QA) requirements of 10 CFR 50, Appendix B. Any changes made to the existing Peach Bottom Atomic Power Station and Limerick Generating Station QA Program Descriptions (QAPD) implemented by PECO, or to the ComEd Quality Assurance Topical Report (QATR), to reflect the transfer and new NG organization, will be made in accordance with 10 CFR 50.54(a). No changes are anticipated that will result in a reduction in the commitments in the QAPD or QATR previously accepted by the

NRC. No material changes to the existing QA organizations, other than the NG reporting relationships described above, are anticipated.

F. UPDATED FINAL SAFETY ANALYSIS REPORTS

With the exception of areas discussed in this application, the proposed license transfers and conforming administrative amendments will not invalidate technical or design information presently appearing in the UFSARs or DSARs for the nuclear Units, and licensing basis commitments will remain in effect. UFSAR or DSAR changes necessary to reflect the proposed transfers and conforming administrative license amendments will be made in accordance with 10 CFR 50.71(e), following NRC approval of the proposed transfers.

G. TRAINING

The training centers and simulator facilities operated by ComEd and PECO, and the staff currently working at these facilities, will be transferred to GENCO or to a wholly-owned GENCO subsidiary. The proposed license transfers will not impact compliance with the operator re-qualification program requirements of 10 CFR 50.54 and related sections, nor maintenance of the INPO accreditation's for licensed and non-licensed training. Upon transfer of the licenses, GENCO will assume responsibility for implementation of present training programs. Changes to the programs to reflect the transfers and new organization will not decrease the scope of the approved operator re-qualification program without the specific authorization of the NRC in accordance with 10 CFR 50.54(i).

H. PRICE-ANDERSON INDEMNITY AND NUCLEAR INSURANCE

In accordance with 10 CFR 140.92, Art, IV.2, "Financial Protection Requirements and Indemnity Agreements," ComEd requests NRC approval of the assignment and transfer of the Price Anderson indemnity agreements for all of the nuclear Units involved to GENCO, upon consent to the proposed license transfers. Prior to the license transfers, GENCO will obtain all required nuclear property damage insurance pursuant to 10 CFR 50.54(w) and nuclear liability insurance pursuant to 10 CFR 140. GENCO's Projected Income Statement and expected investment-grade rating, discussed above, provide adequate assurance that, pursuant to the requirements of 10 CFR 140.21(e) and (f), GENCO would be able to pay its share of deferred premiums in the amount of \$10 million per nuclear unit.

I. STANDARD CONTRACT FOR DISPOSAL OF SPENT NUCLEAR FUEL

Upon completion of the merger, GENCO will assume title to and responsibility for storage and disposal of spent nuclear fuel located at all of the nuclear plants operated by PECO and ComEd, PECO and ComEd will assign, and GENCO will assume, PECO's and ComEd's rights and obligations under the Standard Contract with the Department of Energy.

X. OTHER REQUIRED REGULATORY APPROVALS

The proposed merger and transfers are subject to the approval of the Pennsylvania Public Utility Commission and notification to the Illinois Commerce Commission. Additionally,



Exelon will become a registered holding company subject to approval and regulation by the Securities and Exchange Commission under the Public Utility Holding Company Act of 1935, as amended. PECO and ComEd will also request Federal Energy Regulatory Commission (FERC) approval for the transfer of jurisdictional assets pursuant to Section 203 of the Federal Power Act, and acceptance of Interconnection Agreements and other rate schedules under Section 205 of the Federal Power Act. GENCO will also apply for FERC authorization under Section 205 of the Federal Power Act to sell electric generating capacity and energy at wholesale and market-based rates.

PECO and ComEd will also file notifications with the Federal Trade Commission and the Department of Justice that are required in connection with the merger under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (HRS Act), and applicable rules and regulations. Any additional information required will be supplied with a goal towards the termination or expiration of the HSR Act waiting period at the earliest possible date after the date of filing.

Certain rulings by the Internal Revenue Service under the Internal Revenue Code may also be necessary to assure that the current PECO and ComEd decommissioning funds accumulated in qualified and non-qualified decommissioning trust funds may be transferred by PECO and ComEd to GENCO on a tax-efficient basis. To the extent that satisfactory private letter rulings or other tax relief are not timely obtained, the parties will update the NRC on alternative plans for decommissioning funding assurance.

#### XI. EFFECTIVE DATE

ComEd requests that the NRC consent to the proposed transfers as promptly as possible, and in any event before June 30, 2000. This date is important because the benefits of the PECO/Unicom merger, including anticipated benefits to the safety, reliability, and efficiency of operation of the nuclear plants to be owned and operated by GENCO, and the benefits to competition flowing from the unbundling of PECO's and ComEd's utility functions, will not become available until the transfers have been completed. The parties request that the NRC's consent be immediately effective upon issuance, and that it allow the transfers at any time through twelve months following the date of approval (or such later date as may be permitted by the NRC), to allow time for receipt of regulatory approvals, completion of administrative activities associated with the transaction, as well as contingencies.

#### XII. CONCLUSION

Based upon the foregoing information, GENCO will be qualified to be the owner and the licensed operator of the Braidwood Station, Byron Station, Dresden Nuclear Power Station, LaSalle County Station, Quad Cities Nuclear Power Station, and Zion Nuclear Power Station. The requested license transfers are consistent with applicable provisions of law, regulations, and the orders of the NRC. Accordingly, ComEd respectfully requests that the NRC issue an order approving the license transfers and issue the associated conforming administrative license amendments as requested in this submittal.

July 19, 2000

U.S. Nuclear Regulatory Commission  
ATTN: Document Control Desk  
Washington, DC 20555-0001

Three Mile Island Station, Unit I  
Facility Operating License No. DPR-50  
NRC Docket No. 50-289  
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Clinton Power Station  
Facility Operating License No. NPF-62  
NRC Docket No. 50-461  
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Oyster Creek Generating Station  
Facility Operating License No. DPR-16  
NRC Docket No. 50-219  
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Subject: Application for Indirect License Transfers

References:

- (1) Application for NRC Consent to Indirect Transfer of Control of Licenses Held By AmerGen Energy Company, LLC and AmerGen Vermont, LLC in Connection with the Proposed Merger of PECO Energy Company and Unicom Corporation, NRC Docket Nos. 50-289 (Three Mile Island, Unit 1), 50-461 (Clinton Power Station), 50-219 (Oyster Creek Nuclear Generating Station), and 50-271 (Vermont Yankee Nuclear Power Station), dated February 28, 2000.
- (2) Letter to Mr. Samuel J. Collins, Director, Office of Nuclear Reactor Regulation, USNRC, from AmerGen Energy Company, LLC and AmerGen Vermont, LLC, "Response to Request for Additional Information Regarding Indirect Transfer of Licenses Held By AmerGen Energy Company, LLC and AmerGen Vermont, LLC in Connection With Proposed Merger of PECO Energy Company and Unicom Corporation," dated June 1, 2000
- (3) Letter to Mr. Samuel J. Collins, Director, Office of Nuclear Reactor Regulation, USNRC, from AmerGen Energy Company LLC and AmerGen Vermont, LLC, "Additional Information Regarding Exelon and

GENCO in Support of Application for NRC Consent  
to Indirect Transfer of Control of Licenses Submitted by  
AmerGen Energy Company, LLC and AmerGen Vermont, LLC," dated  
June 28, 2000

Dear Sir/Madam:

Pursuant to 10 CFR 50.80, "Transfer of Licenses," AmerGen Energy Company, LLC (AmerGen) hereby requests NRC consent to an indirect transfer of control of Three Mile Island Unit 1 (TMI-1), Clinton Power Station (CPS), and Oyster Creek Nuclear Generating Station (OC) with respect to PECO Energy Company's (PECO's) 50% ownership interest in AmerGen. The indirect transfer would result from the merger of PECO and Unicom Corporation (Unicom). As a result, all of the stock of PECO will be owned by Exelon Corporation (Exelon), a newly registered holding company resulting from the proposed merger. Under this proposed NRC indirect transfer consent, AmerGen would continue to own and operate TMI-1, CPS and OC, and continue to be the NRC licensee for these units. AmerGen anticipates that it will have become the OC licensee prior to NRC's taking action on this application. There are no corresponding proposed changes to the Facility Operating Licenses or the Technical Specifications.

In References I through 3, which are incorporated in this application by reference, AmerGen requested NRC consent to the indirect transfer of control of the Facility Operating Licenses for the above nuclear units to Exelon Generation Company, LLC (EGC), a new generating company which will be an indirect wholly-owned subsidiary of Exelon. In Reference 3, AmerGen indicated that certain regulatory rulings associated with some of the related restructuring transactions may not be received to permit the restructuring transactions to be completed at the same time the PECO/Unicom merger is consummated. Proceedings in progress at the Illinois Commerce Commission, and private letter rulings from the Internal Revenue Service, may not be concluded at the time the merger is consummated. As a result, the transfer of ownership of and operational responsibility for PECO's generating assets, including its interest in AmerGen, to EGC may not occur simultaneously with the merger. PECO may continue to hold its existing interest in AmerGen as a direct wholly-owned subsidiary of Exelon for an interim period before this interest is transferred to EGC.

General corporate information concerning the organization, management, and businesses of Exelon, and its respective directors and officers was provided in References 1 and 3. As this information demonstrates, all of the directors and officers of Exelon will be U.S. citizens and neither AmerGen, PECO nor Exelon will be subject to foreign ownership, control, or domination.

During the interim period that is the subject of this request, and thereafter, AmerGen would continue to own and operate the nuclear units it is licensed by the NRC to own and operate. The 50% ownership interest in AmerGen held by British Energy Inc., a subsidiary of British Energy plc (British Energy), will remain unchanged. The only significant change that will occur is that, upon the consummation of the merger, PECO's current shareholders will become shareholders of Exelon, and PECO will become a direct, wholly-owned subsidiary of Exelon. PECO will

continue to be a public utility organized under the laws of the Commonwealth of Pennsylvania. Although the size and membership of the Board of Directors of PECO may change following the merger, all of the Directors of PECO will be U.S. citizens, and the principal officers of PECO will remain unchanged. The Management Committees and principal officers of AmerGen will either remain unchanged or will be consistent with changes previously described in References 1 through 3.

During this interim period, and thereafter, the technical qualifications of AmerGen to carry out its licensed responsibilities will remain as they are now. The AmerGen nuclear organization will continue to operate the units in accordance with the terms of the existing licenses. With respect to the stations, the onsite management and technical support structure will continue to conform to the pertinent provisions in each facility's Updated Final Safety Analysis Report or Technical Specifications, as applicable. The offsite technical support organizations and personnel will continue to perform technical support functions for the stations. The functions, responsibilities, and reporting relationships of these organizations, especially as they relate to activities important to the safe operation of each station, will continue to be clear and unambiguous.

AmerGen will also continue to be financially qualified to be an NRC licensee during this interim period, because neither its own financial projections, nor PECO's financial support for AmerGen, will be affected by PECO becoming a subsidiary of Exelon. This interim configuration does not impact the financial projections already provided to the NRC and does not affect the financial assurances PECO and British Energy made to AmerGen in the form of letter agreements, in which PECO and British Energy would, subject to the terms of their respective agreements, provide their share of funds to AmerGen to further assure that AmerGen will have sufficient funds available to meet its operating expenses for its nuclear plants. The decommissioning funding arrangements for these nuclear units will also not be affected in any way.

In summary, the establishment of Exelon as the parent holding company of PECO will not result in any change in: (a) the management or technical qualifications of AmerGen; (b) the design or licensing basis of any of the units; (c) any of AmerGen's licenses or Technical Specifications; (d) the day-to-day operation or maintenance of any of these units; or (e) the financial qualifications of AmerGen with respect to operating costs and decommissioning assurance.

This application does not contain any Restricted Data or any change in access to Restricted Data. AmerGen's existing restrictions on access to Restricted Data will remain in place during any interim period.

The consummation of the proposed merger between PECO and Unicom is currently scheduled to occur as soon as possible after receipt of all required regulatory approvals. AmerGen requests that NRC review of this application proceed in parallel with the completion of the review of the application for indirect license transfers to EGC requested in References 1 through 3, and requests that NRC approve this application for indirect license transfers before the end of September 2000. If regulatory rulings are obtained so as to permit the transfer to EGC at the

time of the merger, we will notify the NRC that the need for approval of the requested interim indirect license transfers no longer exists and withdraw this application.

Similar consent requests dealing with the indirect transfer of control of the PECO and Commonwealth Edison (ComEd) Company licenses during this interim period have been submitted on the PECO and ComEd dockets.

If you have any questions about this letter, please contact Mr. James A. Hutton at (610) 640-6722.

Sincerely,

Joseph J. Hagon  
Senior Vice President Nuclear Operations  
AmerGen Energy Company, LLC

Attachments:

1. Affidavit

cc: Document Control Desk, NRC (3)  
NRC Licensing Project Managers  
T.G. Colburn, TMI-I  
J.B. Hopkins, CPS  
H.N. Pastis, Oyster Creek  
D.M. Skay, PECO/Unicom Merger  
S.R. HoM, Esq., OGC, NRC  
R.S. Wood NRR, NRC  
NRC Regional Administrators  
H.J. Miller, Region I  
J.E. Dyer, Region III  
NRC Resident Inspectors  
Douglas Demsey, Acting, TMI-I  
P.L. Loudon, CPS  
L. Dudes, Oyster Creek  
S. Maingi, Bureau of Rad. Protection, PA Dept. Of Env. Resources  
K. Tosch, Director, Bureau of Nuclear Engineering, NJ Dept of Environmental Protection  
Mike Parker, Illinois Department of Nuclear Safety

bcc: Commitment Coordinator - 62A-1  
Correspondence Control Desk - 61B-5  
DAC - 61B-5  
K.A. Ainger (ComEd)  
W.A. Baer, Esq. (ML&B)  
M. Reandeau (CPS)  
E. Fuhrer (TMI-1)  
E.J. Cullen - MOB, S23-1  
G.B. Rambold - 62A-I  
J.E. Matthews - Morgan, Lewis & Bockius LLC

COMMONWEALTH OF PENNSYLVANIA :

: ss

COUNTY OF YORK :

AFFIDAVIT

Joseph J. Hagan, being first duly sworn, deposes and says:

That he is Senior Vice President Nuclear Operations, AmerGen Energy Company, LLC, the Applicant herein; that he has read the enclosed letter dated July 19, 2000, "Application for Indirect License Transfers" involving Three Mile Island Unit 61 (TMI-1), Clinton Power Station (CPS), and Oyster Creek Nuclear Generating Station (OC), and knows the contents thereof; and that the statements and matters set forth therein are true and correct to the best of his knowledge, information and belief.

\_\_\_\_\_  
Senior Vice President  
Nuclear Operations  
AmerGen Energy Company, LLC

Subscribed and sworn to

before me this 19th day

of July, 2000.

\_\_\_\_\_  
Notary Public



UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION  
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In the Matter of )  
 )  
COMMONWEALTH EDISON COMPANY ) Docket Nos. 50-295,  
 ) 50-304  
(Zion Nuclear Power Station, Units 1 and 2) )

ORDER APPROVING TRANSFER OF LICENSES  
AND CONFORMING AMENDMENTS

I.

Commonwealth Edison Company (ComEd, the licensee) is the holder of Facility Operating Licenses Nos. DPR-39 and DPR-48 for the Zion Nuclear Power Station, Units 1 and 2 (the facility). The facility was shut down permanently in February 1997. ComEd certified the permanent shutdown on February 13, 1998, and certified that all fuel had been removed from the reactor vessels on March 9, 1998. In accordance with 10 CFR 50.82(a)(2), the facility operating licenses no longer authorize ComEd to operate the reactors or to load fuel in the reactor vessels. The facility is located at the licensee's site in Lake County, Illinois.

II.

Under cover of a letter dated December 20, 1999, ComEd submitted an application requesting approval of the proposed transfer of the facility operating licenses to a new generating company, Exelon Generation Company, LLC (Exelon Generation Company), to be formed in connection with the proposed merger of Unicom Corporation (Unicom), the parent of ComEd, and PECO Energy Company (PECO). ComEd also requested approval of conforming amendments to reflect the transfer. Supplemental information was provided by submittals dated January 14, March 10, March 23, March 29, and June 16, 2000. Hereinafter, the December 20,

1999, application and supplemental information will be referred to collectively as the "application." The conforming amendments would remove ComEd from the facility operating licenses, add Exelon Generation Company in references to the licensee, and make miscellaneous changes that accurately reflect the transfer of the licenses to Exelon Generation Company. After completion of the proposed transfer, Exelon Generation Company will be the sole owner of Zion, Units 1 and 2.

By a separate application dated December 20, 1999, PECO requested approval of the transfer of the facility operating licenses that it holds to Exelon Generation Company. That application will be addressed separately.

Approval of the transfer of the facility operating licenses and conforming license amendments was requested by ComEd pursuant to 10 CFR 50.80 and 10 CFR 50.90. Notice of the applications for approval and an opportunity for a hearing was published in the Federal Register on March 9, 2000 (65 FR 12586). The Commission received no comments or requests for hearing pursuant to such notice.

Under 10 CFR 50.80, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. Upon review of the information in the application by ComEd, and other information before the Commission, and relying upon the representations and agreements contained in the application, the NRC staff has determined that Exelon Generation Company is qualified to hold the licenses, and that the transfer of the licenses to Exelon Generation Company is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission, subject to the conditions set forth below. The NRC staff has further found that the application for the proposed license amendments complies with the standards and requirements of the

Atomic Energy Act of 1954, as amended, and the Commission's rules and regulations set forth in 10 CFR Chapter I; the facility will operate in conformity with the application, the provisions of the Act and the rules and regulations of the Commission; there is reasonable assurance that the activities authorized by the proposed license amendments can be conducted without endangering the health and safety of the public and that such activities will be conducted in compliance with the Commission's regulations; the issuance of the proposed license amendments will not be inimical to the common defense and security or to the health and safety of the public; and the issuance of the proposed amendments will be in accordance with 10 CFR Part 51 of the Commission's regulations and all applicable requirements have been satisfied.

The findings set forth above are supported by a safety evaluation dated August 3, 2000.

### III.

Accordingly, pursuant to Sections 161b, 161i, 161o, and 184 of the Atomic Energy Act of 1954, as amended, 42 USC (S)(S)2201(b), 2201(i), 2201(o), and 2234; and 10 CFR 50.80, IT IS HEREBY ORDERED that the transfer of the licenses as described herein to Exelon Generation Company is approved, subject to the following conditions:

- (1) Exelon Generation Company shall provide the Director of the Office of Nuclear Reactor Regulation a copy of any application, at the time it is filed, to transfer (excluding grants of security interests or liens) from Exelon Generation Company to its proposed direct or indirect parent, or to any other affiliated company, facilities for the production, transmission, or distribution of electric energy having a depreciated book value exceeding ten percent (10%) of Exelon Generation Company's consolidated net utility plant, as recorded on Exelon Generation Company's books of account.

- (2) ComEd shall transfer to Exelon Generation Company the decommissioning trust funds for Zion, Units 1 and 2, in the following minimum amounts, when Zion, Units 1 and 2, are transferred to Exelon Generation Company:

Zion, Unit 1 \$212,081,612  
Zion, Unit 2 \$222,708,468

- (3) The Decommissioning trust agreements for Zion, Units 1 and 2, at the time the transfer of the units to Exelon Generation Company is effected and, thereafter, are subject to the following:
- (a) The decommissioning trust agreements must be in a form acceptable to the NRC.
  - (b) With respect to the decommissioning trust funds, investments in the securities or other obligations of Exelon Corporation or affiliates thereof or their successors or assigns are prohibited. Except for investments tied to market indexes or other non-nuclear sector mutual funds, investments in any entity owning one or more nuclear power plants are prohibited.
  - (c) The decommissioning trust agreements for Zion, Units 1 and 2, must provide that no disbursements or payments from the trusts shall be made by the trustee unless the trustee has first given the Director of the Office of Nuclear Reactor Regulation 30 days prior written notice of payment. The decommissioning trust agreements shall further contain a provision that no disbursements or payments from the trusts shall be made if the trustee receives prior written notice of objection from the NRC.

- (d) The decommissioning trust agreements must provide that the agreements can not be amended in any material respect without 30 days prior written notification to the Director of the Office of Nuclear Reactor Regulation.
  - (e) The appropriate section of the decommissioning trusts agreement shall state that the trustee, investment advisor, or anyone else directing the investments made in the trusts shall adhere to a "prudent investor" standard, as specified in 18 CFR 35.32(a)(3) of the Federal Energy Regulatory Commission's regulations.
- (4) Exelon Generation Company shall take all necessary steps to ensure that the decommissioning trusts are maintained in accordance with the application for approval of the transfer of the Zion, Units 1 and 2, licenses and the requirements of this Order approving the transfer, and consistent with the safety evaluation supporting this Order.
  - (5) Before the completion of the transfer of Zion, Units 1 and 2, to it, Exelon Generation Company shall provide the Director of the Office of Nuclear Reactor Regulation, satisfactory documentary evidence that Exelon Generation Company has obtained the appropriate amount of insurance required of licensees under 10 CFR Part 140 of the Commission's regulations.
  - (6) After receipt of all required regulatory approvals of the transfer of Zion, Units 1 and 2, ComEd shall inform the Director of the Office of Nuclear Reactor Regulation, in writing, of such receipt within 5 business days, and of the date of the closing of the transfer no later than 7 business days prior to the date of the closing. Should the transfer of the licenses not be completed by July 31, 2001, this Order shall become null and void, provided, however, upon written application and for good cause shown, such date may in writing be extended.

- (7) Approval of the transfer of the licenses for Zion, Units 1 and 2, is conditioned upon all of the PECO and ComEd nuclear units described in the application to be transferred to Exelon Generation Company becoming owned by Exelon Generation Company contemporaneously.

IT IS FURTHER ORDERED that, consistent with 10 CFR 2.1315(b), license amendments that make changes, as indicated in Enclosure 12 to the cover letter forwarding this Order, to conform the licenses to reflect the subject license transfers are approved. The amendments shall be issued and made effective at the time the proposed license transfers are completed.

This Order is effective upon issuance.

For further details with respect to this Order, see the initial application dated December 20(1999, and supplemental submittals dated January 14, March 10, March 23, March 29, and June 16, 2000, and the safety evaluation dated August 3, 2000 which are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (<http://www.nrc.gov>).

Dated at Rockville, Maryland this 3rd day of August 2000.

FOR THE NUCLEAR REGULATORY COMMISSION

Samuel J. Collins, Director  
Office of Nuclear Reactor Regulation

UNITED STATES OF AMERICA

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NUCLEAR REGULATORY COMMISSION

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In the Matter of	)	
	)	
COMMONWEALTH EDISON COMPANY	)	Docket Nos. 50-373
	)	50-374
(LaSalle County Station, Units 1 and 2)	)	

ORDER APPROVING TRANSFER OF LICENSES  
AND CONFORMING AMENDMENTS

I.

Commonwealth Edison Company (ComEd, the licensee) is the holder of Facility Operating Licenses Nos. NPF-11 and NPF-18, which authorize the possession, use, and operation of the LaSalle County Station, Units 1 and 2 (the facility). The facility is located at the licensee's site in LaSalle County, Illinois.

II.

Under cover of a letter dated December 20, 1999, ComEd submitted an application requesting approval of the proposed transfer of the facility operating licenses to a new generating company, Exelon Generation Company, LLC (Exelon Generation Company), to be formed in connection with the proposed merger of Unicom Corporation (Unicom), the parent of ComEd, and PECO Energy Company (PECO). ComEd also requested approval of conforming license amendments to reflect the transfer. Supplemental information was provided by submittals dated January 14, March 10, March 23, March 29, and June 16, 2000. Hereinafter, the December 20, 1999, application and supplemental information will be referred to collectively as the "application." The conforming amendments would remove ComEd from the facility operating licenses, add Exelon Generation Company in references to the licensee, and make several

miscellaneous administrative changes that accurately reflect the transfer of the licenses to Exelon Generation Company. After completion of the proposed transfer, Exelon Generation Company will be the sole owner and operator of LaSalle, Units 1 and 2.

By a separate application dated December 20, 1999, PECO requested approval of the transfer of the facility operating licenses that it holds to Exelon Generation Company. That application is being addressed separately.

Approval of the transfer of the facility operating licenses and conforming license amendments was requested by ComEd pursuant to 10 CFR 50.80 and 10 CFR 50.90. Notice of the applications for approval and an opportunity for a hearing was published in the Federal Register on March 9, 2000 (65 FR 12585). The Commission received no comments or requests for hearing pursuant to such notice.

Under 10 CFR 50.80, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. Upon review of the information in the application by ComEd, and other information before the Commission, and relying upon the representations and agreements contained in the application, the NRC staff has determined that Exelon Generation Company is qualified to hold the licenses, and that the transfer of the licenses to Exelon Generation Company is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission, subject to the conditions set forth below. The NRC staff has further found that the application for the proposed license amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended, and the Commission's rules and regulations set forth in 10 CFR Chapter I; the facility will operate in conformity with the application, the provisions of the Act and the rules and regulations of the Commission; there is reasonable assurance that the



activities authorized by the proposed license amendments can be conducted without endangering the health and safety of the public and that such activities will be conducted in compliance with the Commission's regulations; the issuance of the proposed license amendments will not be inimical to the common defense and security or to the health and safety of the public; and the issuance of the proposed amendments will be in accordance with 10 CFR Part 51 of the Commission's regulations and all applicable requirements have been satisfied.

The findings set forth above are supported by a safety evaluation dated August 3, 2000.

III.

Accordingly, pursuant to Sections 161b, 161i, 161o, and 184 of the Atomic Energy Act of 1954, as amended, 42 USC (S)(S) 2201(b), 2201(i), 2201(o), and 2234; and 10 CFR 50.80, IT IS HEREBY ORDERED that the transfer of the licenses as described herein to Exelon Generation Company is approved, subject to the following conditions:

- (1) Exelon Generation Company shall provide the Director of the Office of Nuclear Reactor Regulation a copy of any application, at the time it is filed, to transfer (excluding grants of security interests or liens) from Exelon Generation Company to its proposed direct or indirect parent, or to any other affiliated company, facilities for the production, transmission, or distribution of electric energy having a depreciated book value exceeding ten percent (10%) of Exelon Generation Company's consolidated net utility plant, as recorded on Exelon Generation Company's books of account.
- (2) ComEd shall transfer to Exelon Generation Company the decommissioning trust funds for LaSalle, Units 1 and 2, in the following minimum amounts, when LaSalle, Units 1 and 2, are transferred to Exelon Generation Company:

LaSalle, Unit 1 \$226,262,522  
LaSalle, Unit 2 \$221,885,059

- (3) The decommissioning trust agreements for LaSalle, Units 1 and 2, at the time the transfer of the units to Exelon Generation Company is effected and, thereafter, are subject to the following:
- (a) The decommissioning trust agreements must be in a form acceptable to the NRC.
  - (b) With respect to the decommissioning trust funds, investments in the securities or other obligations of Exelon Corporation or affiliates thereof, or their successors or assigns are prohibited. Except for investments tied to market indexes or other non-nuclear sector mutual funds, investments in any entity owning one or more nuclear power plants are prohibited.
  - (c) The decommissioning trust agreements for LaSalle, Units 1 and 2, must provide that no disbursements or payments from the trust shall be made by the trustee unless the trustee has first given the Director of the Office of Nuclear Reactor Regulation 30 days prior written notice of payment. The decommissioning trust agreements shall further contain a provision that no disbursements or payments from the trusts shall be made if the trustee receives prior written notice of objection from the NRC.
  - (d) The decommissioning trust agreements must provide that the agreements can not be amended in any material respect without 30 days prior written notification to the Director of the Office of Nuclear Reactor Regulation.
  - (e) The appropriate section of the decommissioning trust agreements shall state that the trustee, investment advisor, or anyone else directing the investments made in the trusts shall adhere to a "prudent investor" standard, as specified in 18 CFR 35.32(a)(3) of the Federal Energy Regulatory Commission's regulations.

- (4) Exelon Generation Company shall take all necessary steps to ensure that the decommissioning trusts are maintained in accordance with the application for approval of the transfer of the LaSalle, Units 1 and 2, licenses and the requirements of this Order approving the transfer, and consistent with the safety evaluation supporting this Order.
- (5) Before the completion of the transfer of LaSalle, Units 1 and 2, to it, Exelon Generation Company shall provide the Director of the Office of Nuclear Reactor Regulation, satisfactory documentary evidence that Exelon Generation Company has obtained the appropriate amount of insurance required of licensees under 10 CFR Part 140 of the Commission's regulations.
- (6) After receipt of all required regulatory approvals of the transfer of LaSalle, Units 1 and 2, ComEd shall inform the Director of the Office of Nuclear Reactor Regulation, in writing, of such receipt within 5 business days, and of the date of the closing of the transfer no later than 7 business days prior to the date of the closing. Should the transfer of the licenses not be completed by July 31, 2001, this Order shall become null and void, provided, however, upon written application and for good cause shown, such date may in writing be extended.
- (7) Approval of the transfer of the licenses for LaSalle, Units 1 and 2, is conditioned upon all of the PECO and ComEd nuclear units described in the application to be transferred to Exelon Generation Company becoming owned by Exelon Generation Company contemporaneously.

IT IS FURTHER ORDERED that, consistent with 10 CFR 2.1315(b), license amendments that make changes, as indicated in Enclosure 10 to the cover letter forwarding this Order, to conform the licenses to reflect the subject license transfers are approved. The

amendments shall be issued and made effective at the time the proposed license transfers are completed.

This Order is effective upon issuance.

For further details with respect to this Order, see the initial application dated December 20, 1999, and supplemental submittals dated January 14, March 10, March 23, March 29, and June 16, 2000, and the safety evaluation dated August 3, 2000, which are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (<http://www.nrc.gov>).

Dated at Rockville, Maryland this 3rd day of August 2000.

FOR THE NUCLEAR REGULATORY COMMISSION

Samuel J. Collins, Director  
Office of Nuclear Reactor Regulation

UNITED STATES OF AMERICA

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NUCLEAR REGULATORY COMMISSION

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In the Matter of	)	
	)	
COMMONWEALTH EDISON COMPANY	)	Docket Nos. 50-254,
	)	50-265
(Quad Cities Nuclear Power Station,	)	
Units 1 and 2)	)	

ORDER APPROVING TRANSFER OF LICENSES  
AND CONFORMING AMENDMENTS

I.

Commonwealth Edison Company (ComEd, the licensee) owns 75 percent of the Quad Cities Nuclear Power Station, Units 1 and 2 (the facility) and is the licensed operator of both stations. MidAmerican Energy Company (MidAmerican) owns the remaining interest. Facility Operating Licenses Nos. DPR-29 and DPR-30 authorize ComEd, acting for itself and as agent for MidAmerican to possess, use, and operate the facility. The facility is located at ComEd's site in Rock Island County, Illinois.

II.

Under cover of a letter dated December 20, 1999, ComEd submitted an application requesting approval of the proposed transfer of the facility operating licenses to the extent held by ComEd, to a new generating company, Exelon Generation Company, LLC (Exelon Generation Company), to be formed in connection with the proposed merger of Unicom Corporation (Unicom), the parent of ComEd, and PECO Energy Company (PECO) Exelon Generation Company would become exclusively responsible for the operation and maintenance of the facility. Exelon Generation Company and MidAmerican would be responsible for the

decommissioning costs of the facility in accordance with their respective ownership percentages, with Exelon Generation Company being responsible for the eventual performance of decommissioning activities. The proposed transfer does not involve any change with respect to the non-operating ownership interest held by MidAmerican. ComEd also requested approval of conforming amendments to reflect the transfer. Supplemental information was provided by submittals dated January 14, March 10, March 23, March 29, and June 16, 2000. Hereinafter, the December 20, 1999, application and supplemental information will be referred to collectively as the "application." The conforming amendments would remove ComEd from the facility operating licenses, add Exelon Generation Company in references to the licensee, and make miscellaneous administrative changes that accurately reflect the transfer of the licenses as held by ComEd.

By a separate application dated December 20, 1999, PECO requested approval of the transfer of the facility operating licenses that it holds to Exelon Generation Company. That application is being addressed separately.

Approval of the transfer of the facility operating licenses and conforming license amendments was requested by ComEd pursuant to 10 CFR 50.80 and 10 CFR 50.90. Notice of the applications for approval and an opportunity for a hearing was published in the Federal Register on March 9, 2000 (65 FR 12581). The Commission received no comments or requests for hearing pursuant to such notice.

Under 10 CFR 50.80, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. Upon review of the information in the application by ComEd, and other information before the Commission, and relying upon the representations and agreements contained in the

application, the NRC staff has determined that Exelon Generation Company is qualified to hold the licenses to the extent now held by ComEd, and that the transfer of the licenses to Exelon Generation Company as proposed in the application is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission, subject to the conditions set forth below. The NRC staff has further found that the application for the proposed license amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended, and the Commission's rules and regulations set forth in 10 CFR Chapter I; the facility will operate in conformity with the application, the provisions of the Act and the rules and regulations of the Commission; there is reasonable assurance that the activities authorized by the proposed license amendments can be conducted without endangering the health and safety of the public and that such activities will be conducted in compliance with the Commission's regulations; the issuance of the proposed license amendments will not be inimical to the common defense and security or to the health and safety of the public; and the issuance of the proposed amendments will be in accordance with 10 CFR Part 51 of the Commission's regulations and all applicable requirements have been satisfied.

The findings set forth above are supported by a safety evaluation dated August 3, 2000.

### III.

Accordingly, pursuant to Sections 161b, 161i, 161o, and 184 of the Atomic Energy Act of 1954, as amended, 42 USC (S)(S)2201(b), 2201(i), 2201(o), and 2234; and 10 CFR 50.80, IT IS HEREBY ORDERED that the transfer of the licenses as described herein to Exelon Generation Company is approved, subject to the following conditions:

- (1) Exelon Generation Company shall provide the Director of the Office of Nuclear Reactor Regulation a copy of any application, at the time it is filed, to transfer (excluding grants of security interests or liens) from Exelon Generation Company to its proposed direct or

indirect parent, or to any other affiliated company, facilities for the production, transmission, or distribution of electric energy having a depreciated book value exceeding ten percent (10%) of Exelon Generation Company's consolidated net utility plant, as recorded on Exelon Generation Company's books of account.

- (2) ComEd shall transfer to Exelon Generation Company the decommissioning trust funds for Quad Cities, Units 1 and 2, in the following minimum amounts, when Quad Cities, Units 1 and 2, are transferred to Exelon Generation Company:

Quad Cities, Unit 1 \$192,149,504  
Quad Cities, Unit 2 \$193,209,439

- (3) The decommissioning trust agreements for Quad Cities, Units 1 and 2, at the time the transfer of the units to Exelon Generation Company is effected and, thereafter, are subject to the following:

- (a) The decommissioning trust agreements must be in a form acceptable to the NRC.
- (b) With respect to the decommissioning trust funds, investments in the securities or other obligations of Exelon Corporation or affiliates thereof, or their successors or assigns are prohibited. Except for investments tied to market indexes or other non-nuclear sector mutual funds, investments in any entity owning one or more nuclear power plants are prohibited.
- (c) The decommissioning trust agreements for Quad Cities, Units 1 and 2, must provide that no disbursements or payments from the trusts shall be made by the trustee unless the trustee has first given the Director of the Office of Nuclear Reactor Regulation 30 days prior written notice of payment. The decommissioning trust agreements shall further contain a provision that no



disbursements or payments from the trusts shall be made if the trustee receives prior written notice of objection from the NRC.

- (d) The decommissioning trust agreements must provide that the agreements can not be amended in any material respect without 30 days prior written notification to the Director of the Office of Nuclear Reactor Regulation.
  - (e) The appropriate section of the decommissioning trust agreements shall state that the trustee, investment advisor, or anyone else directing the investments made in the trust shall adhere to a "prudent investor" standard, as specified in 18 CFR 35.32(a)(3) of the Federal Energy Regulatory Commission's regulations.
- (4) Exelon Generation Company shall take all necessary steps to ensure that the decommissioning trusts are maintained in accordance with the application for approval of the transfer of the Quad Cities, Units 1 and 2, licenses and the requirements of this Order approving the transfer, and consistent with the safety evaluation supporting this Order.
  - (5) Before the completion of the transfer of the 75 percent interest in Quad Cities, Units 1 and 2, to it, Exelon Generation Company shall provide the Director of the Office of Nuclear Reactor Regulation satisfactory documentary evidence that Exelon Generation Company has obtained the appropriate amount of insurance required of licensees under 10 CFR Part 140 of the Commission's regulations.
  - (6) After receipt of all required regulatory approvals of the transfer of the 75 percent interest in Quad Cities, Units 1 and 2, ComEd shall inform the Director of the Office of Nuclear Reactor Regulation, in writing, of such receipt within 5 business days, and of the date of the closing of the transfer no later than 7 business days prior to the date of the closing. Should the transfer of the licenses not be completed by July 31, 2001, this Order shall

become null and void, provided, however, upon written application and for good cause shown, such date may in writing be extended.

- (7) Approval of the transfer of the licenses for Quad Cities, Units 1 and 2, is conditioned upon all of the PECO and ComEd nuclear units described in the application to be transferred to Exelon Generation Company becoming owned by Exelon Generation Company contemporaneously.

IT IS FURTHER ORDERED that, consistent with 10 CFR 2.1315(b), license amendments that make changes, as indicated in Enclosure 11 to the cover letter forwarding this Order, to conform the licenses to reflect the subject license transfers are approved. The amendments shall be issued and made effective at the time the proposed license transfers are completed.

This Order is effective upon issuance.

For further details with respect to this Order, see the initial application dated December 20, 1999, and supplemental submittals dated January 14, March 10, March 23, March 29, and June 16, 2000, and the safety evaluation dated August 3, 2000, which are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC; and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (<http://www.nrc.gov>).

Dated at Rockville, Maryland this 3rd day of August 2000.

FOR THE NUCLEAR REGULATORY COMMISSION

Samuel J. Collins, Director  
Office of Nuclear Reactor Regulation

UNITED STATES OF AMERICA

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NUCLEAR REGULATORY COMMISSION

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In the Matter of	)	
	)	
COMMONWEALTH EDISON COMPANY	)	Docket Nos. 50-10
	)	50-237,
(Dresden Nuclear Power Station,	)	50-249
Units 1, 2, and 3)	)	

ORDER APPROVING TRANSFER OF LICENSES  
AND CONFORMING AMENDMENTS

I.

Commonwealth Edison Company (ComEd, the licensee) is the holder of Facility Operating License No. DPR-2, which authorizes possession and maintenance but not operation of Dresden Nuclear Power Station, Unit 1, and Facility Operating Licenses Nos. DPR-19 and DPR-25, which authorize the possession, use, and operation of the Dresden Nuclear Power Station, Units 2 and 3. The facility (Dresden, Units 1, 2, and 3) is located at the licensee's site in Grundy County, Illinois.

II.

Under cover of a letter dated December 20, 1999, ComEd submitted an application requesting approval of the proposed transfer of the facility operating licenses to a new generating company, Exelon Generation Company, LLC (Exelon Generation Company or EGC), to be formed in connection with the proposed merger of Unicom Corporation (Unicom), the parent of ComEd, and PECO Energy Company (PECO). ComEd also requested approval of conforming amendments to reflect the transfer. Supplemental information was provided by submittals dated January 14, March 10, March 23, March 29, and June 16, 2000. Hereinafter, the December 20,

1999, application and supplemental information will be referred to collectively as the "application." The conforming amendments would remove ComEd from the facility operating licenses, add Exelon Generation Company in references to the licensee, and make additional administrative changes that accurately reflect the transfer of the licenses to Exelon Generation Company. After completion of the proposed transfer, Exelon Generation Company will be the sole owner of Dresden, Units 1, 2, and 3, and the sole operator of Dresden, Units 2 and 3.

By a separate application dated December 20, 1999, PECO requested approval of the transfer of the facility operating licenses that it holds to Exelon Generation Company. That application is being addressed separately.

Approval of the transfer of the facility operating licenses and conforming license amendments was requested by ComEd pursuant to 10 CFR 50.80 and 10 CFR 50.90. Notice of the request for approval and an opportunity for a hearing was published in the Federal Register on March 9, 2000 (65 FR 12582). The Commission received no comments or requests for hearing pursuant to such notice.

Under 10 CFR 50.80, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. Upon review of the information in the application by ComEd, and other information before the Commission, and relying upon the representations and agreements contained in the application, the NRC staff has determined that Exelon Generation Company is qualified to hold the licenses, and that the transfer of the licenses to Exelon Generation Company is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission, subject to the conditions set forth below. The NRC staff has further found that the application for the proposed license amendments complies with the standards and requirements of the

Atomic Energy Act of 1954, as amended, and the Commission's rules and regulations set forth in 10 CFR Chapter I; the facility will operate in conformity with the application, the provisions of the Act and the rules and regulations of the Commission; there is reasonable assurance that the activities authorized by the proposed license amendments can be conducted without endangering the health and safety of the public and that such activities will be conducted in compliance with the Commission's regulations; the issuance of the proposed license amendments will not be inimical to the common defense and security or to the health and safety of the public; and the issuance of the proposed amendments will be in accordance with 10 CFR Part 51 of the Commission's regulations and all applicable requirements have been satisfied.

The findings set forth above are supported by a safety evaluation dated August 3, 2000.

### III.

Accordingly, pursuant to Sections 161b, 161i, 161o, and 184 of the Atomic Energy Act of 1954, as amended, 42 USC (S)(S) 2201(b), 2201(i), 2201(o), and 2234; and 10 CFR 50.80, IT IS HEREBY ORDERED that the transfer of the licenses as described herein to Exelon Generation Company is approved, subject to the following conditions:

- (1) Exelon Generation Company shall provide the Director of the Office of Nuclear Reactor Regulation a copy of any application, at the time it is filed, to transfer (excluding grants of security interests or liens) from Exelon Generation Company to its proposed direct or indirect parent, or to any other affiliated company, facilities for the production, transmission, or distribution of electric energy having a depreciated book value exceeding ten percent (10%) of Exelon Generation Company's consolidated net utility plant, as recorded on Exelon Generation Company's books of account.

- (2) ComEd shall transfer to Exelon Generation Company the decommissioning trust funds for Dresden, Units 1, 2, and 3, in the following minimum amounts, when Dresden, Units 1, 2, and 3, are transferred to Exelon Generation Company:

Dresden, Unit 1	\$ 92,836,082
Dresden, Unit 2	\$288,233,336
Dresden, Unit 3	\$262,231,719

- (3) The decommissioning trust agreements for Dresden, Units 1, 2 and 3, at the time the transfer of the units to Exelon Generation Company is effected and, thereafter, are subject to the following:
- (a) The decommissioning trust agreements must be in a form acceptable to the NRC.
  - (b) With respect to the decommissioning trust funds, investments in the securities or other obligations of Exelon Corporation or affiliates thereof, or their successors or assigns are prohibited. Except for investments tied to market indexes or other non-nuclear sector mutual funds, investments in any entity owning one or more nuclear power plants are prohibited.
  - (c) The decommissioning trust agreements for Dresden, Units 1, 2, and 3, must provide that no disbursements or payments from the trusts shall be made by the trustee unless the trustee has first given the Director of the Office of Nuclear Reactor Regulation 30 days prior written notice of payment. The decommissioning trust agreements shall further contain a provision that no disbursements or payments from the trust shall be made if the trustee receives prior written notice of objection from the NRC.

- (d) The decommissioning trust agreements must provide that the agreement can not be amended in any material respect without 30 days prior written notification to the Director of the Office of Nuclear Reactor Regulation.
  - (e) The appropriate section of the decommissioning trust agreements shall state that the trustee, investment advisor, or anyone else directing the investments made in the trust shall adhere to a "prudent investor" standard, as specified in 18 CFR 35.32(a)(3) of the Federal Energy Regulatory Commission's regulations.
- (4) Exelon Generation Company shall take all necessary steps to ensure that the decommissioning trusts are maintained in accordance with the application for approval of the transfer of the Dresden, Units 1, 2, and 3, licenses and the requirements of this Order approving the transfer, and consistent with the safety evaluation supporting this Order.
  - (5) Before the completion of the transfer of Dresden, Units 1, 2, and 3, to it, Exelon Generation Company shall provide the Director of the Office of Nuclear Reactor Regulation satisfactory documentary evidence that Exelon Generation Company has obtained the appropriate amount of insurance required of licensees under 10 CFR Part 140 of the Commission's regulations.
  - (6) After receipt of all required regulatory approvals of the transfer of Dresden, Units 1, 2 and 3, ComEd shall inform the Director of the Office of Nuclear Reactor Regulation, in writing, of such receipt within 5 business days, and of the date of the closing of the transfer no later than 7 business days prior to the date of the closing. Should the transfer of the licenses not be completed by July 31, 2001, this Order shall become null and void, provided, however, upon written application and for good cause shown, such date may in writing be extended.

- (7) Approval of the transfer of the licenses for Dresden, Units 1, 2 and 3 is conditioned upon all of the PECO and ComEd nuclear units described in the application to be transferred to Exelon Generation Company becoming owned by Exelon Generation Company contemporaneously.

IT IS FURTHER ORDERED that, consistent with 10 CFR 2.1315(b), license amendments that make changes, as indicated in Enclosure 9 to the cover letter forwarding this Order, to conform the licenses to reflect the subject license transfers are approved. The amendments shall be issued and made effective at the time the proposed license transfers are completed.

This Order is effective upon issuance.

For further details with respect to this Order, see the initial application dated December 20, 1999, and supplemental submittals dated January 14, March 10, March 23, March 29, and June 16, 2000, and the safety evaluation dated August 3, 2000, which are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (<http://www.nrc.gov>).

Dated at Rockville, Maryland this 3rd day of August 2000.

FOR THE NUCLEAR REGULATORY COMMISSION

Samuel J. Collins, Director  
Office of Nuclear Reactor Regulation



UNITED STATES OF AMERICA

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NUCLEAR REGULATORY COMMISSION

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In the Matter of	)	
	)	
COMMONWEALTH EDISON COMPANY	)	Docket Nos. STN 50-454,
	)	STN 50-455
(Byron Station, Units 1 and 2)	)	

ORDER APPROVING TRANSFER OF LICENSES  
AND CONFORMING AMENDMENTS

I.

Commonwealth Edison Company (ComEd, the licensee) is the holder of Facility Operating Licenses Nos. NPF-37 and NPF-66, which authorize the possession, use, and operation of the Byron Station, Units 1 and 2 (the facility). The facility is located at the licensee's site in Ogle County, Illinois.

II.

Under cover of a letter dated December 20, 1999, ComEd submitted an application requesting approval of the proposed transfer of the facility operating licenses to a new generating company, Exelon Generation Company, LLC (Exelon Generation Company or EGC), to be formed in connection with the proposed merger of Unicom Corporation (Unicom), the parent of ComEd, and PECO Energy Company (PECO). ComEd also requested approval of conforming license amendments to reflect the transfer. Supplemental information was provided by submittals dated January 14, March 10, March 23, March 29, and June 16, 2000. Hereinafter, the December 20, 1999, application and supplemental information will be referred to collectively as the "application." The conforming amendments would remove ComEd from the facility

operating licenses, add Exelon Generation Company in references to the licensee, and make several miscellaneous administrative changes that accurately reflect the transfer of the licenses to Exelon Generation Company. After completion of the proposed transfer, Exelon Generation Company will be the sole owner and operator of Byron, Units 1 and 2.

By a separate application dated December 20, 1999, PECO requested approval of the transfer of the facility operating licenses that it holds to Exelon Generation Company. That application is being addressed separately.

Approval of the transfer of the facility operating licenses and conforming license amendments was requested by ComEd pursuant to 10 CFR 50.80 and 10 CFR 50.90. Notice of the request for approval and an opportunity for a hearing was published in the Federal Register on March 9, 2000 (65 FR 12583). The Commission received no comments or requests for hearing pursuant to such notice.

Under 10 CFR 50.80, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. Upon review of the information in the application by ComEd, and other information before the Commission, and relying upon the representations and agreements contained in the application, the NRC staff has determined that Exelon Generation Company is qualified to hold the licenses, and that the transfer of the licenses to Exelon Generation Company is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission, subject to the conditions set forth below. The NRC staff has further found that the application for the proposed license amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended, and the Commission's rules and regulations set forth in 10 CFR Chapter 1; the facility will operate in conformity with the application, the provisions of

the Act and the rules and regulations of the Commission; there is reasonable assurance that the activities authorized by the proposed license amendments can be conducted without endangering the health and safety of the public and that such activities will be conducted in compliance with the Commission's regulations; the issuance of the proposed license amendments will not be inimical to the common defense and security or to the health and safety of the public; and the issuance of the proposed amendments will be in accordance with 10 CFR Part 51 of the Commission's regulations and all applicable requirements have been satisfied.

The findings set forth above are supported by a safety evaluation dated August 3, 2000.

### III.

Accordingly, pursuant to Sections 161b, 161i, 161o, and 184 of the Atomic Energy Act of 1954, as amended, 42 USC (S)(S)2201(b), 2201(i), 2201(o), and 2234; and 10 CFR 50.80, IT IS HEREBY ORDERED that the transfer of the licenses as described herein to Exelon Generation Company is approved, subject to the following conditions:

- (1) Exelon Generation Company shall provide the Director of the Office of Nuclear Reactor Regulation a copy of any application, at the time it is filed, to transfer (excluding grants of security interests or liens) from Exelon Generation Company to its proposed direct or indirect parent, or to any other affiliated company, facilities for the production, transmission, or distribution of electric energy having a depreciated book value exceeding ten percent (10%) of Exelon Generation Company's consolidated net utility plant, as recorded on Exelon Generation Company's books of account.
- (2) ComEd shall transfer to Exelon Generation Company the decommissioning trust funds for Byron, Units 1 and 2, in the following minimum amounts, when Byron, Units 1 and 2, are transferred to Exelon Generation Company:

Byron, Unit 1 \$169,659,917  
Byron, Unit 2 \$156,560,489

- (3) The decommissioning trust agreements for Byron, Units 1 and 2, at the time the transfer of the units to Exelon Generation Company is effected and, thereafter, are subject to the following:
- (a) The decommissioning trust agreements must be in a form acceptable to the NRC.
  - (b) With respect to the decommissioning trust funds, investments in the securities or other obligations of Exelon Corporation or affiliates thereof, or their successors or assigns are prohibited. Except for investments tied to market indexes or other non-nuclear sector mutual funds, investments in any entity owning one or more nuclear power plants are prohibited.
  - (c) The decommissioning trust agreements for Byron, Units 1 and 2, must provide that no disbursements or payments from the trusts shall be made by the trustee unless the trustee has first given the Director of the Office of Nuclear Reactor Regulation 30 days prior written notice of payment. The decommissioning trust agreements shall further contain a provision that no disbursements or payments from the trusts shall be made if the trustee receives prior written notice of objection from the NRC.
  - (d) The decommissioning trust agreements must provide that the agreements can not be amended in any material respect without 30 days prior written notification to the Director of the Office of Nuclear Reactor Regulation.
  - (e) The appropriate section of the decommissioning trust agreements shall state that the trustee, investment advisor, or anyone else directing the investments made in

the trusts shall adhere to a "prudent investor" standard, as specified in 18 CFR 35.32(a)(3) of the Federal Energy Regulatory Commission's regulations.

- (4) Exelon Generation Company shall take all necessary steps to ensure that the decommissioning trusts are maintained in accordance with the application for approval of the transfer of the Byron, Units 1 and 2, licenses and the requirements of this Order approving the transfer, and consistent with the safety evaluation supporting this Order.
- (5) Before the completion of the transfer of Byron, Units 1 and 2, to it, Exelon Generation Company shall provide the Director of the Office of Nuclear Reactor Regulation satisfactory documentary evidence that Exelon Generation Company has obtained the appropriate amount of insurance required of licensees under 10 CFR Part 140 of the Commission's regulations.
- (6) After receipt of all required regulatory approvals of the transfer of Byron, Units 1 and 2, ComEd shall inform the Director of the Office of Nuclear Reactor Regulation, in writing, of such receipt within 5 business days, and of the date of the closing of the transfer no later than 7 business days prior to the date of the closing. Should the transfer of the licenses not be completed by July 31, 2001, this Order shall become null and void, provided, however, upon written application and for good cause shown, such date may in writing be extended
- (7) Approval of the transfer of the licenses for Byron, Units 1 and 2 is conditioned upon all of the PECO and ComEd nuclear units described in the application to be transferred to Exelon Generation Company becoming owned by Exelon Generation Company contemporaneously.

IT IS FURTHER ORDERED that, consistent with 10 CFR 2.1315(b), license amendments that make changes, as indicated in Enclosure 8 to the cover letter forwarding this Order, to conform the licenses to reflect the subject license transfers are approved. The

amendments shall be issued and made effective at the time the proposed license transfers are completed.

This Order is effective upon issuance.

For further details with respect to this Order, see the initial application dated December 20, 1999, and supplemental submittals dated January 14, March 10, March 23, March 29, and June 16, 2000, and the safety evaluation dated August 3, 2000, which are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (<http://www.nrc.gov>). Dated at Rockville, Maryland this 3rd day of August 2000.

FOR THE NUCLEAR REGULATORY COMMISSION

[signature]  
Samuel J. Collins  
Office of Nuclear Reactor Regulation

UNITED STATES OF AMERICA

NUCLEAR REGULATORY COMMISSION

In the Matter of	)	
	)	
COMMONWEALTH EDISON COMPANY	)	Docket Nos. STN 50-456,
	)	STN 50-457
(Braidwood Station, Units 1 and 2)	)	

ORDER APPROVING TRANSFER OF LICENSES AND CONFORMING AMENDMENTS

I.

Commonwealth Edison Company (ComEd, the licensee) is the holder of Facility Operating Licenses Nos. NPF-72 and NPF-77, which authorize the possession, use, and operation of the Braidwood Station, Units 1 and 2 (the facility). The facility is located at the licensee's site in Will County, Illinois.

II.

Under cover of a letter dated December 20, 1999, ComEd submitted an application requesting approval of the proposed transfer of the facility operating licenses to a new generating company, Exelon Generation Company, LLC (Exelon Generation Company or EGC) to be formed in connection with the proposed merger of Unicom Corporation (Unicom), the parent of ComEd, and PECO Energy Company (PECO). ComEd also requested approval of conforming License amendments to reflect the transfer. Supplemental information was provided by submittals dated January 14, March 10, March 23, March 29, and June 16, 2000. Hereinafter, the December 20 1999, application and supplemental information will be referred to collectively as the "application." The conforming amendments would remove ComEd from the facility operating licenses, add Exelon Generation Company in references to the licensee, and make



several miscellaneous administrative changes that accurately reflect the transfer of the licenses to Exelon Generation Company. After completion of the proposed transfer, Exelon Generation Company will be the sole owner and operator of Braidwood, Units 1 and 2.

By a separate application dated December 20, 1999, PECO requested approval of the transfer of the facility operating licenses that it holds to Exelon Generation Company. That application is being addressed separately.

Approval of the transfer of the facility operating licenses and conforming license amendments was requested by ComEd pursuant to 10 CFR 50.80 and 10 CFR 50.90. Notice of the request for approval and an opportunity for a hearing was published in the Federal Register on March 9, 2000 (65 FR 12584). The Commission received no comments or requests for hearing pursuant to such notice.

Under 10 CFR 50.80, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. Upon review of the information in the application by ComEd, and other information before the Commission, and relying upon the representations and agreements contained in the application, the NRC staff has determined that Exelon Generation Company is qualified to hold the licenses, and that the transfer of the licenses to Exelon Generation Company is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission, subject to the conditions set forth below. The NRC staff has further found that the application for the proposed license amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended, and the Commission's rules and regulations set forth in 10 CFR Chapter I; the facility will operate in conformity with the application, the provisions of the Act and the rules and regulations of the Commission; there is reasonable assurance that the

activities authorized by the proposed license amendments can be conducted without endangering the health and safety of the public and that such activities will be conducted in compliance with the Commission's regulations; the issuance of the proposed license amendments will not be inimical to the common defense and security or to the health and safety of the public; and the issuance of the proposed amendments will be in accordance with 10 CFR Part 51 of the Commission's regulations and all applicable requirements have been satisfied.

The findings set forth above are supported by a safety evaluation dated August 3 ,2000.

III.

Accordingly, pursuant to Sections 161b, 161i, 161o, and 184 of the Atomic Energy Act of 1954, as amended, 42 USC (S)(S) 2201(b), 2201(i), 2201(o), and 2234; and 10 CFR 50.80, IT IS HEREBY ORDERED that the transfer of the licenses as described herein to Exelon Generation Company is approved, subject to the following conditions:

- (1) Exelon Generation Company shall provide the Director of the Office of Nuclear Reactor Regulation a copy of any application, at the time it is filed, to transfer (excluding grants of security interests or liens) from Exelon Generation Company to its proposed direct or indirect parent, or to any other affiliated company, facilities for the production, transmission, or distribution of electric energy having a depreciated book value exceeding ten percent (10%) of Exelon Generation Company's consolidated net utility plant, as recorded on Exelon Generation Company's books of account.
- (2) ComEd shall transfer to Exelon Generation Company the decommissioning trust funds for Braidwood, Units 1 and 2, in the following minimum amounts, when Braidwood, Units 1 and 2, are transferred to Exelon Generation Company:

Braidwood, Unit 1 \$154,273,345  
Braidwood, Unit 2 \$154,448,967

- (3) The decommissioning trust agreements for Braidwood, Units 1 and 2, at the time the transfer of the units to Exelon Generation Company is effected and, thereafter, are subject to the following:
- (a) The decommissioning trust agreements must be in a form acceptable to the NRC.
  - (b) With respect to the decommissioning trust funds, investments in the securities or other obligations of Exelon Corporation or affiliates thereof, or their successors or assigns are prohibited. Except for investments tied to market indexes or other non-nuclear sector mutual funds, investments in any entity owning one or more nuclear power plants are prohibited.
  - (c) The decommissioning trust agreements for Braidwood, Units 1 and 2, must provide that no disbursements or payments from the trusts shall be made by the trustee unless the trustee has first given the Director of the Office of Nuclear Reactor Regulation 30 days prior written notice of payment. The decommissioning trust agreements shall further contain a provision that no disbursements or payments from the trusts shall be made if the trustee receives prior written notice of objection from the NRC.
  - (d) The decommissioning trust agreements must provide that the agreements can not be amended in any material respect without 30 days prior written notification to the Director of the Office of Nuclear Reactor Regulation.
  - (e) The appropriate section of the decommissioning trust agreements shall state that the trustee, investment advisor, or anyone else directing the investments made in the trusts shall adhere to a "prudent investor" standard, as specified in 18 CFR 35.32(a)(3) of the Federal Energy Regulatory Commission's regulations.

- (4) Exelon Generation Company shall take all necessary steps to ensure that the decommissioning trusts are maintained in accordance with the application for approval of the transfer of the Braidwood, Units 1 and 2, licenses and the requirements of this Order approving the transfer, and consistent with the safety evaluation supporting this Order.
- (5) Before the completion of the transfer of Braidwood, Units 1 and 2, to it, Exelon Generation Company shall provide the Director of the Office of Nuclear Reactor Regulation satisfactory documentary evidence that Exelon Generation Company has obtained the appropriate amount of insurance required of licensees under 10 CFR Part 140 of the Commission's regulations.
- (6) After receipt of all required regulatory approvals of the transfer of Braidwood, Units 1 and 2, ComEd shall inform the Director of the Office of Nuclear Reactor Regulation, in writing, of such receipt within 5 business days, and of the date of the closing of the transfer no later than 7 business days prior to the date of the closing. Should the transfer of the licenses not be completed by July 31, 2001, this Order shall become null and void, provided, however, upon written application and for good cause shown, such date may in writing be extended.
- (7) Approval of the transfer of the licenses for Braidwood, Units 1 and 2, is conditioned upon all of the PECO and ComEd nuclear units described in the application to be transferred to Exelon Generation Company becoming owned by Exelon Generation Company contemporaneously.

IT IS FURTHER ORDERED that, consistent with 10 CFR 2.1315(b), license amendments that make changes, as indicated in Enclosure 7 to the cover letter forwarding this Order, to conform the licenses to reflect the subject license transfers are approved. The

amendments shall be issued and made effective at the time the proposed license transfers are completed.

This Order is effective upon issuance.

For further details with respect to this Order, see the initial application dated December 20, 1999, and supplemental submittals dated January 14, March 10, March 23, March 29, and June 16, 2000, and the safety evaluation dated August 3, 2000, which are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (<http://www.nrc.gov>).

Dated at Rockville, Maryland this 3rd day of August 2000.

FOR THE NUCLEAR REGULATORY COMMISSION

Samuel J. Collins, Director  
Office of Nuclear Reactor Regulation

UNITED STATES OF AMERICA

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NUCLEAR REGULATORY COMMISSION

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In the matter of	)		
	)		
PECO ENERGY COMPANY	)	Docket Nos.	50-352,
	)		50-353
(Limerick Generating Station,	)		
Units 1 and 2)	)		

ORDER APPROVING TRANSFER OF LICENSES  
AND CONFORMING AMENDMENTS

I.

PECO Energy Company (PECO, the licensee) is the holder of Facility Operating Licenses Nos. NPF-39 and NPF-85, which authorize the possession, use, and operation of the Limerick Generating Station (Limerick), Units 1 and 2 (the facility). The facility is located at the licensee's site in Montgomery County, Pennsylvania.

II.

Under cover of a letter dated December 20, 1999, PECO submitted an application requesting approval of the proposed transfer at the facility operating licenses to a new generating company, Exelon Generation Company, LLC (Exelon Generation Company) to be formed in connection with the proposed merger of Unicom Corporation (Unicom), the parent of Commonwealth Edison Company, and PECO. PECO also requested approval of conforming license amendments to reflect the transfer. Supplemental information was provided by submittals dated January 3, February 14, March 10, March 23, March 30, and June 15, 2000. Hereinafter, the December 20, 1999, application and supplemental information will be referred to collectively as the "application." The conforming amendments would remove PECO from the

facility operating licenses and would add Exelon Generation Company in its place. After completion of the proposed transfer, Exelon Generation Company will be the sole owner and operator of Limerick.

By a separate application dated December 20, 1999, Commonwealth Edison requested approval of the transfer of the facility operating licenses that it holds to Exelon Generation Company. That application is being addressed separately.

Approval of the transfer of the facility operating licenses and conforming license amendments was requested by PECO pursuant to 10 CFR 50.80 and 10 CFR 50.90. Notice of the request for approval and an opportunity for a hearing was published in the Federal Register on March 9, 2000 (65 FR 12587). The Commission received no comments or requests for hearing pursuant to such notice.

Under 10 CFR 50.80, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. Upon review of the information in the application by PECO, and other information before the Commission, and relying upon the representation and agreements contained in the application, the NRC staff has determined that Exelon Generation Company is qualified to hold the licenses, and that the transfer of the licenses to Exelon Generation Company is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission, subject to the conditions set forth below. The NRC staff has further found that the application for the proposed license amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended, and the Commission's rules and regulations set forth in 10 CFR Chapter I; the facility will operate in conformity with the application, the provisions of the Act and the rules and regulation of the Commission; there is reasonable assurance that the activities authorized by the proposed license amendments can

be conducted without endangering the health and safety of the public and that such activities will be conducted in compliance with the Commission's regulation; the issuance of the proposed license amendments will not be inimical to the common defense and security or to the health and safety of the public; and the issuance of the proposed amendments will be in accordance with 10 CFR Part 51 of the Commission's regulations and all applicable requirements have been satisfied.

The findings set forth above are supported by a safety evaluation dated August 3, 2000.

III.

Accordingly, pursuant to Sections 161b, 161i, 161o, and 184 of the Atomic Energy Act of 1954, as amended, 42 USC ss.2201(b), 2201(i), 2201(o), and 2234; and 10 CFR 50.80, IT IS HEREBY ORDERED that the transfer of the licenses as described herein to Exelon Generation Company is approved, subject to the following conditions:

- (1) Exelon Generation Company shall provide to the Director of the Office of Nuclear Reactor Regulation a copy of any application, at the time it is filed, to transfer (excluding grants of security interests or liens) from Exelon Generation Company to its direct or indirect parent, or to any other affiliated company, facilities for the production, transmission, or distribution of electric energy having a depreciated book value exceeding ten percent (10%) of Exelon Generation Company's consolidated net utility plant, as recorded on Exelon Generation Company's books of account.
- (2) PECO shall transfer to Exelon Generation Company the decommissioning trust funds for Limerick, Units 1 and 2, in the following minimum amounts, when Limerick, Units 1 and 2, are transferred to Exelon Generation Company:



Limerick, Unit 1	\$94,127,446
Limerick, Unit 2	\$59,687,081

- (3) The decommissioning trust agreements for Limerick, Units 1 and 2, at the time the transfer of the units to Exelon Generation Company is effected and thereafter, are subject to the following:
- (a) The decommissioning trust agreements must be in a form acceptable to the NRC.
  - (b) With respect to the decommissioning trust funds, investments in the securities or other obligations of Exelon Corporation or affiliates thereof, or their successors or assigns are prohibited. Except for investments tied to market indexes or other non-nuclear sector mutual funds, investments in any entity owning one or more nuclear power plants are prohibited.
  - (c) The decommissioning trust agreements for Limerick, Units 1 and 2, must provide that no disbursements or payments from the trusts shall be made by the trustee unless the trustee has first given the Director of the Office of Nuclear Reactor Regulation 30 days prior written notice of payment. The decommissioning trust agreements shall further contain a provision that no disbursements or payments from the trusts shall be made if the trustee receives prior written notice of objection from the NRC.
  - (d) The decommissioning trust agreements must provide that the agreement can not be amended in any material respect without 30 days prior written notification to the Director of the Office of Nuclear Reactor Regulation.
  - (e) The appropriate section of the decommissioning trust agreements shall state that the trustee, investment advisor, or anyone else directing the investments made in the trust shall adhere to a "prudent investor" standard, as specified in 18 CFR 35.32(a)(3) of the Federal Energy Regulatory Commission's regulations.

- (4) Exelon Generation Company shall take all necessary steps to ensure that the decommissioning trusts are maintained in accordance with the application for approval of the transfer of Limerick, Units 1 and 2, licenses and the requirements of this Order approving the transfer, and consistent with the safety evaluation supporting this Order.
- (5) Before the completion of the transfer of Limerick, Units 1 and 2, to it, Exelon Generation Company shall provide the Director of the Office of Nuclear Reactor Regulation satisfactory documentary evidence that Exelon Generation Company has obtained the appropriate amount of insurance required of licensees under 10 CFR Part 140 of the Commission's regulations.
- (6) After receipt of all required regulatory approvals of the transfer of Limerick, Units 1 and 2, PECO shall inform the Director of the Office of Nuclear Reactor Regulation in writing, of such receipt within 5 business days, and of the date of the closing of the transfer no later than 7 business days prior to the date of the closing. Should the transfer of the licenses not be completed by July 31, 2001, this Order shall become null and void, provided, however, upon written application and for good cause shown, such date may in writing be extended.
- (7) Approval of the transfer of the licenses for Limerick, Units 1 and 2 is conditioned upon all at the PECO and Commonwealth Edison Company nuclear units described in the application to be transferred to Exelon Generation Company becoming owned by Exelon Generation Company contemporaneously.

IT IS FURTHER ORDERED that, consistent with 10 CFR 2.1315(b), a license amendment that makes changes, as indicated in Enclosure 5 to the cover letter forwarding this Order, to conform the licenses to reflect the subject license transfers is approved. The

amendments shall be issued and made effective at the time the proposed license transfers are completed.

This Order is effective upon issuance.

For further details with respect to this Order, see the initial application dated December 20, 1999, and supplemental submittals dated January 3, February 14, March 10, March 23, March 30, and June 15, 2000, and the safety evaluation dated August 3, 2000, which are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (<http://www.nrc.gov>).

Dated at Rockville, Maryland this 3rd day of August 2000.

FOR THE NUCLEAR REGULATORY COMMISSION

Samuel J. Collins, Director  
Office of Nuclear Reactor Regulation

UNITED STATES OF AMERICA

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NUCLEAR REGULATORY COMMISSION

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In the matter of	)		
	)		
PECO ENERGY COMPANY	)	Docket Nos.	50-272,
	)		50-311
(Salem Generating Station	)		
Units 1 and 2)	)		

ORDER APPROVING TRANSFER OF LICENSES  
AND CONFORMING AMENDMENTS

I.

PECO Energy Company (PECO) owns 42.59 percent of Salem Generating Station, Units 1 and 2 (the facility) and in connection therewith is a co-holder of Facility Operating Licenses Nos. DPR-70 and DPR-75, which authorize possession, use, and operation of the facility. Public Service Gas and Electric Company (PSE&G) another co-owner of the facility, is the licensed operator. The facility is located at the licensee's site in Salem County, New Jersey.

II.

Under cover of a letter dated December 20, 1999, PECO submitted an application requesting approval of the transfer of the licenses for the facility, to the extent held by PECO, in connection with the proposed transfer of its ownership interest in Salem, Units 1 and 2, to a new generating company, Exelon Generation Company, LLC (Exelon Generation Company), to be formed in connection with the proposed merger of Unicom Corporation (Unicom), parent of Commonwealth Edison Company (ComEd), and PECO. Supplemental information was provided by submittals dated January 3, February 14, March 10, March 23, March 30, and

June 15, 2000. Hereinafter, the December 20, 1999, application and supplemental information will be referred to collectively as the "application." Pursuant to 10 CFR 50.90, PSE&G submitted an application dated December 22, 1999, for conforming license amendments to reflect the proposed license transfer. This application was supplemented by the PECO submittal dated June 15, 2000. The conforming amendments would remove PECO from the facility operating licenses and would add Exelon Generation Company in its place. After completion of the proposed transfer, Exelon Generation Company will be the owner of PECO's 42.59 percent interest in Salem, Units 1 and 2. PSE&G will continue to be the sole operator of the facility.

By a separate application dated December 20, 1999, ComEd requested approval of the transfer of the facility operating licenses that it holds to Exelon Generation Company. That application is being addressed separately.

Approval of the transfer of the facility operating licenses was requested by PECO pursuant to 10 CFR 50.80. Notice of the request for approval and consideration of approval of the conforming amendments, and an opportunity for a hearing was published in the Federal Register on March 9, 2000 (65 FR 12591). The Commission received no comments or requests for hearing pursuant to such notice.

Under 10 CFR 50.80, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. Upon review of the information in the application by PECO, and other information before the Commission, and relying upon the representation and agreements contained in the application, the NRC staff has determined that Exelon Generation Company is qualified to hold the licenses to the extent proposed in the application, and that the transfer of the licenses to Exelon Generation Company is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission, subject to the conditions set forth

below. The NRC staff has further found that the application for the proposed license amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended, and the Commission's rules and regulations set forth in 10 CFR Chapter I; the facility will operate in conformity with the application, the provisions of the Act and the rules and regulation of the Commission; there is reasonable assurance that the activities authorized by the proposed license amendments can be conducted without endangering the health and safety of the public and that such activities will be conducted in compliance with the Commission's regulations; the issuance of the proposed license amendments will not be inimical to the common defense and security or to the health and safety of the public; and the issuance of the proposed amendments will be in accordance with 10 CFR Part 51 of the Commission's regulations and all applicable requirements have been satisfied.

The findings set forth above are supported by a safety evaluation dated August 3, 2000.

III.

Accordingly, Pursuant to Sections 161b, 161i, 161o, and 184 of the Atomic Energy Act of 1954, as amended, 42 USC ss.ss.2201(b), 2201(i), 2201(o), and 2234; and 10 CFR 50.80, IT IS HEREBY ORDERED that the transfer of the licenses as described herein to Exelon Generation Company is approved, subject to the following conditions:

- (1) Exelon Generation Company shall provide to the Director of the Office of Nuclear Reactor Regulation a copy of any application, at the time it is filed, to transfer (excluding grants of security interests or liens) from Exelon Generation Company to its direct or indirect parent, or to any other affiliated company, facilities for the production, transmission, or distribution of electric energy having a depreciated book value exceeding ten percent (10%) of Exelon Generation Company's consolidated net utility plant, as recorded on Exelon Generation Company's book of accounts.

- (2) PECO shall transfer to Exelon Generation Company the decommissioning trust funds for Salem, Units 1 and 2, in the following minimum amounts, when Salem, Units 1 and 2, are transferred to Exelon Generation Company:

Salem, Unit 1 \$53,780,652

Salem, Unit 2 \$45,059,302

- (3) At the time the transfer of the units to Exelon Generation Company is effected and thereafter, the decommissioning trust agreements for Salem, Units 1 and 2 shall be subject to the following:
- (a) The decommissioning trust agreements must be in a form acceptable to the NRC.
- (b) With respect to the decommissioning trust funds, investment in the securities or other obligations of Exelon Corporation or affiliates thereof, or their successors or assigns are prohibited. Except for investments tied to market indexes or other non-nuclear sector mutual funds, investments in any entity owning one or more nuclear power plants are prohibited.
- (c) The decommissioning trust agreements for Salem, Units 1 and 2, must provide that no disbursements or payments from the trust shall be made by the trustee unless the trustee has first given the Director of the Office of Nuclear Reactor Regulation 30 days prior written notice of payment. The decommissioning trust agreements shall further contain a provision that no disbursements or payments from the trusts shall be made if the trustee receives prior written notice of objection from the NRC.
- (d) The decommissioning trust agreements must provide that the agreements cannot be amended in any material respect without 30 days prior written notification to the Director of the Office of Nuclear Reactor Regulation.

- (e) The appropriate section of the decommissioning trust agreements shall state that the trustee, investment advisor, or anyone else directing the investments made in the trust shall adhere to a "prudent investor" standard, as specified in 18 CFR 35.32(a)(3) of the Federal Energy Regulatory Commission's regulations.
- (4) Exelon Generation Company shall take all necessary steps to ensure that the decommissioning trusts are maintained in accordance with the application for approval of the transfer of the Salem, Units 1 and 2, licenses and the requirements of this Order approving the transfer, and consistent with the safety evaluation supporting this Order.
- (5) Before the completion of the transfer of the subject ownership interest in Salem, Units 1 and 2, to it, Exelon Generation Company shall provide the Director of the Office of Nuclear Reactor Regulation satisfactory documentary evidence that Exelon Generation Company has obtained the appropriate amount of insurance required of licensees under 10 CFR Part 140 of the Commission's regulations.
- (6) After receipt of all required regulatory approvals of the transfer of its ownership interest in Salem, Units 1 and 2, PECO shall inform the Director of the Office of Nuclear Reactor Regulation in writing, of such receipt within 5 business days, and of the date of the closing of the transfer no later than 7 business days prior to the date of the closing. Should the transfer of the licenses not be completed by July 31, 2001, this Order shall become null and void, provided, however, upon written application and for good cause shown, such date may in writing be extended.



- (7) Approval of the transfer of the licenses for Salem, Units 1 and 2 is conditioned upon all of the PECO and Commonwealth Edison Company nuclear units described in the application to be transferred to Exelon Generation Company becoming owned by Exelon Generation Company contemporaneously.

IT IS FURTHER ORDERED that, consistent with 10 CFR 2.1315(b), a license amendment that makes changes, as indicated in Enclosure 6 to the letter forwarding this Order, to conform the licenses to reflect the subject license transfers is approved. The amendments shall be issued and made effective at the time the proposed license transfers are completed.

This Order is effective upon issuance.

For further details with respect to this Order, see the initial transfer application dated December 20, 1999, and amendment application dated December 22, 1999, and supplemental submittals dated January 3, February 14, March 10, March 23, March 30, and June 15, 2000, and safety evaluation dated August 3, 2000, which are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (<http://www.nrc.gov>).

Dated at Rockville, Maryland this 3rd day of August 2000.

FOR THE NUCLEAR REGULATORY COMMISSION

Samuel J. Collins, Director  
Office of Nuclear Reactor Regulation

UNITED STATES OF AMERICA

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NUCLEAR REGULATORY COMMISSION

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In the matter of	)		
	)		
PECO ENERGY COMPANY	)	Docket Nos.	50-171,
	)		50-277,
(Peach Bottom Atomic Power Station	)		50-278
Units 1, 2 and 3)	)		

ORDER APPROVING TRANSFER OF LICENSES  
AND CONFORMING AMENDMENTS

I.

PECO Energy Company (PECO, the licensee) is the holder of Facility Operating License No. DPR-12, which authorizes possession and maintenance but not operation of Peach Bottom Atomic Power Station, Unit 1, and is a co-holder of Facility Operating Licenses Nos. DPR-44, and DPR-56, which authorize the possession, use, and operation of the Peach Bottom Atomic Power Station, Units 2 and 3. PECO is the licensed operator of Units 2 and 3. All three units (the facility) are located at the licensee's site in York County, Pennsylvania.

II.

Under cover of a letter dated December 20, 1999, PECO submitted an application requesting, inter alia, approval of the proposed transfer of the facility operating licenses to the extent now held by PECO to a new generating company, Exelon Generation Company, LLC (Exelon Generation Company), to be formed in connection with the proposed merger of Unicom Corporation (Unicom), the parent of Commonwealth Edison Company, and PECO. PECO also requested approval of conforming license amendments to reflect the transfer. Supplemental information was provided by submittals dated January 3, February 14, March 10, March 23,

March 30, and June 15, 2000. Hereinafter, the December 20, 1999, application and supplemental information will be referred to collectively as the "application." The conforming amendments would remove PECO from the facility operating licenses and would add Exelon Generation Company in its place. After completion of the proposed transfer, Exelon Generation Company will be the sole owner of, and be authorized to maintain Peach Bottom, Unit 1, will hold a 42.49 percent ownership interest in Peach Bottom, Units 2 and 3, and will be the sole operator of Peach Bottom, Units 2 and 3.

By a separate application dated December 20, 1999, Commonwealth Edison requested approval of the transfer of the facility operating licensee that it holds to Exelon Generation Company. That application is being addressed separately.

Approval of the transfer of the facility operating licenses and conforming license amendments was requested by PECO pursuant to 10 CFR 50.80 and 10 CFR 50.90. Notice of the request for approval and an opportunity for a hearing was published in the Federal Register on March 9, 2000 (65 FR 12588). The Commission received no comments or requests for hearing pursuant to such notice.

Under 10 CFR 50.80, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. Upon review of the information in the application by PECO, and other information before the Commission, and relying upon the representation and agreements contained in the application, the NRC staff has determined that Exelon Generation Company is qualified to hold the licenses to the extent proposed in the applications, and that the transfer of the licenses to Exelon Generation Company is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission, subject to the conditions set forth below. The NRC staff has further found that the application for the proposed license amendments complies

with the standards and requirements of the Atomic Energy Act of 1954, as amended, and the Commission's rules and regulations set forth in 10 CFR Chapter I; the facility will operate in conformity with the application, the provisions of the Act and the rules and regulations of the Commission; there is reasonable assurance that the activities authorized by the proposed license amendments can be conducted without endangering the health and safety of the public and that such activities will be conducted in compliance with the Commission's regulation; the issuance of the proposed license amendments will not be inimical to the common defense and security or to the health and safety of the public; and the issuance of the proposed amendments will be in accordance with 10 CFR Part 51 of the Commission's regulations and all applicable requirements have been satisfied.

The findings set forth above are supported by a safety evaluation dated August 3, 2000.

### III.

Accordingly, pursuant to Sections 161b, 161i, 161o, and 184 of the Atomic Energy Act of 1954, as amended, 42 USC ss. 2201(b), 2201(i), 2201(o), and 2234; and 10 CFR 50.80, IT IS HEREBY ORDERED that the transfer of the licenses as described herein to Exelon Generation Company is approved, subject to the following conditions:

- (1) Exelon Generation Company shall provide to the Director of the Office of Nuclear Material Safety and Safeguards and to the Director of the Office of Nuclear Reactor Regulation a copy of any application, at the time it is filed, to transfer (excluding grants of security interests or liens) from Exelon Generation Company to its direct or indirect parent, or to any other affiliated company, facilities for the production, transmission, or distribution of electric energy having a depreciated book value exceeding ten percent (10%) of Exelon Generation Company's consolidated net utility plant, as recorded on Exelon Generation Company's books of account.

- (2) PECO shall transfer to Exelon Generation Company the decommissioning trust funds for Peach Bottom, Units 1, 2, and 3, in the following minimum amounts, when Peach Bottom, Units 1, 2, and 3, are transferred to Exelon Generation Company:

Peach Bottom, Unit 1	\$16,621,647
Peach Bottom, Unit 2	\$71,250,231
Peach Bottom, Unit 3	\$73,497,654

- (3) The decommissioning trust agreements for Peach Bottom, Units 1, 2 and 3 at the time the transfer of the units to Exelon Generation Company is effected and thereafter, are subject to the following:

- (a) The decommissioning trust agreements must be in a form acceptable to the NRC.
- (b) With respect to the decommissioning trust funds, investments in the securities or other obligations of Exelon Corporation or affiliates thereof, or their successors or assigns are prohibited. Except for investments tied to market indexes or other non-nuclear sector mutual funds, investments in any entity owning one or more nuclear power plants are prohibited.
- (c) The decommissioning trust agreements for Peach Bottom, Units 1, 2, and 3, must provide that no disbursements or payments from the trusts shall be made by the trustee unless the trustee has first given the Director of the Office of Nuclear Material Safety and Safeguards in the case of Peach Bottom, Unit 1, or the Director of the Office of Nuclear Reactor Regulation, in the case of Peach Bottom, Units 2 and 3, 30 days prior written notice of payment. The decommissioning trust agreements shall further contain a provision that no disbursements or payments from the trust shall be made if the trustee receives prior written notice of objection from the NRC.

- (d) The decommissioning trust agreements must provide that the agreement can not be amended in any material respect without prior written consent of the Director of the Office of Nuclear Material Safety and Safeguards in the case of Peach Bottom, Unit 1, or the Director of the Office of Nuclear Reactor Regulation in the case of Peach Bottom, Units 2 and 3.
- (e) The appropriate section of the decommissioning trust agreements shall state that the trustee, investment advisor, or anyone else directing the investments made in the trust shall adhere to a "prudent investor" standard, as specified in 18 CFR 35.32(a)(3) of the Federal Energy Regulatory Commission's regulations.
- (4) Exelon Generation Company shall take all necessary steps to ensure that the decommissioning trusts are maintained in accordance with the application for approval of the transfer of the Peach Bottom, Units 1, 2, and 3, licenses and the requirements of this Order approving the transfer, and consistent with the safety evaluation supporting this Order.
- (5) Before the completion of the transfer of Peach Bottom, Units 1, 2, and 3, to it, Exelon Generation Company shall provide the Director of the Office of Nuclear Reactor Regulation, satisfactory documentary evidence that Exelon Generation Company has obtained the appropriate amount of insurance required of licensees under 10 CFR Part 140 of the Commission's regulations.
- (6) After receipt of all required regulatory approvals of the transfer of Peach Bottom, Units 1, 2 and 3, PECO shall inform the Director of the Office of Nuclear Reactor Regulation, in writing, of such receipt within 5 business days, and of the date of the closing of the transfer no later than 7 business days prior to the date of the closing. Should the transfer of the licenses not be completed by July 31, 2001, this Order shall become null and void,

provided, however, upon written application and for good cause shown, such date may in writing be extended.

- (7) Approval of the transfer of the licenses for Peach Bottom, Units 1, 2, and 3 is conditioned upon all of the PECO and Commonwealth Edison Company nuclear units described in the application to be transferred to Exelon Generation Company becoming owned by Exelon Generation Company contemporaneously.

IT IS FURTHER ORDERED that, consistent with 10 CFR 2.1315(b), license amendments that make changes, as indicated in Enclosure 4 to the cover letter forwarding this Order, to conform the licenses to reflect the subject license transfers are approved. The amendments shall be issued and made effective at the time the proposed license transfers are completed.

This Order is effective upon issuance.

For further details with respect to this Order, see the initial application dated December 20, 1999, and supplemental submittals dated January 3, February 14, March 10, March 23, March 30, and June 15, 2000, and the safety evaluation dated August 3, 2000, which are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (<http://www.nrc.gov>).

Dated at Rockville, Maryland this 3rd day of August 2000.

FOR THE NUCLEAR REGULATORY COMMISSION

Samuel J. Collins, Director  
Office of Nuclear Reactor Regulation

List and Description of Subsidiaries and Investments  
Of Unicom Corporation  
(Other than "Public-Utility" Companies)  
As of August, 2000

I. Subsidiaries of Unicom

1. Unicom Enterprises, Inc.  
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Unicom Enterprises Inc., an Illinois corporation, is a first tier holding company for Unicom's non-regulated investments.

2. Mechanical Services Business  
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2.1 Unicom Mechanical Services Inc.  
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Unicom Mechanical Services Inc. ("UMSI"), a Delaware corporation, designs, builds, tests, repairs, and distributes products and finances heating, cooling, ventilation and industrial process systems, as well as high and low voltage electrical power systems for commercial and industrial customers./1/

The mechanical services businesses, including, Access Systems, Inc., Hoekstra Building Automation, Inc., Metropolitan Mechanical Contractors Inc., and Reliance Mechanical Corp., are expected to be merged into UMSI in the near future to simplify the corporate structure.

V.A. Smith Company, UMS Acquisition Corp, KHB Inc., MMCD, Inc., and MMSD, Inc. which were listed in earlier filings, were merged into UMSI in early August, 2000, to simplify the corporate structure.

/1/ See Rule 58(b)(1)(ii) and (vii); The Commission has previously authorized the businesses conducted by Unicom's mechanical service business: GPU, Inc., HCAR 35-27165 (April 14, 2000) (authorizing services including design, construction installation, maintenance of new retrofit heating, ventilating, and air conditioning, electrical and power systems, motors, pumps, lighting, water and plumbing systems); Interstate Energy Corp., HCAR 35-27069 (Aug. 26, 1999) (authorizing subsidiaries of Alliant Energy Resources to offer energy management services, including the construction of HVAC, electrical and power systems, and related structures, nonassociate companies); CINergy, HCAR 35-26662 (Feb. 7, 1997) (authorizing the design, management or direct construction and installation of new and retrofit heating, ventilating and air conditioning, electrical and power systems, motors, pumps, lighting, water and plumbing systems.



2.2 Access Systems Inc.  
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Access Systems Inc. ("Access"), an Illinois corporation, provides environmental control systems in the form of building automation and security systems for commercial and industrial customers. Access is expected to be merged into UMSI on September 1, 2000./2/

2.3 Hoekstra Building Automation, Inc.  
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Hoekstra Building Automation, Inc. ("Hoekstra"), an Illinois corporation, provides environmental control systems in the form of building automation and security systems for commercial and industrial customers. Hoekstra is expected to be merged into UMSI on September 1, 2000.

2.4 Metropolitan Mechanical Contractors, Inc.  
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Metropolitan Mechanical Contractors, Inc. ("MMCI"), a Minnesota corporation, designs, installs and services heating, ventilation and air conditioning, temperature controls, fire protection and plumbing systems. MMCI is expected to be merged into UMSI by October 1, 2000

2.5 Reliance Mechanical Corp.  
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Reliance Mechanical Corp. ("RMC"), an Ohio corporation, engages in the design, installation, retrofit and repair of high quality HVAC systems. RMC is a subsidiary of UMSI.

3. Like-Kind Exchange Tax Advantaged Transaction  
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3.1 Unicom Investment Inc.  
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Unicom Investment Inc., an Illinois corporation, was formed to receive the proceeds from the sale of ComEd's fossil generating stations pending for the eventual use of those funds. Unicom has entered into a like-kind exchange transaction to minimize taxes due on the sale of its fossil fuel generating stations. The transaction involves the acquisition of leasehold interests in generating facilities owned by two governmental entities with a lease back to those entities. No Exelon affiliate will participate in any way in

/2/ See WPL Holdings, Inc., HCAR 35-26856 (April 14, 1998) (authorizing to provide a range of environmental consulting and engineering services and related products to private and governmental clients)

the operation of the generating facilities./3/ The entities described in items 3.2 through 3.5 below facilitate this arrangement.

3.2 Scherer Holdings 1, LLC; Scherer Holdings 2, LLC; and Scherer Holdings 3, LLC; Wansley Holdings 1, LLC and Wansley Holdings 2, LLC  
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LLC  
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Scherer Holdings 1, LLC, Scherer Holdings 2, LLC and Scherer Holdings 3, LLC, Wansley Holdings 1, LLC and Wansley Holdings 2, LLC are Delaware limited liability companies, and were formed on May 5, 2000 to serve as lessees under a headlease and lessor (sublessor) under a lease to Municipal Electric Authority of Georgia ("MEAG") Robert W. Scherer electric generating plant. They are each owned by Unicom Investment Inc. MEAG owns certain undivided interest in existing multi-unit, coal fired generating facilities in Georgia which it leases to the separate Scherer Holdings (the "headlease"), who in turn sublease their respective interest to MEAG (such sublease, the "lease"). MEAG's undivided interest is allocated to five separate "projects" for purposes of MEAG's bond ordinance (hence, the need for five separate headlease/subleases). (See Unicom Investment Inc.)

3.3 Spruce Holdings G.P. 2000 LLC and Spruce Holdings L.P. 2000 LLC  
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Spruce Holdings G.P. 2000 LLC ("Spruce G.P.") and Spruce Holdings L.P. 2000 LLC ("Spruce LP") are Delaware limited liabilities companies, and were formed May 23, 2000 as special purpose entities relating to like kind exchange transactions. Spruce GP serves as general partner and Spruce LP as limited partner of Spruce Equity Holdings, L.P. Both entities are owned by Unicom Investment Inc. (See Unicom Investment Inc.)

3.4 Spruce Equity Holdings L.P.  
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Spruce Equity Holdings L.P., a Delaware limited partnerships, was formed May 24, 2000 to serve as the beneficiary of Spruce Holdings Trust. One percent of the partnership interest is held by Spruce GP, and 99% by Spruce LP. (See Unicom Investment Inc.)

3.5 Spruce Holdings Trust  
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Spruce Holdings Trust, a Delaware statutory business trust, was formed May 13, 2000 to serve as lessee under a headlease and lessor (sublessor) under a lease to City Public Service, an agency

/3/ This is a passive tax advantaged investment in arrangement not involving a "public utility company" as defined in the Act. See Central and South West Corp., HCAR 35-23578 (Jan. 22, 1985).

of the City of San Antonio Texas with regard to the J.K. Spruce electric generating plant. Spruce Equity Holdings, L.P. is the sole beneficiary of Spruce Holdings Trust. The City of San Antonio, acting through its agency, City Public Service, ("CPS") owns a coal-fired steam electric generating facility commonly known as J.K. Spruce Plant, Unit 1, which it leases to Spruce Holdings Trust (the "headlease"), who in turn subleases it back to CPS (such sublease, the "lease"). (See Unicom Investment Inc.)

4. Energy/Utility Related  
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4.1 Unicom Energy Services Inc.  
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Unicom Energy Services Inc. ("UESI"), an Illinois corporation; engages in distributed generation including microturbine and similar technology; turnkey energy and operational solutions; demand-side and supply side solutions; energy performance contracting and guaranties; custom lighting solutions; and financing related thereto. Divisions include Unicom Distributed Energy division which sells, finances, installs and maintains on-site generation and cogeneration; Unicom Active Energy Management division which provides a suite of energy information products and related consultative services (forecast daily energy usage and track historical energy consumption); and eQuater division which provides energy information services./4/ UESI serves customers throughout the Midwest from offices in Illinois, Indiana, Michigan, Minnesota, and Missouri. UESI recently acquired via asset purchase American Energy Conservation Inc., an Elkhart, Indiana based provider of performance contracting services to K-12 public schools in Indiana.

4.2 Unicom Energy Inc.  
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Unicom Energy Inc. ("UEI"), a Delaware corporation, is a subsidiary of UESI that markets electricity and natural gas where retail competition is established/5/

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/4/ See Rule 58(b)(1)(i), (vii) and (viii). The Commission has authorized registered holding companies to engage in energy consulting. See Allegheny Power System, Inc., HCAR 35-26401 (Oct. 27, 1995) (energy management services, management or construction of energy conservation equipment, maintenance of energy systems, and construction of energy management systems and structures); Central and South West Corp., HCAR 35-26367 (Sept. 1995) (range of energy-related products and services to commercial and industrial customers).

/5/ See Rule 58(b)(1)(v). The Commission has authorized subsidiaries of registered holding companies to engage in electric and natural gas marketing. See SCANA Corp., HCAR 35-27133 (Feb. 9, 2000) (markets electricity, natural gas and other light hydrocarbons); WPL Holdings, Inc., HCAR 35-26856 (April 14, 1998) (buys, sells and markets natural gas and electricity); Northeast Utilities Services Co., HCAR 35-26359 (Aug. 18, 1995) (authorization for

4.3 Unicom Energy Ohio, Inc.  
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Unicom Energy Ohio, Inc. a Delaware corporation, is a subsidiary of UEI that markets natural gas where retail competition is established./6/

4.4 Unicom Power Marketing Inc.  
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Unicom Power Marketing Inc. ("UPMI"), a Delaware corporation, is a shell company formed to operate a wholesale electric and natural gas marketing business./7/

5. District Cooling/District Energy Systems  
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5.1 UT Holdings Inc.  
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UT Holdings Inc. ("UT"), a Delaware corporation, provides through its subsidiaries and joint ventures district cooling systems, district energy systems (chilled water, steam and/or hot water) and construction and operating services for the central energy plants. /8/

Subsidiaries of UT are Unicom Thermal Development Inc., a Delaware corporation; Unicom Thermal Technologies Inc., an Illinois corporation; Unicom Thermal Technologies Houston Inc., a Delaware corporation; Unicom Thermal Technologies Boston Inc., a Delaware corporation; Unicom Thermal Technologies North America Inc., a Delaware corporation; UTT National Power Inc., an Illinois corporation; UTT Nevada Inc., a Nevada corporation; and UTT Phoenix, Inc., a Delaware corporation.

(continued)...

subsidiary to engage in electric power brokering and marketing transactions and fuel-for-power transactions within and outside the service area of affiliated public utility companies); Central and South West Corp., HCAR 35-25385 (Sept. 26, 1991) (natural gas gathering transmission and marketing). See also New Century Energies, Inc., HCAR 35-26748 (Aug. 1, 1997) (authorizing engagement in the thermal energy business in the companies service territory).

/6/ See Rule 58(b)(1)(v). See citations at footnote 8.

/7/ See Rule 58(b)(1)(v). See citations at footnote 8.

/8/ See Rule 58(b)(1)(vi) and (vii). See Ameren Corp., HCAR 35-26809 (Dec. 30, 1997); WPL Holdings, Inc. HCAR 35-26856 (April 14, 1998); See also General Public Utility Corp., 32 SEC 807, 840-841 (Dec. 28, 1951) ( Commission authorized retention of steam heating systems); North American Co., 11 SEC 194 (April 14, 1942) (Commission authorized retention of steam heating operations which provided steam heat to customers). In Cinergy Corp., HCAR 35-26474 (Feb. 20, 1996), the Commission found a district heating and cooling business which also provided steam to be functionally related to the utility business.

Unicom Thermal Technologies Boston Inc. holds a 25% membership interest in Northwind Boston LLC, a Boston limited liability company. Unicom Thermal Technologies Houston Inc. holds a 25% membership interest in Northwind Houston LLC, a Delaware limited liability company. Northwind Houston LLC, in turn holds 25% of the partnership in Northwind Houston LP, a Delaware limited partnership. Unicom Thermal Technologies North America Inc. operates in Canada through its subsidiary Northwind Thermal Technologies Canada Inc., a New Brunswick, Canada corporation, and its subsidiary Unicom Thermal Technologies Inc., a New Brunswick, Canada corporation. Northwind Midway LLC, a Delaware limited liability company, is a subsidiary of UTT National Power Inc. UTT Nevada Inc. holds a 75% membership interest in Northwind Aladdin LLC, a Nevada limited liability company, and a 50% membership interest in Northwind Las Vegas LLC, a Nevada limited liability company, 50% of the membership interest which is held by UTT Nevada Inc. UT holds a 50% membership interest in Northwind Chicago LLC, a Delaware limited liability company. UTT Phoenix, Inc. holds 50% membership interests in Northwind Arizona Development LLC, a Delaware limited liability company, and in Northwind Phoenix LLC, a Delaware limited liability company.

6. Others

6.1 Unicom Power Holdings Inc.

Unicom Power Holdings Inc., a Delaware corporation, owns certain uninstalled peaking electric, generation equipment, but is not actively engaged in power development projects.<sup>/9/</sup>

6.2 Unicom HealthCare Management Inc.

Unicom Health Care Management Inc., an Illinois corporation, is engaged in the management of SFAS 106 contingent medical plan liabilities related to Unicom's businesses and employees.

6.3 Unicom Resources Inc.

Unicom Resources Inc., an Illinois corporation, is currently inactive.

<sup>/9/</sup> See Rule 58(b)(1)(vii) and (viii). See WPL Holdings, Inc., HCAR 35-26856 (April 14, 1998) (authorizing a subsidiary that, among others, designs, builds and operates various types of generation facilities).

6.4 Unicom Assurance Company Limited

Unicom Assurance Company Limited ("UACL"), is a Bermuda based captive insurance company which will have a Class III insurance license in Bermuda. UACL, a direct subsidiary of Unicom, will offer various insurance products to other Unicom subsidiaries (initially workers' compensation and general liability insurance and will later expand its products)./10/ UACL may provide insurance to contractors who have construction contracts with an Exelon subsidiary in order to efficiently ensure that all contractors have adequate insurance to cover risks for which the contracting subsidiary could otherwise be liable. UACL will replace Concomber Ltd. (see below) when UACL is licensed.

II. Subsidiaries of Commonwealth Edison

1. Financing Subsidiaries/Trusts

1.1 ComEd Financing I

A Delaware business trust formed in 1995 in connection with the issuance of \$200 million of 8.48% Trust Originated Preferred Securities(SM) ("TOPRS(SM)"). The Trust has two classes of outstanding securities: (i) voting common securities held entirely by ComEd and (ii) nonvoting preferred securities (i.e., the TOPRS). The Trust purchased ComEd's 8.48% Subordinated Deferrable Interest Notes due September 30, 2035 with the proceeds from the issuance of its securities. The TOPRS were registered on Registration Statement No. 33-61343./11/

1.2 ComEd Financing II

A Delaware business trust formed in 1996 in connection with the issuance of \$150 million of 8.50% Series B Capital Securities.

/10/ See Columbia Gas System, Inc., HCAR 35-26596 (Oct. 25, 1996) (authorizing a captive insurance company to cover predictable losses under automobile and general liability and "all-risk" coverage); Columbia Insurance Corporation, Ltd., HCAR 35-27051 (July 23, 1999) (authorizing to expand the reinsurance activities of the captive insurance company to include all predictable risks related to the business of Columbia and to establish on one more direct or indirect subsidiaries to engage in the proposed re-insurance activities).

/11/ See New Century Energies, HCAR No. 35-26748 (Aug. 1, 1997) (authorizing Southwestern Public Service Capital I, a trust formed to facilitate certain financing transactions, by issuing trust preferred securities and loaning the proceeds to Southwestern Public Service); New Century Energies, HCAR 35-26750 (Aug. 1, 1997); Conectiv, HCAR 35-26833 (Feb. 26, 1998) (authority to retain Delmarva Power Financing I, a wholly owned trust that issued trust preferred securities and loaned the proceeds to Delmarva); Dominion Resources, HCAR 35-27112 (Dec. 15, 1999) (authorizing similar financing through Dominion Resources Capital Trust I) and SCANA Corporation, HCAR 35-27135 (Feb. 14, 2000) (authorizing the creation of trusts to facilitate financing).

The Trust has two classes of outstanding securities: (i) voting common securities held entirely by ComEd and (ii) nonvoting preferred securities (i.e., the Series B Capital Securities). The Trust purchased ComEd's 8.50% Subordinated Deferrable Interest Debentures due January 15, 2027 with the proceeds from the issuance of its securities. The Capital Securities were registered on Registration Statement No. 333-28369 in connection with an exchange offer that was made to holders of the Series A Capital Securities (which, other than their registered status under the Securities Act, were identical to the Series B Capital Securities)./12/

### 1.3 ComEd Funding, LLC

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A Delaware limited liability company formed in July 1998 for the purpose of initially owning the "Intangible Transition Property" created under orders issued by the Illinois Commerce Commission. "Intangible Transition Property" essentially consists of the right to receive a specified portion of tariffed revenues collected by ComEd from its customers. Such property was sold by ComEd Funding, LLC to ComEd Funding Transitional Funding Trust and serves as the collateral security for the issuance by ComEd Transitional Funding Trust of \$3.4 billion of Transitional Funding Trust Notes, which are otherwise non-recourse to ComEd. ComEd Funding, LLC's organizational documents require it to operate in a manner such that it should not be consolidated in the bankruptcy estate of ComEd in the event that ComEd becomes subject to such a proceeding./13/ ComEd Funding, LLC owns ComEd Transitional Funding Trust, a Delaware trust, which is the servicer of the securitization bonds.

### 1.4 ComEd Transitional Funding Trust

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A Delaware business trust formed in July 1998 for the purpose of issuing \$3.4 billion of Transitional Funding Trust Notes, Series 1998, in seven series bearing interest rates ranging from 5.29% to 5.74% per annum. The Transitional Funding Notes were registered on Registration Statement No. 333-60907 and are non-recourse to ComEd. ComEd Transitional Funding Trust used the proceeds from the sale of the Notes to purchase the Intangible

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/12/ See New Century Energies, HCAR No. 35-26748 (Aug. 1, 1997); New Century Energies, HCAR 35-26750 (Aug. 1, 1997); Conectiv, HCAR 35-26833 (Feb. 26, 1998); Dominion Resources, HCAR 35-27112 (Dec. 15, 1999) and SCANA Corporation, HCAR 35-27135 (Feb. 14, 2000). See also citations at footnote 13.

/13/ See New Century Energies, HCAR No. 35-26748 (Aug. 1, 1997); New Century Energies, HCAR 35-26750 (Aug. 1, 1997); Conectiv, HCAR 35-26833 (Feb. 26, 1998); Dominion Resources, HCAR 35-27112 (Dec. 15, 1999) and SCANA Corporation, HCAR 35-27135 (Feb. 14, 2000). See also citations at footnote 13.

Transition Property from ComEd Funding, LLC, which in turn made the proceeds available to ComEd for the purpose, among other things, of refinancing outstanding debt securities and redeeming equity securities.

1.5 Edison Finance Partnership  
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Edison Finance Partnership, an Ontario, Canada partnership, of EDCI and Northwind Thermal Technologies Canada, provides intercompany financing./14/

2. Energy/Utility Related  
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2.1 Commonwealth Research Corporation  
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Commonwealth Research Corporation, an Illinois corporation, was engaged in research, development and testing activities to ensure a safe, economical and adequate electric power supply for ComEd. It holds certain energy related patents, which are not currently being exploited and is otherwise inactive.

3. Real Estate/Real Estate Joint Ventures  
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3.1 Edison Development Company  
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Edison Development Company ("EDC"), a Delaware corporation, holds real estate and real estate joint ventures, for economic development and community development purposes adjacent to ComEd facilities./15/ On November 29, 1988 EDC entered into an agreement with the T.M.A. Group ("TMA") to develop an existing 39.5 acre farm site in Libertyville, Illinois, into an industrial park. The land was placed into the Lincoln Commerce Center joint venture. There were three

buildings developed, and the respective land was ultimately transferred into new joint ventures; the Commerce

Distribution Center joint venture, as of March 15, 1991, the

Concepts II Building joint venture, as of January 2, 1995

and the Concepts III Building joint venture, as of July 15,

1998. The four remaining parcels of land are still held in the original Lincoln Commerce Center joint venture. EDC and TMA each own 50%

/14/ See New Century Energies, HCAR No. 26748 (Aug. 1, 1997) (authorized to engage in financing and factoring of the companies fuel inventories and customer accounts receivable).

/15/ See Ameren, HCAR, 35-26809 (Dec. 30, 1997) (authorizing investment in multi-purpose arena and in a limited liability company which owns 231 acres of farmland to be used for development of an industrial park within the boundaries of Mattoon and the CIPS service territory).



of each of the four joint ventures, with TMA being the managing partner and EDC the equity partner.

4. Others

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4.1 Concomber Ltd.

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Concomber Ltd. ("Concomber"), a Bermudan limited company, is a captive insurance company used predominantly for worker's compensation coverage./16/ Concomber will be replaced by UACL (see above) when UACL is licensed.

4.2 Edison Development Canada Inc.

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Edison Development Canada, Inc. ("EDCI"), a Canadian corporation, is a land development company formed to engage in the exploration, development, mining and milling of uranium ore. /17/ EDCI is currently inactive except for its participation in Edison Finance Partnership.

III. Non-subsidiary investments of Unicom

1. Apeco Corporation

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Unicom holds less than 5% of the common stock, \$.50 par value, of Apeco Corporation./18/

2. Chicago Community Ventures, Inc.

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Unicom holds less than 5% of the common stock of Chicago Community Ventures, Inc., a minority enterprise small business investment company. /19/

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/16/ See Columbia Gas System, Inc., HCAR 35-26596 (Oct. 25, 1996) (authorizing a captive insurance company to cover predictable losses under automobile and general liability and "all-risk" coverage); Columbia Insurance Corporation, Ltd., HCAR 35-27051 (July 23, 1999) (authorizing to expand the reinsurance activities of the captive insurance company to include all predictable risks related to the business of Columbia and to establish one or more direct or indirect subsidiaries to engage in the proposed re-insurance activities).

/17/ See Rule 58(b)(1)(ix). The Commission has previously authorized the mining of fossil energies. See Vectren Corporation, HCAR 35-27150 (Mar. 8, 2000) (authorizing the ownership and operation of coal mining properties).

/18/ This investment is passive and de minimis and thus, under Commission precedent, retainable. See Ameren, HCAR 35-26809 (Dec. 30, 1997) Louis Equity Fund retainable because passive); WPL Holdings, HCAR 35-26856 (April 14, 1998) (authorizing investments of IES Investments as for the most part passive and/or de minimis).

3. Chicago Equity Fund  
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Unicom holds less than 5% of the Chicago Equity Fund, which funds rehab of low and moderate income housing in Chicago./20/

4. Dearborn Park Corporation  
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Unicom holds less than 5% of the common stock of Dearborn Park Corporation. Dearborn Park is a project to develop moderate income housing south of the Chicago loop on unused railroad property./21/

5. I.L.P. Fund C/O Chicago Capital Fund  
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Unicom holds less than 5% of the I.L.P. Fund c/o Chicago Capital Fund, a venture capital small business fund targeted at providing venture capital for small but growing companies in Chicago./22/

6. Illinois Venture Fund (Unibanc Trust)  
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Unicom holds less than 5% of the Illinois Venture Fund, a venture capital fund for new technologies, products and processes in Illinois./23/

(continued...)

/19/ This investment is passive and de minimis and thus, under Commission precedent, retainable. See Ameren, HCAR 35-26809 (Dec. 30, 1997) (St. Louis Equity Fund retainable because passive); WPL Holdings, HCAR 35-26856 (April 14, 1998) (authorizing investments of IES Investments as for the most part passive and/or de minimis). See also, Ameren, HCAR 35-26809 (Dec. 30, 1997) (investment in venture capital fund for minority business development).

/20/ This investment is passive and de minimis and thus, under Commission precedent, retainable. See Ameren, HCAR 35-26809 (Dec. 30, 1997) (St. Louis Equity Fund retainable because passive); WPL Holdings, HCAR 35-26856 (April 14, 1998). See also, Ameren, HCAR 35-26809 (Dec. 30, 1997) (investment in venture capital fund for minority business development). See also Georgia Power Co., 35-26220 (Jan. 24, 1995) (limited partnership investments in low-income housing projects that qualify for low-income housing tax credit under Section 42 of the Internal Revenue Code).

/21/ The Commission has granted permission for such investments based on the investments being passive and de minimis and as investments in economic development. See Ameren, HCAR 35-26809 (Dec. 30, 1997) (St. Louis Equity Fund retainable because passive); WPL Holdings, HCAR 35-26856 (April 14, 1998) (authorizing investments of IES Investments as for the most part passive and/or de minimis).

/22/ The Commission has on numerous occasions permitted investments in various economic development activities. See Ameren, HCAR 35-35-26809 (Dec. 30, 1997) (venture capital fund for minority business development); Appalachian Power Co., HCAR 35-25266 (growth capital innew and expanding small, rural firms to improve local economy); Northeast Utilities, 40 SEC Docket 412 (Feb. 24, 1988) (investment in locally focused venture capital fund); Consolidated Natural Gas Co., 33 SEC Docket 1192 (Aug. 20, 1985) (investment in fund formed to encourage and finance local entrepreneurial ventures); Hope Gas, Inc., 53 SEC Docket 633 (Jan. 26, 1993) (venture capital partnership designated to provide capital to local businesses).

7. Boston Financial Institutional Tax Credit Fund X, Related Corporate  
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Partners IV, L.P.; Boston Financial Institutional Tax Credit Fund XIX;  
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Related Corporate Partners XII, L.P., Boston Capital Corp. XIV, Boston  
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Financial Institutional Tax Credit Fund XXI, Related Corporate  
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Partners XIV, L.P., Summit Corporate Tax Credit Fund II, USA  
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Institutional Tax Credit Fund XXII  
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These are passive investments in tax advantaged affordable housing credit funds. The total investment as of March 31, 2000 was approximately \$120 million./24/

8. Pantellos Corporation  
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Unicom holds 5.4% of the equity of Pantellos Corporation, a Delaware corporation, which was incorporated on June 1, 2000. Pantellos plans to be the leading provider of e-supply-chain solutions to the electric, natural gas distribution, natural gas pipelines and other energy sectors, by providing an open environment that enables all participants to conduct supply chain activities and transactions through its secure, Internet-based eMarketplace. The current members are: Unicom, American Electric Power, Cinergy, Consolidated Edison, Inc., Duke Energy, Edison International, Entergy, FirstEnergy Corp., FPL Group, PG&E Corp., Public Service Enterprise Group, Reliant Energy, Sempra Energy, Southern Company, TXU, and recently Carolina Power & Light, DTE Energy, Dominion Resources, El Paso Energy, GPU and Ontario Power./25/

9. Automated Power Exchange  
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Unicom holds less than 5% of this competitive power exchange business, which competes with California PX./26/ Automated Power Exchange ("APX") currently has an exchange in California in which buyers and sellers can trade directly 24 hours a day for hourly, daily, or weekly deals on an APX web site. APX is planning to extend coverage to the Midwest.

(continued...)

/23/ This investment is passive and de minimis and thus, under Commission precedent, retainable. See Ameren, HCAR 35-26809 (Dec. 30, 1997) (St. Louis Equity Fund retainable because passive); WPL Holdings, HCAR 35-26856 (April 14, 1998) (authorizing investments of IES Investments as for the most part passive and/or de minimis).

/24/ See Ameren, HCAR 35-26809 (Dec. 30, 1997) (St. Louis Equity Fund retainable because passive).

/25/ See Section 34; Pantellos Corporation has applied for certification as an exempt telecommunication company under Section 34 of the Act.

/26/ See Rule 58 (b)(1)(v).

APX promises facilitation of an independent exchange that will be seen by all market participants as a fair and impartial place to do business.

10. UTECH Climate Challenge Fund, L.P.  
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UTECH Climate Challenge Fund, L.P. is a venture capital investments in businesses engaged in developing or commercializing electrotechnologies and renewable energy technologies. /27/ Unicom holds 5 shares out of 20.5 shares (approximately 24.4%) and has invested \$4.5 million out of \$5 million.

11. Utility Competitive Advantage Fund I, LLC and Utility Competitive Advantage Fund II, LLC  
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Utility Competitive Advantage Fund I, LLC ("UCAFI") and Utility Competitive Advantage Fund II, LLC ("UCAFII") are venture capital investments in businesses engaged in communications, the Internet, customer service opportunities and companies with products or services to help utilities retain and build a customer base, improve core operating efficiencies and generate new revenue sources. /28/ Unicom has invested \$10.3 million in UCAFI and holds an ownership percentage of 11% in UCAFI. Unicom has currently invested \$3 million in UCAFII and holds an ownership percentage of 17.64% in UCAFII, but is committed to invest additional \$15 million (which will not change the ownership percentage of Unicom).

/27/ See Rule 58(b)(1)(ii); The Commission has approved investments similar magnitude as passive and/or de minimis. See Ameren, HCAR 35-26809 (Dec. 30, 1997); WPL Holdings, HCAR 35-26856 (April 14, 1998).

/28/ See Ameren, HCAR 35-26809 (Dec. 30, 1997) (passive and/or de minimis investment); WPL Holdings, HCAR 35-26856 (April 14, 1998) (passive and/or de minimis investment).

LIST AND DESCRIPTION OF SUBSIDIARIES AND INVESTMENTS  
OF PECO ENERGY COMPANY  
(OTHER THAN "PUBLIC-UTILITY" COMPANIES)

AS OF AUGUST , 2000

IV. Subsidiaries and Investment of PECO

1. Financing Subsidiaries

1.1 PECO Energy Capital Corp.

PECO Energy Capital Corp. (PECC) (DE Corp.), wholly-owned by PECO, was formed as a financing vehicle for issuance of cumulative income preferred securities; it is the 3% general partner in PECO Energy Capital, L.P./29/

1.2 PECO Energy Capital, L.P.

PECO Energy Capital, L.P. (PECLP) (DE Limited partnership), a Delaware limited partnership whose general partner interest (3%) is held by PECC. Its sole purpose is to issue cumulative income preferred securities and lend the proceeds thereof to PECO./30/

/29/ New Century Energies, HCAR 35-26750 (August 1, 1997) (authorizing organization of new corporations, trust, partnerships or other financing entities to facilitate financings through the issuance to third parties of income preferred or other authorized or exempt securities. Also authorizing utility company to maintain its financing transactions with an existing wholly owned trust, that issued trust preferred securities and loaned the proceeds to its parent utility company); Conectiv, HCAR 35-26883 (February 26, 1998) (authorizing organization of new corporations, trust, partnerships or other financing entities to facilitate financings through the issuance to third parties of income preferred or other authorized or exempt securities. Also authorizing two utility companies to maintain their financing transactions with existing wholly owned trusts, that issued trust preferred securities and loaned the proceeds to the parent utility companies); SCANA Corporation, HCAR 35-27135 (February 14, 2000) (authorizing organization of new corporations, trust, partnerships or other financing entities to facilitate financings through the issuance to third parties of income preferred or other securities); Dominion Resources, HCAR 35-27112 (December 15, 1999) (authorizing holding company to maintain its financing transactions with an existing wholly owned trust, that issued capital securities to investors and with the proceeds purchased debentures issued by the holding company).

(/30/ Id.)

1.3 PECO Energy Capital Corp. Trust 2  
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PECO Trust 2 (DE Corp.) is a trust created for the issuance of a specific series of cumulative preferred securities./31/

1.4 PECO Energy Capital Corp. Trust 3  
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PECC Trust 3 (DE Corp.) is a trust created for the issuance of a specific series of cumulative preferred securities./32/

1.5 PECO Energy Transition Trust  
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PECO Energy Transition Trust (PETT) (a DE statutory business trust) is an entity used for the securitization of stranded costs, and in March 1999 and May, 2000, PECO issued \$4 billion and \$1 billion, respectively, of transition bonds through PETT./33/

1.6 ATNP Finance Company  
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ATNP Finance Company (ATNP) (DE Corp), wholly-owned by PECO Wireless, LLC (PEWI) (see below), was formed to manage PECO's net securitization proceeds to maximize the return thereon./34/

1.7 PEC Financial Services, LLC  
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PEC Financial Services, LLC (PEC) (PA limited liability company), wholly-owned by PEWI, this single-member LLC which was also formed in connection with PECO's securitization to maximize the return on the securitization proceeds./35/

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/31/ Id.

/32/ Id.

/33/ Id.

/34/ See West Penn Power Company, HCAR 35-27091 (October 19, 1999) (approving formation of subsidiaries to issue and receive proceeds of transition bonds).

/35/ Id.

2. Exempt Wholesale Generators  
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2.1 AmerGen Energy Company, LLC  
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AmerGen Energy Company, LLC. (AmerGen) (DE limited liability company) is a joint venture with British Energy formed to acquire nuclear electric generating assets. PECO holds a 50% LLC membership interest in AmerGen. AmerGen owns and operates Three Mile Island Unit 1 located in Pennsylvania, the Clinton Power Station located in Illinois and the Oyster Creek Generating Station located in New Jersey. AmerGen is an Exempt Wholesale Generator (EWG) under Section 32 of the Act. AmerGen and its subsidiary AmerGen Vermont, LLC are in the process of acquiring the Vermont Yankee nuclear power station which is the subject of review proceedings before various federal and state regulatory bodies./36/ AmerGen owns:

AmerGen Vermont, LLC (AVT)

3. Telecommunications Companies  
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3.1 PECO Wireless, LLC  
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PECO Wireless, LLC (PEWI) (DE limited liability company) is a wholly-owned LLC which serves as a holding company of PECO's telecommunications ventures and interests. It is the successor to PECO Wireless, Inc. which was merged into it effective January 1, 1998./37/

3.2 AT&T Wireless PCS of Philadelphia, LLC  
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AT&T Wireless PCS of Philadelphia, LLC (PPC) (DE Limited liability company) in which PEWI holds a 49% LLC membership interest, is a joint venture with AT&T Wireless Services formed to offer personal communications services in the Philadelphia Major Trading Area; it is an FCC license holder./38/

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/36/ Section 32 of the Act and Rule 53. See also the discussion in the U-1, Amendment 1, at Item 3(B)(3)(a)(v).

/37 Section 34 of the Act; GPU, Inc., HCAR 35-27165 (April 14, 2000) (telecommunication services functionally related to utility operations).

/38/ Section 34 of the Act.

3.3 PECO Hyperion Telecommunications (d/b/a/ PECO Adelp

Communications)  
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PECO Hyperion Telecommunications (PHT/PAC) (d/b/a/ PECO Adelp  
Communications) (PA general partnership), a general partnership  
in which PECO is a 50% partner, is a competitive local exchange  
carrier that provides services such as local dial tone, long  
distance, Internet service and point-to-point (voice and data)  
communications for businesses and institutions in eastern  
Pennsylvania. The other general partner is Adelp  
Solutions, a subsidiary of Adelp Communications (Nasdaq:  
ADLAC) (f/k/a Hyperion Telecommunications of PA, Inc.) (Nasdaq:  
HYPT), one of the largest cable television operators in the  
United States. PHT holds a certificate of public convenience from  
the Pennsylvania Commission and has applied to the New Jersey  
Board of Public Utilities for authorization to do business in  
southern New Jersey./39/

4. Real Estate Companies  
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4.1 Eastern Pennsylvania Development Company  
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Eastern Pennsylvania Development Company (EPDC) (PA Corp.),  
wholly-owned by PECO, holds interests in subsidiaries conducting  
unregulated real estate and complementary operations. This entity  
will be dissolved in connection with the restructuring to  
facilitate movement of its subsidiary entities to other entities  
engaged in similar lines of businesses. Exelon requests that the  
Commission reserve jurisdiction over the disposition of these  
entities for three years subsequent to the date of any order in  
this matter./40/ EPDC owns:

4.2 Adwin Realty Company  
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Adwin Realty Company (ARCO) (PA Corp.), is a real estate  
development and management company engaged primarily in local  
development activities./41/

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/39/ Section 34 of the Act.

/40/ Cinergy Corp., HCAR 35-26146 (Oct. 21, 1994) (reserving jurisdiction for  
three years over gas properties and various non-utility interests).

/41/ Ameren, HCAR, 35-26809 (Dec. 30, 1997) (authorizing investment in multi-  
purpose arena and in a limited liability company which owns 231 acres of  
farmland to be used for development of an industrial park within the boundaries  
of Mattoon and the CIPS service territory); Consolidated Natural Gas Co., 33 SEC  
Docket 1192 (Aug. 20, 1985) (investment in fund formed to encourage and finance  
local entrepreneurial ventures).



5. Investment Companies

5.1 Energy Assets

Energy Assets (EPS) (f/k/a Energy Performance Services, Inc., f/k/a Heatac Energy) (PA Corp.), in which EPDC holds only a 10% interest, specializes in the development, financing, implementation and construction of energy efficiency projects for large industrial, institutional, commercial and governmental facilities throughout the Northeastern United States. It integrates reliable energy supply with efficiency improvements, saving money as well as energy for its clients. EPS's primary mission is to implement cost-effective energy projects, providing the best independent solution for each facility. It secures project financing and functions as a design-build contractor and operator, using its onsite project managers to supervise the engineering, local installation and start-up of the project./42/

5.2 Adwin (Schuylkill) Cogeneration, Inc.

Dissolved.

5.3 Energy Trading Company

Energy Trading Company (ETC) (DE Corp.), wholly-owned by PECO, holds interests in: (1) WorldWide Web NetworX Corporation (NASDAQ: WWWX) (73,450 shares, \*1% worth ~\$200,000 @ 10/29/99), an Internet company; and (2) Entrade, Inc. (NYSE: ETA), (200,000 shares, ~1.5% worth ~\$3,200,000 @ 10/29/99), a business-to-business Internet e-commerce solution provider of marketing, procurement, inventory management, asset management and asset recovery functions./43/

5.4 ExelonVentures Corp.

ExelonVentures Corp. (EVEN) (f/k/a Exelon Corporation) (PA Corp.), wholly-owned by PECO, is currently the holding company of Exelon Capital Partners and a 50% interest in UniGrid Energy LLC. EVEN was formed as an energy services company; it formerly engaged in providing operation, management and consulting

\* less than

/42/ Rule 58(b)(1)(i), (vii).

/43/ Section 34 of the Act; Rule 58(b)(1)(vii)

services for owners and operators of electric or energy generation equipment and plants./44/

5.5 UniGridEnergy LCC

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UniGridEnergy LCC (GRID) (DE limited liability company), is a joint venture with ACE USA formed to connect energy buyers and sellers through a secure, reliable, easy-to-use Internet-based bidding process. EVEN holds a 50% LLC membership interest in GRID./45/

5.6 Exelon Capital Partners, Inc.

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Exelon Capital Partners, Inc. (ECAP) (DE Corp.), is an investment holding company which maintains and manages intangible investments. Generally, the investments, mostly in new businesses, leverage the core businesses of utility infrastructure services and communications and PECO Energy's other resources through investment. Current investments: (1) a 12% interest in Extant, Inc. a privately held carrier's fully optical telecommunications network serving CLECs, ISPs and other competitive telecos which exchange traffic over Extant's network; (2) a 14.9% interest in Permits Now (f/k/a Softcomp), a company developing Internet software which will enable the electronic filing of governmental and regulatory permits and applications; (3) a 50% interest (with Orion Ltd., a New Zealand energy network management company) in CIC Global, LLC, a technology company providing real time energy information and billing solutions to residential and small commercial customers; (4) a ~16.8% interest (value \$40M - Series B preferred stock) in VITTS Network Group Inc., a packet-based, data oriented Competitive Local Exchange Carrier that also provides network management services to commercial customers; (5) a 34.88% interest (preferred stock) in OmniChoice.com, Inc., an Internet-based utility services agent company, primarily serving small business and residential customers; and (6) \$500K of financing to Exotrope, a developer of neural networks for Internet software applications. Exotrope's primary product to date is an artificial intelligence, image recognition software program that identifies and blocks objectionable images on the Internet. Exotrope has also developed two search engines, one for educational purposes and one for religious

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/44/ Section 34 of the Act; Rule 58(b)(1)(i), (ii), (vii).

/45/ Section 34 of the Act; Rule 58(b)(1)(v); WPL Holdings, Inc., HCAR 35-26856 (April 14, 1998) (buys, sells and markets natural gas and electricity); Central and South West Corp., HCAR 35-26367 (Sept. 1995) (provide range of energy-related products and services to commercial and industrial customers).

purposes, that feed off the restrictive properties of the image recognition capability. Exotrope also operates a local Internet service provider./46/

5.7 Utility Competitive Advantage Fund I, LLC,  
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Utility Competitive Advantage Fund I, LLC, ("UCAFI") is a Kinetics' venture capital investment in businesses engaged in communications, the Internet, customer service opportunities and companies with products or services to help utilities retain and build a customer base, improve core operating efficiencies and generate new revenue sources. PECO has invested \$10 million and holds approximately an 11% ownership interest in UCAFI./47/

5.8 Enertech Capital Partners II  
-----

Enertech Capital Partners II ("ECPII") is a Safeguard Scientifics' venture capital fund in businesses engaged in technology and service companies related to the energy, utility and communications industries. PECO has invested \$1.5 million to date of a \$15 million commitment and holds a 6.4% ownership interest in ECPII./48/

6. Infrastructure Service Companies  
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6.1 Exelon Infrastructure Services, Inc.  
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Exelon Infrastructure Services, Inc. (EIS) (DE Corp.), owned approximately 95% by PECO, was formed to be the subsidiary holding company of a multi-company infrastructure services unit specializing in the integrated design, construction, and maintenance of utility (electric, gas, water, cable television, and telecommunications) distribution networks./49/EIS directly or indirectly holds all of the entities listed in this section.

6.2 Exelon Infrastructure Services of PA, Inc.  
-----

Exelon Infrastructure Services of PA, Inc. (EISPA) (DE Corp.), a wholly owned subsidiary of EIS, was formed as an entity into which PECO's

/46/ Section 34 of the Act; Rule 58(b)(1)(i), (ii), (vii); GPU, Inc. HCAR 35-27139 (Feb. 18, 2000) (authorizing investments in utility-like service industries).

/47/ See Ameren, HCAR 35-35-26809 (Dec. 30, 1997) (venture capital fund for minority business development); Appalachian Power Co., HCAR 35-25266 (growth capital in new and expanding small, rural firms to improve local economy); Northeast Utilities, 40 SEC Docket 412 (Feb. 24, 1988) (investment in locally focused venture capital fund); GPU, Inc., HCAR 35-27139 (Feb. 18, 2000); Ameren, HCAR 35-26809 (Dec. 30, 1997) (passive and/or de minimis investment) WPL Holdings, HCAR 35-26856 (April 14, 1998) (passive and/or de minimis investment).

/48/ Id.

/49/ Rule 58(b)(1)(vii), (ix).

unregulated infrastructure business was contributed in conjunction with the formation of the EIS group./49/

6.3 Chowns Communications, Inc.  
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Chowns Communications, Inc. (CCI) (DE Corp.), a wholly owned subsidiary of EIS, is a utility contractor providing primarily telecommunications services. The majority of CCI's revenues are derived from conduit installation projects with Bell Atlantic. CCI operates throughout Pennsylvania and Delaware and employs about 180 people./50/

6.4 Fischbach and Moore Electric, Inc.  
-----

Fischbach and Moore Electric, Inc. (FMEL) (DE Corp.), a wholly owned subsidiary of EIS, is an electrical contracting firm known for its construction of complex electrical projects relating to infrastructure for commercial and industrial buildings, and in transit and traffic management systems for various government and private entities. Other important markets include telecommunications and utilities. It operates in nine states with about 750 employees./51/

6.5 MRM Technical Group, Inc.  
-----

MRM Technical Group, Inc. (MRM) (DE Corp.), a wholly owned subsidiary of EIS, is a gas contracting firm comprised of six subsidiary construction companies and several non-construction subsidiaries. MRM operates in 23 states with about 1,800 employees./52/ The subsidiaries are:

Aconite Corporation (St. Paul, MN HQ) (MN Corp.)

Gas Distribution Contractors, Inc. (Aurora, MO HQ) (MO Corp.)

Mid-Atlantic Pipeliners, Inc. (Newark, DE HQ) (DE Corp.)

Mueller Distribution Contractors, Inc. (Sanford, FL HQ) (GA Corp.)

Mueller Energy Services, Inc. (Lorain, OH HQ) (NY Corp.)

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/49/ Rule 58(b)(1)(i), (iv), (vii), (ix); New Century Energies, HCAR 35-26748 (August 1, 1997); GPU, Inc., HCAR 35-27165 (April 14, 2000) (finding infrastructure services functionally related to utility operations).

/50/ Rule 58(b)(1)(vii); GPU, HCAR 35-27165 (April 14, 2000) (company performing telecommunication installation services); Section 34 of the Act.

/51/ Rule 58(b)(1)(i),(ii), (vii); GPU, HCAR 35-27165 (April 14, 2000) (company performing telecommunication installation traffic management system services).

/52/ Rule 58(b)(1)(vii); GPU, HCAR 35-27165 (April 14, 2000) (allowing acquisition of companies servicing the steel, utility, chemical, and co-generation industries).

Mueller Pipeliners, Inc. (New Berlin, WI HQ) (DE Corp.)

Mechanical Specialties Incorporated (WI Corp.)

Rand-Bright Corporation (WI Corp.)

6.6 Syracuse Merit Electric, Inc.  
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Syracuse Merit Electric, Inc. (SME) (DE Corp.), a wholly owned subsidiary of EIS, provides industrial and commercial electrical contracting services including on-site electric facility and inside commercial facility electrical system, and data system design and installation. SME operates in 8 states and employs about 200 people./53/

6.7 NEWCOTRA, Inc.  
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NEWCOTRA, Inc. (TRA) (DE Corp.), is a wholly owned subsidiary of EIS, formed to hold EIS's interest in Fischbach and Moore, Incorporated (FMI).

6.8 Fischbach and Moore, Incorporated  
-----

Fischbach and Moore, Incorporated (FMI) (NY Corp.), wholly-owned by NEWCOTRA, is an electrical contracting firm known for its construction of complex electrical projects relating to infrastructure for commercial and industrial buildings, and in transit and traffic management systems for various government and private entities. Other important markets include telecommunications and utilities./54/ FMI's subsidiaries, which are also engaged in one or more of these businesses, are:

Fischbach and Moore Electrical Contracting, Inc. (DE Corp.)

T.H. Green Electric Co., Inc. (NY Corp.)

6.9 Trinity Industries, Inc.  
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Trinity Industries, Inc. (TII) (DE Corp.), a wholly owned subsidiary of EIS, operates as an underground utility contractor in the southern New Jersey area, including installing natural gas pipeline mains and laterals to utility customers. TII employs about 100 people./55/

/53/ Rule 58(b)(1)(i),(ii), (vii).

/54/ New Century Energies, HCAR 35-26748 (August 1, 1997); GPU, HCAR 35-271 (April 14, 2000) (finding infrastructure and telecommunication services functionally related to utility operations).

/55/ Rule 58(b)(1)(iv),(vii),(ix); GPU, HCAR 35-27165 (April 14, 2000) (finding infrastructure services functionally related to utility operations).

6.10 OSP Consultants, Inc.  
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OSP Consultants, Inc. (OSP) (VA Corp.), a wholly owned subsidiary of EIS, performs engineering and design services, construction related services, craft services (cable splicing, installation and repair), project management and administrative functions on telecommunications infrastructure projects. OSP performs work for regulated, non-regulated and governmental communications companies, carriers, system operators, equipment manufacturers, power and cable TV companies, systems integrators and data applications companies; as well as a variety of other businesses involved in telecommunications-related activities. OSP operates in 33 states and several countries and employs over 2,200 people. It is registered to do business in Canada. OSP's subsidiaries include: International Communications Services, Inc. (NV Corp.); OSP Inc. (VA Corp.); OSP Servicios, S.A. de C.V. (Mexico); OSP Telecom, Inc. (DE Corp.); OSP Telcomm de Mexico, S.A. de C.V. (Mexico); OSP Telcom de Colombia, LTDA (Colombia - in the process of liquidation); OSP Telecommunications, Ltd. (Bermuda); RJE Telecom, Inc. (FL Corp.); Utility Locate & Mapping Services, Inc. (VA Corp.). The foreign subsidiaries are inactive./56/

6.11 Dashiell Holdings Corp.  
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Dashiell Holdings Corp.(DE Corp.), a wholly-owned subsidiary of EIS, is a subsidiary holding company (employing a joint workforce of more than 300) which holds Dashiell Corporation and, indirectly, Dacon Corporation.

6.12 Dashiell Corporation  
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Dashiell Corporation (TX Corp.) based in Deer Park, TX specializing in the design, construction, testing, and maintenance of high- and medium-voltage electrical facilities for customers in the Gulf Coast area and worldwide. The company's primary focus is the turnkey design and installation of high-voltage substations and switchyards, with utility, industrial, petrochemical, and merchant power applications./57/ Dashiell Corporation owns:

Dacon Corporation (TX Corp.), based in Lake Charles, LA, engages in the same business as Dashiell Corporation.

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/56/ Rule 58(b)(1)(vii); Section 34 of the Act.

/57/ Rule 58(b)(1)(vii); New Century Energies, HCAR 35-26748 (August 1, 1997); GPU, HCAR 35-27165 (April 14, 2000) (finding infrastructure services functionally related to utility operations).

6.13 VSI Group Inc.  
-----

VSI Group Inc. (VSI) (DE Corp.), a wholly-owned subsidiary of EIS, based in Columbia, MD, is one of the largest metering and customer services firms in the world, servicing the utilities (electric, gas, and water), manufacturers of automated meter reading (AMR) and metering systems, system integrators and municipalities. It is a leader in providing turnkey outsourcing solutions that include the installation of AMR and meter systems, meter maintenance, meter turn on/turn off, call center and scheduling operations, meter retrofitting and testing, consulting and engineering support, meter reading, meter route optimizing and training. VSI Group and its subsidiary have more than 700 employees in 12 locations./58/ VSI owns:

International Vital Solutions Group, Inc. (MD Corp.)

6.14 Michigan Trenching Service, Inc.  
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Michigan Trenching Service, Inc. (MI Corp.), a wholly-owned subsidiary of EIS, is an underground utility construction contractor servicing the Southeastern Michigan area since 1954, based in Ypsilanti, MI. The company has about 300 employees, over 500 pieces of modern construction equipment, and performs gas distribution, main and on-site plant construction, horizontal directional drilling, and turnkey engineering and CAD design services./59/

6.15 Lyons Equipment, Inc.  
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Lyons Equipment, Inc. (MI Corp.), is a wholly-owned subsidiary of EIS. This is an equipment leasing company for Michigan Trenching./60/

7. Other Energy Services Companies  
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7.1 Adwin Equipment Company  
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Adwin Equipment Company (AECO) (PA Corp.), wholly-owned by PECO, leases equipment for co-generation facilities and related activities./61/

/58/ Rule 58(b)(1)(i),(ii),(vii); GPU, HCAR 35-27165 (April 14, 2000) (finding infrastructure services functionally related to utility operations).

/59/ Rule 58(b)(1)(vii); New Century Energies, HCAR 35-26748 (August 1, 1997); GPU, HCAR 35-27165 (April 14, 2000) (finding infrastructure services functionally related to utility operations).

/60/ Rule 58(b)(1)(vii); New Century Energies, HCAR 35-26748 (August 1, 1997); GPU, HCAR 35-27165 (April 14, 2000) (finding infrastructure services functionally related to utility operations).

7.2 Horizon Energy Company  
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Horizon Energy Company (f/k/a PECO Gas Supply Company) (PA Corp.) is wholly-owned by PECO. It was formed to hold an interest in ECNGC. It later entered the business of selling competitively-priced electricity and natural gas in deregulated markets. It is currently inactive./62/

7.3 East Coast Natural Gas Cooperative, LLP  
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East Coast Natural Gas Cooperative, LLP (ECNGC) (DE limited partnership) in which PECO holds a 16.66% LLP interest, was formed to facilitate the coordinated use of certain natural gas capacity, storage, transportation and supply assets in order to improve service reliability and efficiency./63/

8. Miscellaneous Companies  
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8.1 Exelon Corporation  
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Exelon Corporation (f/k/a NEWHOLDCO Corporation f/k/a PECO Energy Corporation) (PA Corp.), is a wholly-owned inactive subsidiary of PECO which will be renamed Exelon Corporation and become the parent registered holding company in the Exelon system upon the consummation of the Merger.

8.2 Exelon (Fossil) Holdings, Inc.  
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Exelon (Fossil) Holdings, Inc. (DE Corp.), is wholly-owned by EPDC, and is currently inactive.

8.3 The Proprietors of the Susquehanna Canal  
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The Proprietors of the Susquehanna Canal (PSC) (MD Corp.), wholl-owned by Susquehanna Power Company, is an inactive entity, incorporated in 1783, and acquired in connection with the development of the Conowingo Hydro Project.

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(continued...)

/61/ Rule 58(b)(1)(vi), (viii).

/62/ Rule 58(b)(1)(v).

/64/ This subsidiary supports PECO's gas utility operations. See New Century Energies, HCAR 35-26748 (August 1, 1997) (retention of gas systems due to economies of scale).