

Registration Statement No. 333-\_\_\_\_\_  
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SECURITIES AND EXCHANGE COMMISSION  
Washington, DC 20549

FORM S-3  
REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

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

Exelon Capital Trust I  
Exelon Capital Trust II  
Exelon Capital Trust III  
(Exact name of registrant as  
specified in its Certificate of Trust)

Pennsylvania  
(State or other jurisdiction of  
incorporation or organization)

Delaware  
(State or other jurisdiction of  
incorporation or organization)

23-2990190

16-6545508  
16-6545509  
16-6545510

(I.R.S. Employer Identification No.)

(I.R.S. Employer Identification No.)

10 South Dearborn Street  
37th Floor  
P.O. Box 805379  
Chicago, Illinois 60680-5379  
(312) 394-4321

c/o Wachovia Trust Company, National Association  
One Rodney Square  
920 King Street, Suite 102  
Wilmington, DE 19801  
(302) 888-7536

(Address, including zip code,  
and telephone number, including  
area code of registrant's  
principal executive offices)

(Address, including zip code,  
and telephone number, including  
area code of registrant's  
principal executive offices)

Robert S. Shapard  
Executive Vice President and Chief Financial Officer  
10 South Dearborn Street - 37th Floor  
Chicago, Illinois 60680-5379  
(312) 394-4321

<http://www.exeloncorp.com>

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

With copies to:

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Chicago, Illinois 60680  
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Approximate date of commencement of proposed sale to public: From time  
to time after the Registration Statement becomes effective, as determined by  
market conditions and other factors.

If the only securities being registered on this Form are being offered  
pursuant to dividend or interest reinvestment plans, please check the following  
box.

If any of the securities being registered on this Form are being  
offered on a delayed or continuous basis pursuant to Rule 415 under the  
Securities Act of 1933, other than securities offered only in connection with  
dividend or interest reinvestment plans, check the following box.

If this Form is filed to register additional securities for an offering  
pursuant to Rule 462(b) under the Securities Act, please check the following box  
and list the Securities Act registration statement number of the earlier  
effective registration statement for the same offering. [X]

If this Form is a post-effective amendment filed pursuant to Rule

462(c) under the Securities Act, check the following box and list the Securities Act registration number of the earlier effective registration statement for the same offering.

If delivery of the prospectus is expected to be made pursuant to Rule 434, please check the following box.

Calculation of Registration Fee

Title of each class of securities to be registered	Amount to be registered(1)	Proposed maximum offering price per unit(1) (2)	Proposed maximum aggregate offering price(1) (2)	Amount of registration fee
Exelon Corporation debt securities				
Exelon Corporation common stock				
Exelon Corporation stock purchase contracts				
Exelon Corporation stock purchase units(3)				
Exelon Corporation preferred stock				
Exelon Corporation subordinated debt securities(4)				
Exelon Capital Trust I trust preferred securities				
Exelon Capital Trust II trust preferred securities				
Exelon Capital Trust III trust preferred securities				
Exelon Corporation guarantees with respect to Exelon Capital Trust I, Exelon Capital Trust II and Exelon Capital Trust III trust preferred securities(5)				
<b>Total</b>	<b>\$1,000,000,000</b>	<b>100%</b>	<b>\$1,000,000,000</b>	<b>\$80,900</b>

(1) We are registering a presently indeterminate principal amount or number of (a) debt securities, shares of common stock, stock purchase contracts, stock purchase units, shares of preferred stock and subordinated debt securities which may be sold from time to time by Exelon Corporation and (b) trust preferred securities which may be sold from time to time by Exelon Capital Trust I, Exelon Capital Trust II and Exelon Capital Trust III and which will be guaranteed as set forth in the prospectus included in this registration statement by Exelon Corporation. Pursuant to Rule 457(o) under the Securities Act of 1933 and General Instruction II.D of Form S-3, which permits the registration fee to be calculated on the basis of the maximum aggregate offering price of all the securities listed, the table does not specify by each class information as to the amount to be registered, proposed maximum offering price per unit or proposed maximum aggregate offering price.

- (2) Estimated solely for the purpose of calculating the registration fee pursuant to Rule 457 under the Securities Act of 1933. The aggregate public offering price of the securities registered hereby will not exceed \$1,000,000,000 in United States dollars or the equivalent thereof in foreign currency or currency units.
- (3) Each stock purchase unit consists of (a) a stock purchase contract under which the holder upon settlement will purchase an indeterminate number of shares of Exelon Corporation common stock and (b) debt obligations of Exelon Corporation registered under this registration statement or registration statement no. 333-57640 and/or a third-party, including U.S. Treasury Securities.
- (4) The subordinated debt securities will be purchased by, and constitute assets of, Exelon Capital Trust I, Exelon Capital Trust II and/or Exelon Capital Trust III. No separate consideration will be received for these securities.
- (5) Exelon Corporation is also registering under this registration statement all other obligations that it may have with respect to the trust preferred securities of Exelon Capital Trust I, Exelon Capital Trust II and Exelon Capital Trust III. No separate consideration will be received for the guarantee or any other of these obligations.

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Pursuant to Rule 429, under the Securities Act of 1933, the prospectus included in this registration statement is a combined prospectus relating also to registration statement no. 333-57640 previously filed by the registrant on Form S-3 and declared effective on May 1, 2001. This registration statement, which is a new registration statement, also constitutes post-effective amendment no. 2 to registration statement 333-57640, and such post-effective amendment no. 2 shall hereafter become effective concurrently with the effectiveness of this registration statement and in accordance with Section 8(c) of the Securities Act of 1933.

We hereby amend this registration statement on such date or dates as may be necessary to delay its effective date until we shall file a further amendment which specifically states that this registration statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933 or until the registration statement shall become effective on such date as the Commission acting pursuant to Section 8(a), may determine.

The information in this prospectus is not complete and may be changed. We may not sell these securities until the registration statement filed with the Securities and Exchange Commission is effective. This prospectus is not an offer to sell these securities and it is not soliciting an offer to buy these securities in any state where the offer or sale is not permitted.

Subject to Completion, dated September 5, 2003

\$2,000,000,000

[INSERT LOGO]

EXELON CORPORATION  
Debt Securities  
Common Stock  
Stock Purchase Contracts  
Stock Purchase Units  
Preferred Stock  
Subordinated Debt Securities  
Guarantee of Trust Preferred Securities

EXELON CAPITAL TRUST I  
EXELON CAPITAL TRUST II  
EXELON CAPITAL TRUST III  
Trust Preferred Securities  
(guaranteed by Exelon Corporation as described in this prospectus)

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Exelon Corporation may use this prospectus to offer and sell from time to time:

- o unsecured senior debt securities;
- o common stock;
- o stock purchase contracts;
- o stock purchase units;
- o preferred stock in one or more series;
- o subordinated debt securities to be purchased by Exelon Capital Trust I, Exelon Capital Trust II and/or Exelon Capital Trust III; and
- o guarantees of trust preferred securities sold by Exelon Capital Trust I, Exelon Capital Trust II and Exelon Capital Trust III.

Exelon Capital Trust I, Exelon Capital Trust II and Exelon Capital Trust III may use this prospectus to offer and sell from time to time trust preferred securities that will be guaranteed by Exelon Corporation.

We will provide the specific terms of these securities in supplements to this prospectus prepared in connection with each offering. The securities offered will contain other significant terms and conditions. Please read this prospectus and the applicable prospectus supplement carefully before you invest. This prospectus may not be used to consummate sales of the offered securities unless accompanied by a prospectus supplement.

Our common shares are listed on the New York, Chicago and Philadelphia Stock Exchanges, under the symbol "EXC."

Please see "Risk Factors" beginning on page 4 for a discussion of factors you should consider in connection with a purchase of the securities offered in this prospectus.

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of the securities or determined if this prospectus is truthful or complete. Any representation to the contrary is a criminal offense.

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The date of this prospectus is .

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## ABOUT THIS PROSPECTUS

This prospectus is part of a registration statement that we filed with the Securities and Exchange Commission (SEC) using a "shelf" registration process. Under this shelf registration process, we may, from time to time, sell the securities described in this prospectus or combinations thereof in one or more offerings with a maximum aggregate initial offering price of up to \$2,000,000,000, which includes \$1,000,000,000 of debt securities that were registered on a prior registration statement. This prospectus provides a general description of the securities we may offer. Each time we sell securities, we will provide a prospectus supplement that will contain specific information about the terms of that offering. The prospectus supplement may also add, update or change information contained in this prospectus. You should read both this prospectus and any prospectus supplement together with additional information described under "Where You Can Find More Information."

Unless otherwise indicated, all references in this prospectus or a prospectus supplement to "Exelon Corporation," "Exelon," "we," "our," "us," or similar terms mean Exelon Corporation, and all references to "the trusts" mean Exelon Capital Trust I, Exelon Capital Trust II and Exelon Capital Trust III.

We are not offering the securities in any state where the offer is not permitted.

You should not assume that the information in this prospectus is accurate as of any date other than the date on the front cover of this document.

You should rely only on information contained in this prospectus or the documents to which we have referred you. We have not authorized anyone to provide you with information that is different. This prospectus and related prospectus supplement may be used only where it is legal to sell these securities. The information in this prospectus and any prospectus supplement may only be accurate on the date of this document. Our business, financial condition, results of operations and prospects may have changed since that date.

Please see "Risk Factors" beginning on page 4 for a discussion of factors you should consider in connection with a purchase of the securities offered in this prospectus.

#### WHERE YOU CAN FIND MORE INFORMATION

We are a reporting company and file annual, quarterly and current reports, proxy statements and other information with the SEC. The public may read and copy any reports or other information that we file with the SEC at the SEC's public reference room, Room 1024 at Judiciary Plaza, 450 Fifth Street, N.W., Washington, D.C. 20549. The public may obtain information on the operation of the public reference room by calling the SEC at 1-800-SEC-0330. These documents are also available to the public from commercial document retrieval services and at the web site maintained by the SEC at <http://www.sec.gov>. Reports, proxy statements and other information concerning us may also be inspected at the offices of the New York Stock Exchange, which is located at 20 Broad Street, New York, New York 10005. You may also obtain a copy of the registration statement at no cost by writing us at the following address:

Exelon Corporation  
Attn: Investor Relations  
10 South Dearborn Street - 37th Floor  
P.O. Box 805379  
Chicago, IL 60680-5379

This prospectus is one part of a registration statement filed on Form S-3 with the SEC under the Securities Act of 1933, as amended, known as the Securities Act. This prospectus does not contain all of the information set forth in the registration statement and the exhibits and schedules to the registration statement. For further information concerning us and the securities, you should read the entire registration statement including this prospectus and any related prospectus supplements, and the additional information described under the sub-heading "Documents Incorporated By Reference" below. The registration statement has been filed electronically and may be obtained in any manner listed above. Any statements contained herein concerning the provisions of any document are not necessarily complete, and, in each instance, reference is made to the copy of such document filed as an exhibit to the registration statement or otherwise filed with the SEC. Each such statement is qualified in its entirety by such reference.

Information about us is also available on our web site at <http://www.exeloncorp.com>. This URL and the SEC's URL above are intended to be inactive textual references only. Such information on our or the SEC's web site is not a part of this prospectus.

#### DOCUMENTS INCORPORATED BY REFERENCE

The SEC allows us to "incorporate by reference" information that we file with them, which means that we can disclose important information to you by referring you to those other documents. The information incorporated by reference is an important part of this prospectus, and information that we file later with the SEC will automatically update and supersede this information. This incorporation by reference does not include documents that are furnished but not filed with the SEC. We incorporate by reference the documents listed below and any future documents that we file with the SEC under Section 13(a), 13(c), 14 or 15(d) of the Exchange Act but prior to the termination of any offering of securities made by this prospectus:

- o Our Annual Report on Form 10-K for the year ended December 31, 2002;
- o Our Quarterly Reports on Form 10-Q for the fiscal quarters ended March 31, 2003 and June 30, 2003;



- o Our Current Reports on Form 8-K filed on January 15, 2003, January 30, 2003, February 21, 2003, March 6, 2003, March 7, 2003, March 31, 2003, May 6, 2003, May 8, 2003, May 30, 2003, June 6, 2003, June 13, 2003, June 17, 2003, June 18, 2003, June 18, 2003, June 26, 2003, July 11, 2003, July 29, 2003, July 30, 2003, August 6, 2003 August 13, 2003 and September 2, 2003; and
- o the description of our common stock contained in the registration statement on Form 8-A filed under the Securities Exchange Act of 1934, as amended, including any amendment thereto or report filed for the purpose of updating such description.

Upon written or oral request, we will provide without charge to each person, including any beneficial owner, to whom this prospectus is delivered, a copy of any or all of such documents which are incorporated herein by reference (other than exhibits to such documents unless such exhibits are specifically incorporated by reference into the documents that this prospectus incorporates). Written or oral requests for copies should be directed to Exelon Corporation, Attn: Investor Relations, 10 South Dearborn Street, 37th Floor, P.O. Box 805379, Chicago, IL 60680-5379.

Any statement contained in this prospectus, or in a document all or a portion of which is incorporated by reference, shall be modified or superseded for purposes of this prospectus to the extent that a statement contained in this prospectus, any supplement or any document incorporated by reference modifies or supersedes such statement. Any such statement so modified or superseded shall not, except as so modified or superseded, constitute a part of this prospectus.

All reports and other documents subsequently filed by us pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Exchange Act, prior to the filing of a post-effective amendment, which indicates that all of a class of securities offered hereby have been sold or which deregisters all of a class of securities then remaining unsold, shall be deemed incorporated by reference herein and to be a part hereof from the date of filing of such documents.

We have not included or incorporated by reference any separate financial statements of the trusts. We do not consider the financial statements of the trusts to be material to holders of the trust preferred securities because each trust (1) is a newly formed special purpose entity that has no operating history or independent operations and (2) is not engaged in and does not propose to engage in any activity other than holding our subordinated debt securities and issuing the trust preferred securities.

## RISK FACTORS

Our business is affected by the various factors discussed in Management's Discussion and Analysis of Financial Condition and Results of Operations incorporated into this prospectus by reference to our Annual Report on Form 10-K. In addition, the various other factors described in this section could affect our business, results of operations or the price of our securities.

- o Our holding company structure could limit our ability to pay debt service or dividends.

We are a holding company with no material assets other than the stock of our subsidiaries. Accordingly, all of our operations are conducted by our subsidiaries. Our ability to pay principal and interest on our debt and dividends on our common and preferred stock depends on the payment to us of dividends by our operating subsidiaries, namely Commonwealth Edison Company (ComEd), PECO Energy Company (PECO) and Exelon Generation Company, LLC (Generation). These subsidiaries' payments of dividends to us in turn depend on their results of operations and cash flows. PECO and ComEd also are subject to regulatory restrictions that generally permit the payment of dividends solely from the amount of retained or current earnings and preclude any payment if the subsidiary's equity is less than 30% of its capitalization.

- o Our financial performance will be affected by our ability to achieve the targeted cash savings under our new Exelon Way business model.

We have begun to implement our new business model referred to as The Exelon Way, which is focused on improving operating cash flows while meeting service and financial commitments through improved integration of operations and consolidation of support functions. Our targeted annual cash savings range from approximately \$300 million in 2004 approximately \$600 million in 2006. We anticipate incurring expenses associated with reaching these annual cash savings levels in the near future. Our inability to achieve targeted annual cash savings levels in the targeted timeframes could adversely affect our future financial performance.

- o Fluctuations in our operating results may affect the market prices of our securities.

The market price of our common stock and other securities may fluctuate because our operating results may vary. Variations in our operating results can result from many factors, including factors beyond our control, such as weather and economic conditions. Our results of operations may also vary significantly from quarter to quarter because of the timing of certain events and other factors, including the other risks factors set forth in this prospectus. Therefore, you should not rely on our results of operations during any particular quarter as an indication of our results for a full year or any other quarter.

- o The price of our securities may be affected by the general perception of the energy and utility sectors of the economy.

Events, such as the August 14, 2003 blackout, those involving Enron Corporation, political unrest in oil-producing countries and the California energy crisis, in addition to the fact that the energy industry is changing and subject to greater risk, could adversely affect investors' perception of the energy and utility sectors and could adversely affect the equity prices of companies in those sectors. We cannot predict what news or event will affect the public or how any news or event affects the market price of our securities, but fluctuations due to such news and events could be severe and any negative effects could be long lasting.

- o Our businesses are subject to extensive regulation that affects our operations and our costs.

Our businesses are extensively regulated. We are subject to regulation by the SEC under the Public Utility Holding Company Act (PUHCA), by the Federal Energy Regulatory Commission (FERC) and the Nuclear Regulatory Commission (NRC) under energy legislation, by federal, state and local authorities under environmental laws and by state public utility commissions under laws regulating our distribution and transmission businesses. Regulation affects almost every aspect of our businesses, from our fundamental business management actions to our ability to:

- o determine the terms and rates of our Energy Delivery businesses' services;

- o make acquisitions;
- o issue equity or debt securities;
- o engage in transactions among our affiliates; and
- o pay dividends.

Changes in regulation can cause delays in or affect business planning and transactions and can increase our costs.

As part of retail deregulation initiatives in Illinois and Pennsylvania and other regulatory proceedings, ComEd's and PECO's rates are currently subject to limitations, including:

- o a freeze on ComEd's rates through 2006;
- o a limitation on ComEd's return on equity through 2006;
- o a cap on PECO's electric transmission and distribution rates through 2006;
- o a cap on PECO's overall rates through 2010; and
- o scheduled recovery of PECO's electric stranded costs that will increase amortization expenses through 2010.

These rate provisions substantially limit the ability of ComEd and PECO to recover cost increases or the costs of new investments. As a result, ComEd and PECO must effectively manage their costs to maintain their current profitability.

- o Our financial performance will be affected by the amortization and eventual termination of stranded cost recovery for ComEd and PECO.

Both ComEd's and PECO's current retail electric rates include charges to recover stranded costs that might not otherwise be recoverable in a fully competitive market. The amount of stranded cost recovery by ComEd varies annually depending on wholesale market prices and other factors, with stranded cost recovery ending at the end of 2006. Stranded cost recovery by PECO continues through 2010. Although the annual amount of stranded cost recovery is scheduled to increase during that period, annual increases in amortization of PECO's stranded cost recovery and the corresponding reductions in the return on the unamortized portion of stranded cost recovery will adversely affect PECO's results through 2010. Further, the termination of stranded cost recovery at the end of 2006 for ComEd and at the end of 2010 for PECO could significantly adversely affect our future results of operation.

- o Failure to provide reliable service to our customers could adversely affect our operating results.

Our Energy Delivery businesses remain obligated to provide safe and reliable service to their customers within their franchised service territories. Meeting this commitment requires significant capital and other resources. Failure to provide safe and reliable service, including from equipment failures in electric and gas delivery systems, could adversely affect our operating results through reduced revenues and increased maintenance and capital costs. In addition, under Illinois law, ComEd can be required to pay damages to its customers in the event of extended outages affecting large numbers of its customers. While we were

not affected directly by the failure in the transmission grid that affected a large portion of the northeastern United States and Canada on August 14, 2003, the North American transmission grid is highly interconnected and, in extraordinary circumstances, disruptions at a point within the grid can cause a systemic response that results in an extensive power outage on our delivery systems. Power outages in ComEd or PECO's service territories could occur even if the disruptions originate outside of these territories.

- o Impairment of ComEd's goodwill could adversely affect our results of operation and could restrict ComEd's ability to pay dividends to us.

At June 30, 2003, ComEd had recorded goodwill of \$4.7 billion. This goodwill was recognized and recorded in connection with the merger of Unicom Corporation and PECO. Under generally accepted accounting principles, the goodwill will remain at its recorded amount unless it is determined to be impaired, which is based upon an analysis of ComEd's expected future cash flows. If an impairment is determined at ComEd, the amount of the impaired goodwill will be written off and expensed at ComEd. However, a goodwill impairment charge at ComEd may not affect our results of operations. Our good will impairment test would include assessing the expected future cash flows of the entire Energy Delivery business segment (a single reporting unit, which includes PECO, as defined under current accounting guidance), not just ComEd's expected future cash flows. ComEd's cash flows include competitive transition charges, which will cease at the end of 2006, unless there is a legislative or regulatory change and collections from traditional bundled customers at tariffed rates. ComEd's cash flows will be affected by other factors, including the restructuring of the power purchase agreement (PPA) with Generation. Absent another source of revenues to replace the loss of competitive transition charge revenue or changes in its costs structure, all or a portion of the goodwill may become impaired. Under current regulations, a significant goodwill impairment may restrict ComEd's ability to pay dividends to us. We are pursuing various solutions to address ComEd's ability to pay dividends if a significant goodwill impairment exists. However, based on Illinois legislation, goodwill impairments are excluded from determining whether or not the earnings cap amount has been met or exceeded.

- o Energy Delivery is obligated as the provider-of-last-resort to provide energy to all retail customers in its service territories, which makes it difficult to predict and plan for load requirements.

Energy Delivery continues to serve as the provider-of-last-resort (POLR) for energy for all customers in its electric and gas service territories. As long as the POLR obligation remains unchanged, Energy Delivery could be mandated to secure load requirements sufficient to serve 100% of its service territories under the assumption that all customers in these territories may return to Energy Delivery as their electricity supplier. Because the choice of electricity generation supplier or natural gas supplier lies with the customer, planning has a higher level of uncertainty than that traditionally experienced due to weather and the economy, and it is difficult to predict and plan for the number of customers and their associated energy demand. The POLR obligation also affects Generation because it provides electricity to Energy Delivery. The uncertainty regarding the amount of Energy Delivery electric load that Generation must prepare for increases Generation's costs. The load requirements of the POLR obligation may affect pricing, competitive market development and planning by Energy Delivery, Generation, alternate electricity generation suppliers, alternate natural gas suppliers and customers. A significant under-estimation of Energy Delivery's electric-load requirements could result in Generation not having enough power to cover its load obligation, in which case it would be required to buy power from third parties at prevailing market prices. Those prices may not be as favorable or as manageable as Generation's long-term supply costs and thus could increase its costs.

- o Energy Delivery and Generation may not be able to manage costs to operate profitably under current rate caps and freezes and fixed priced PPAs.

ComEd and PECO are subject to electric rate caps and freezes and the PPAs between them and Generation are at fixed prices. These supply contracts are a substantial portion of our business and so our profitability depends on Generation's ability to manage its costs and produce or procure electricity efficiently, at costs less than the prices at which it sells under the PPAs. Our businesses' ability to manage costs also may be affected by the other risk factors described in this prospectus, inflation and other factors outside of their control. We cannot assure you that we can maintain current cost levels or operational efficiency to sustain our current levels of profitability.

- o Energy Delivery's revenues are affected by factors beyond our control.

Energy Delivery's revenues are affected by the demand for electricity and natural gas. That demand can vary greatly based upon:

- o weather conditions, seasonality and temperature extremes;
- o availability of competitively priced alternative energy sources; and
- o fluctuations in economic activity and growth in our service territories.

Weather conditions, accidents and other catastrophic events can disrupt or limit Energy Delivery's ability to deliver electricity and natural gas. Very warm and very cold temperatures, especially for prolonged periods, can dramatically increase the demand for electricity and natural gas for cooling and heating. The pricing of alternative energy sources may affect the demand of customers, such as commercial and industrial customers, who have the ability to use alternative energy sources in their operations.

- o Generation may incur substantial costs and liabilities due to its ownership and operation of nuclear facilities.

The ownership and operation of nuclear facilities involve risks, including:

- o mechanical or structural problems;
- o inadequacy or lapses in maintenance protocols;
- o impairment of reactor operation and safety systems due to human error;
- o costs of storage, handling and disposal of nuclear materials;
- o limitations on the amounts and types of insurance coverage commercially available; and
- o uncertainties regarding both technological and financial aspects of decommissioning nuclear facilities.

Some of the more significant risks that could affect Generation's ability to sustain its current levels of profitability include:

**Capacity Factors.** Generation's nuclear fleet must operate at consistently high capacity factors in order for it to produce efficient, low-cost energy and sustain its current profitability levels.

**Life Extensions.** Generation's nuclear facilities are currently operating under 40-year NRC licenses. Generation has applied for 20-year extensions to those licenses, but it cannot predict whether any of the pending

extensions will be granted. If the extensions are granted, Generation cannot be sure that it will be able to operate the facilities for all or any portion of the extended license.

**Regulatory Risk.** The NRC may modify, suspend or revoke licenses, shut down a nuclear facility and impose civil penalties for failure to comply with the Atomic Energy Act, related regulations or the terms of the licenses for nuclear facilities. A change in the Atomic Energy Act or the applicable regulations or licenses may require a substantial increase in capital expenditures or may result in increased operating or decommissioning costs.

**Operational Risk.** Operations at any of Generations' nuclear generation plants could degrade to the point where it has to shut down the plant. If this were to happen, identifying and correcting the causes may require significant time and expense. Generation may choose to close a plant rather than incur the expense of restarting it. In either event, Generation may lose revenue and incur increased fuel and purchased power expense to meet its supply commitments. For plants operated by Generation but not wholly owned by it, Generation may also incur liability to the co-owners.

**Nuclear Accident Risk.** Although the safety record of nuclear reactors generally, including Generation's, has been very good, accidents and other unforeseen problems have occurred both in the United States and elsewhere. The consequences of an accident can be severe and include loss of life and property damage. Any resulting liability from a nuclear accident may exceed Generation's resources, including insurance coverages.

Nuclear fuel quality may affect costs. The quality of nuclear fuel utilized by Generation can affect the efficiency and costs of its operations. Certain Generation nuclear units have recently identified a limited number of fuel performance issues. While actions have been taken in accordance with policies and procedures to ensure there are no public, personnel and operational safety issues, evaluation continues and further remediation actions are under consideration. Such remediation actions have resulted in increased costs due to accelerated fuel amortization and/or increased outage costs and could continue to do so. It is difficult to predict the total cost of these remediation procedures.

- o Generation is exposed to price fluctuations and other risks of the wholesale power markets.

Generation sells electricity in both the wholesale bilateral markets and spot markets. These sales expose it to the risks of rising and falling prices in those markets, and its cash flows may vary accordingly. To the extent Generation does not supply power to serve the needs of ComEd and PECO at fixed rates mandated by state regulatory commissions, its cash flows will largely be determined by wholesale prices of electricity and our ability to successfully market energy, capacity and ancillary services.

**Credit Risk.** In the bilateral markets, Generation is exposed to the risk that counterparties that owe it money or energy as a result of market transactions will not perform their obligations. For example, energy supplied by third-party generators under long-term agreements represents a significant portion of Generation's overall capacity. These generators face operational risks, such as those that Generation faces, and their ability to perform depends on their financial condition. In the event the counterparties to these arrangements fail to perform, Generation might be forced to honor the underlying commitment at then-current market prices and incur additional losses, to the extent of amounts, if any, already paid to the counterparties. In the spot markets, Generation is exposed to the risks of whatever default mechanisms exist in that market, some of which attempt to spread the risk across all participants, which may or may not be an effective way of lessening the severity of the risk and the amounts at stake.

At any given time the wholesale spot-market price of electricity for each hour is generally determined by the cost of supplying the next unit of electricity to the market during that hour. Many times the next unit of electricity supplied would be supplied from generation stations fueled by fossil fuels, primarily natural gas. Consequently, the open market wholesale price of electricity may reflect the cost of natural gas plus the spark spread, the cost to convert natural gas to electricity. Therefore, changes in the supply and cost of natural gas may impact the open market wholesale price of electricity.

Immature Markets. The wholesale spot markets are new and evolving markets that vary from region to region and are still developing practices and procedures. While FERC has proposed an initiative to standardize wholesale spot markets, Generation cannot predict whether that initiative will be successful, what form any of these markets will eventually take or what roles it will play in them. Problems in or the failure of any of these markets, as was experienced in California in 2000, could adversely affect Generation's business.

Hedging. The Power Team buys and sells energy and other products in the wholesale markets and enters into financial contracts to manage risk and hedge various positions in our power generation profiles. This activity, along with the effects of any specialized accounting for the trading contracts, may cause volatility in Generation's future results of operations and affect the payment of dividends.

- o The ongoing transformation of the energy industry could have a negative effect on our businesses.

The energy industry is undergoing major transformations. Increased competition from new or restructured suppliers could have a negative impact on our wholesale and retail sales. Additionally, the changing industry exposes our Generation and Energy Delivery businesses to marketplace volatility that they have not historically been called upon to manage. These changes have significantly affected the whole industry and the manner in which its participants conduct their businesses. These changes are ongoing, and we cannot predict the future course of changes in laws and regulations, including changes resulting from market volatility and increased security concerns, or the ultimate effect that this changing regulatory environment will have on our businesses.

- o Our businesses depend on access to the capital markets.

Our businesses are capital intensive and we depend on access to the capital markets to meet our capital resource requirements to the extent not provided by internally generated funds. We also may need to access the capital markets to finance acquisitions. When necessary, we secure funds from external sources by issuing commercial paper and, as required, long-term debt securities. We actively manage our exposure to changes in interest rates through interest-rate swap transactions and our balance of fixed- and floating-rate instruments. We currently anticipate primarily using internally generated cash flows and short-term financing through commercial paper to fund our operations as well as long-term external financing sources to fund capital requirements as the need arises. The ability to arrange debt financing, to refinance current maturities and early retirements of debt, and the costs of issuing new debt are dependent on:

- o credit availability from banks and other financial institutions;
- o maintenance of acceptable credit ratings;
- o investor confidence in us and our subsidiaries;
- o general economic and capital market conditions; and
- o the success of current projects.
- o We may make acquisitions that do not achieve the intended financial results.

We continue to opportunistically pursue investments that fit our strategic objectives and improve our financial performance. Our future financial performance will depend in part upon a variety of factors related to these investments, including our ability to successfully integrate them into existing operations. These new investments, as well as our existing investments, may not achieve the financial performance that we anticipate.

- o Our results of operations may be affected by our ability to divest ourselves of certain businesses.

We are actively pursuing opportunities to dispose of businesses, such as Sithe Energies, Inc., which are either unprofitable or do not meet our goals. We may incur significant costs in divesting these businesses. We also may be unable to successfully implement our divestiture strategy of certain businesses for a number of reasons, including an inability to locate appropriate buyers or to negotiate acceptable terms for the transactions. In addition, the amounts that we may realize from a divestiture are subject to fluctuating market conditions that may contribute to pricing and other terms that are materially different than expected and could result in a loss on the sale. Timing of any divestitures may positively or negatively affect our results of operations.

- o Market performance affects our decommissioning trust funds and benefit plan asset values.

The performance of the capital markets affects the value of the assets that are held in trust to satisfy our future obligations under our pension and post-retirement benefit plans and to decommission

nuclear generating plants. A decline in the market value of those assets, as was experienced from 2000 to 2002, may increase our funding requirements for these obligations.

- o Competition from other electric generation companies could affect our stock price, results of operations and ability to pay dividends.

Restructuring of the energy markets in the United States and elsewhere in the world, including the privatization of government-owned utilities and the sale of utility-owned assets, is creating opportunities for, and competition from, well-capitalized competitors, which may affect our ability to achieve our objectives. Increased competition also could erode the price of power and result in lower revenues, which in turn could affect our results of operations.

- o We may be unable to respond effectively to competition or new technologies.

We may be unable to respond in a timely or effective manner to the many changes in the power industry that may occur as a result of regulatory initiatives to increase competition. Increased competition may create additional competitors in our industry, and we may be unable to maintain our revenues and earnings levels or pursue our growth strategy. In addition, new technologies may be developed that affect the competitiveness of our generation facilities. To the extent that competition increases, our profit margins may be negatively affected.

- o War and acts and threats of terrorism may adversely affect our results of operations, our ability to raise capital and our future growth.

We do not fully know the impact that any future terrorist attacks may have on our industry in general and on us in particular. In addition, any retaliatory military strikes or sustained military campaign may affect our operations in unpredictable ways, such as changes in insurance markets and disruptions of fuel supplies and markets, particularly oil. The possibility alone that infrastructure facilities, such as electric generation, electric and gas transmission and distribution facilities, would be direct targets of, or indirect casualties of, an act of terror may affect our operations. Additionally, the continuing military activity in Iraq and other wars may have an adverse effect on the economy in general. A lower level of economic activity might result in a decline in energy consumption, which may adversely affect our revenues or restrict our future growth. Instability in the financial markets as a result of terrorism or war may affect our stock price and our ability to raise capital.



- o Our financial performance is affected by our ability to manage costs for security and liability insurance.

Security. In connection with the events of September 11, 2001, the electric industry has developed additional security guidelines. The electric industry, through the North American Electric Reliability Council (NERC), developed physical security guidelines, which were accepted by the U.S. Department of Energy and which may become mandatory through regulation or Legislation. The gas industry, through the American Gas Association, developed physical security guidelines that were accepted by the U.S. Department of Transportation. Exelon participated in the development of these guidelines and ComEd and PECO are using them as a model for their respective security programs.

Generation has also initiated security measures to safeguard its employees and critical operations and is actively participating in industry initiatives to identify methods to maintain the reliability of its energy production and delivery systems. Generation has met or exceeded all security measures mandated by the NRC for nuclear plants after the September 11, 2001 terrorist attacks. These security measures have resulted in and are expected to continue to result in increased costs. On a continuing basis, Generation is evaluating enhanced security measures at certain critical locations, enhanced response and recovery plans and assessing long-term design changes and redundancy measures. Additionally, the energy industry is working with governmental authorities to ensure that emergency plans are in place and critical infrastructure vulnerabilities are addressed in order to maintain the reliability of the country's energy systems. These measures will involve additional expense to develop and implement, but will provide increased assurances as to Generation's ability to continue to operate under difficult times.

Insurance. Any claim resulting from a nuclear accident exceeding the amounts available under our nuclear liability insurance and other sources for payment of claims would have a negative effect on our results of operations and our financial condition. As a result of significant changes in the insurance marketplace, due in part to the September 11, 2001 terrorist acts, the coverage available and the limits under property damage and liability insurance that we buy may be less than those that we could obtain in the past, and the recovery for losses due to terrorists acts may be limited. We are self-insured for losses that exceed the amount of insurance we maintain. A claim that exceeds the amounts available under our property damage and liability insurance, would negatively affect our results of operations.

We do not carry any form of business interruption insurance other than replacement power coverage for Generation's nuclear operations. Damage to ComEd's or PECO's delivery facilities may disrupt their distribution services and significantly and adversely affect our results of operations.

- o We may incur substantial cost to fulfill our obligations related to environmental matters.

ComEd, PECO and Generation are subject to extensive environmental regulation by local, state and Federal authorities. These laws and regulations affect the manner in which our subsidiaries conduct their operations and make capital expenditures. ComEd, PECO and Generation are subject to liability under these laws for the costs of remediating environmental contamination of property now or formerly owned by them and of property contaminated by hazardous substances they generated. We believe that ComEd, PECO and Generation have responsible environmental management and compliance programs; however, each has incurred and expects to incur significant costs related to environmental compliance and site remediation and clean-up. Remediation activities associated with manufactured gas plant operations for ComEd and PECO will be one source of such costs. Also, ComEd, PECO and Generation are currently involved in a number of proceedings relating to sites where

hazardous substances have been deposited and may be subject to additional proceedings in the future.

EXELON CORPORATION

Exelon Corporation is a registered public utility holding company that operates through its subsidiaries in three business segments:

- o Energy Delivery, consisting of the retail electricity distribution and transmission businesses of ComEd in northern Illinois and PECO in southeastern Pennsylvania and the natural gas distribution business of PECO in the Pennsylvania counties surrounding the City of Philadelphia.
- o Generation, consisting of the owned and contracted for electric generating facilities and energy marketing operations of Generation and interests in Sithe Energies, Inc. (Sithe) and AmerGen Energy Company, LLC (AmerGen).
- o Enterprises, consisting of competitive retail energy sales, energy and infrastructure services, communications and other investments (weighted towards the communications, energy services and retail services industries).

Our principal executive offices are located at 10 South Dearborn Street, 37th Floor, P.O. Box 805379, Chicago, Illinois 60680-5379, and our telephone number is (312) 394-4321.

EXELON CAPITAL TRUST I, EXELON CAPITAL TRUST II AND  
EXELON CAPITAL TRUST III

Each of Exelon Capital Trust I, Exelon Capital Trust II and Exelon Capital Trust III is a Delaware statutory trust that was formed on August 25, 2003. Each of the trust's businesses is defined in a declaration of trust, dated as of August 25, 2003, executed by us, as sponsor, and certain of the trustees specified below. The declaration of trust for a trust will be amended and restated in its entirety as of the date trust preferred securities are initially issued by the applicable trust. Each declaration, as amended and restated, is referred to in this prospectus individually as the "trust agreement," and collectively as the "trust agreements." The trust agreements will be qualified under the Trust Indenture Act of 1939, as amended.

The trusts exist for the exclusive purposes of:

- o issuing and selling their trust preferred securities and trust common securities;
- o using the proceeds from the sale of the trust common securities and trust preferred securities to acquire the subordinated debt securities from us; and
- o engaging in only those other activities necessary or incidental to these purposes.

The trusts will have no assets other than the subordinated debt securities. The trusts will have no revenue other than payments under the subordinated debt securities. Each trust has a term of 30 years, but may dissolve earlier as provided in the trust agreements.

We will, directly or indirectly, acquire all of the trust common securities of each trust, which will have an aggregate liquidation amount equal to at least 3% of the total capital of the issuing trust.

Each trust's business and affairs will be conducted by its trustees, as provided in the trust agreements. At the time of the issuance of the trust preferred securities, the trustees for the issuing trust

will be Wachovia Trust Company, National Association, as the property trustee and the Delaware trustee, and three of our employees as administrative trustees. We, as holder of the trust common securities, or, if an event of default under the applicable trust agreement has occurred and is continuing, the holders of not less than a majority in liquidation amount of the trust preferred securities, will be entitled to appoint, remove or replace the property trustee and the Delaware trustee. In no event will the holders of the trust preferred securities have the right to vote to appoint, remove or replace the administrative trustees. Only the holder of the trust common securities will be entitled to do that.

For so long as the trust preferred securities remain outstanding, we will:

- o maintain directly or indirectly 100% ownership of the trust common securities;
- o use our reasonable efforts to cause the issuing trust to remain a statutory trust and not to voluntarily dissolve, wind-up, liquidate or be terminated, except as permitted by the applicable trust agreement; and
- o use our reasonable efforts to cause the issuing trust to continue to be treated as a grantor trust and not an association taxable as a corporation for United States federal income tax purposes.

We will pay all of the issuing trust's fees and expenses, including those related to the offering of the trust preferred securities. In addition, we will guarantee payments on the trust preferred securities to the extent that the issuing trust has funds to make payments on the trust preferred securities. See "Description of Guarantees" below.

The rights of the holders of the trust preferred securities are set forth in the trust agreements and the Delaware Statutory Trust Act.

The location of each trust's principal executive office is 10 South Dearborn Street, 37th Floor, P.O. Box 805379, Chicago, Illinois 60680-5379, and the telephone number is (312) 394-4321.

#### FORWARD-LOOKING STATEMENTS

This prospectus and the documents we have filed with the SEC, which we have referenced under "Where You Can Find More Information" and "Documents Incorporated by Reference" contain forward-looking statements made pursuant to the safe harbor provisions of the Private Securities Litigation Reform Act of 1995. All statements, other than statements of historical facts, included in this prospectus that address activities, events or developments that we expect or anticipate will or may occur in the future, including such matters as our projections, future capital expenditures, business strategy, competitive strengths, goals, expansion, market and industry developments and the growth of our businesses and operations, are forward-looking statements. These statements are based on assumptions and analyses made by us in light of our experience and our perception of historical trends, current conditions and expected future developments, as well as other factors we believe are appropriate under the circumstances. These statements involve a number of risks and uncertainties, many of which are beyond our control. The following are among the most important factors that could cause actual results to differ materially from the forward-looking statements:

- o the significant considerations and risks discussed in this prospectus;
- o general and local economic, market or business conditions;

- o fluctuations in demand for electricity, capacity and ancillary services in the markets in which we operate;
- o uncertain obligations due to customers' right to choose generation suppliers;
- o changes in laws or regulations that are applicable to us;
- o environmental constraints on construction and operation; and
- o access to capital.

Consequently, all of the forward-looking statements made in this prospectus are qualified by these cautionary statements and we cannot assure you that the results or developments anticipated by us will be realized or, even if realized, will have the expected consequences to or effects on us or our business prospects, financial condition or results of operations. You should not place undue reliance on these forward-looking statements in making your investment decision. We expressly disclaim any obligation or undertaking to release publicly any updates or revisions to these forward-looking statements to reflect events or circumstances that occur or arise or are anticipated to occur or arise after the date hereof. In making an investment decision regarding the shares of common stock described in this prospectus, we are not making, and you should not infer, any representation about the likely existence of any particular future set of facts or circumstances.

#### USE OF PROCEEDS

Unless we indicate otherwise in the applicable prospectus supplement, we intend to use the net proceeds from the sale of the securities for general corporate purposes, including to discharge or refund (by redemption, by purchase on the open market, by purchase in private transactions, by tender offer or otherwise) outstanding long-term debt, to invest in our operating subsidiaries, to finance capital improvements and to supplement working capital. Any proceeds of securities issued by the trusts will be used by the trusts to purchase subordinated debt securities from us. We will describe in the applicable prospectus supplement any specific allocation of the proceeds to a particular purpose that we have made at the date of that prospectus supplement. Please refer to our annual and quarterly reports incorporated by reference into this prospectus and any prospectus supplement for information concerning our outstanding long-term debt. See "Where You Can Find More Information."

#### RATIO OF EARNINGS TO FIXED CHARGES

The following are our consolidated ratios of earnings to fixed charges and ratios of earnings to combined fixed charges and preferred stock dividends for each of the periods indicated:

	Years Ended December 31,					Six Months Ended June 30, 2003
	1998	1999	2000	2001	2002	
Ratio of earnings to fixed charges	3.07	3.11	2.39	2.86	3.39	2.91

The ratio of earnings to fixed charges represents, on a pre-tax basis, the number of times earnings cover fixed charges. Earnings consist of pre-tax net income from continuing operations after adjustment for income from equity investees and capitalized interest or allowance for funds used during construction (AFUDC), to which has been added fixed charges. Fixed charges consist of interest costs and amortization of debt discount and premium on all indebtedness and the interest portion of all rental expense.

## DESCRIPTION OF DEBT SECURITIES

The debt securities will be our direct, unsecured obligations and may be issued from time to time in one or more offerings of one or more series. The debt securities will be issued under an Indenture to be entered into between us and Chase Manhattan Trust Company, N.A., as trustee, dated as of May 1, 2001 (Indenture). The form of Indenture has been filed as exhibit to the registration statement of which this prospectus is a part. Selected provisions of the Indenture have been summarized below. The summary is not complete and many of the terms contained in the following summary may be modified in the accompanying prospectus supplement. You should read the Indenture for provisions that may be important to you. In the summary below, we include references to section numbers of the Indenture so that you can easily locate these provisions and, when appropriate, we also included references to sections of the Trust Indenture Act.

### General Provisions of the Indenture

The debt securities will be our direct, unsecured obligations and will rank equally with all of our other unsecured and unsubordinated indebtedness.

Because we are a holding company that conducts all of our operations through our subsidiaries, holders of debt securities will generally have a junior position to claims of creditors of those subsidiaries, including trade creditors, debt holders, secured creditors, taxing authorities, guarantee holders and any preferred stockholders other than, in each case, where we are the creditor or stockholder. Our subsidiaries have ongoing corporate debt programs used to finance their business activities. As of June 30, 2003, our subsidiaries had approximately \$14.9 billion of outstanding debt. We do not have any preferred stock outstanding, but our subsidiary PECO has outstanding preferred stock with an aggregate value of \$87 million. ComEd, another of our subsidiaries, has less than 1% of its shares of common stock held by non-affiliates. Finance subsidiaries of each of PECO and ComEd have preferred securities outstanding, with an aggregate value of \$178 million and \$344 million, respectively. If distributions are not timely made on any of these preferred securities, PECO or ComEd, as the case may be, may not pay dividends on its common stock, which may adversely affect our ability to make payment on these debt securities.

The Indenture provides that any debt securities proposed to be sold by this prospectus and the accompanying prospectus supplement, as well as other of our unsecured debt securities, may be issued under the Indenture in one or more series, in each case as authorized by us from time to time. The particular terms of any series of debt securities and any modifications of or additions to the general terms of the debt securities described in this prospectus will be described in the prospectus supplement for that series. Accordingly, for a description of the terms of any series of debt securities, you should refer to both the prospectus supplement relating to that series and the description of debt securities, set forth in this prospectus.

The applicable prospectus supplement for a series of debt securities that we issue will describe, among other things, the following terms of the offered debt securities:

- o the title;
- o any limit on the aggregate principal amount;
- o whether issued in the form of one or more global securities and whether all or a portion of the principal amount of the debt securities is represented thereby;
- o the price or prices at which the debt securities will be issued;

- o the date or dates on which principal is payable, which may range from nine months to 30 years for medium-term debt securities and more than 30 years for long-term debt securities;
- o interest rates, which may be fixed or floating rates, and the dates from which interest, if any, will accrue, and the dates when interest is payable;
- o the right, if any, to extend the interest payment periods and the duration of the extensions;
- o additional covenants for the benefit of the holders of debt securities;
- o our rights or obligations to redeem or purchase the debt securities;
- o any sinking fund provisions;
- o the terms applicable to any debt securities issued at a discount from their stated principal amount;
- o the portion of the principal amount payable upon acceleration of maturity as a result of a default on our obligations, if other than the entire principal amount of the debt securities when issued;
- o whether and under what circumstances we will pay additional amounts on our debt securities to any holder who is not a United States person in respect of any tax, assessment or governmental charge attributable to that person and, if so, whether we will have the option to redeem those debt securities rather than pay those additional amounts; and
- o any other specific terms of any debt securities.

If applicable, the prospectus supplement will also include a discussion of federal income tax considerations relevant to the debt securities being offered.

We may issue debt securities that provide for less than the entire principal amount to be payable upon declaration of acceleration of the maturity of those debt securities, which are commonly referred to as "original issue discount securities." Federal income tax and other considerations pertaining to any original issue discount securities will be discussed in the applicable prospectus supplement.

We are not restricted by the Indenture from incurring indebtedness and you are not protected from a highly leveraged or similar transaction involving us. You should refer to the prospectus supplement for information with respect to any deletions from, modifications of or additions to the events of default or the covenants that are described below, including any addition of a covenant or other provision providing event risk or similar protection.

#### Denominations, Registration and Transfer

Debt securities of a series may be issuable solely as registered securities (registered in our books in the name of the holder thereof). The Indenture also provides that debt securities of a series may be issuable in global form. See "Book-Entry System." Unless otherwise provided in the prospectus supplement, debt securities denominated (other than global securities, which may be of any



denomination) are issuable in United States dollars in denominations of \$1,000 or any integral multiples of \$1,000. (Section 2.7 of the Indenture).

Debt securities will be exchangeable for other debt securities of the same series and maturity. (Section 2.8 of the Indenture).

Debt securities of a series may be presented for registration of transfer, and debt securities of a series may be presented for exchange, (1) at each office or agency required to be maintained by us for payment of that series as described in "Payment and Paying Agents," and (2) at each other office or agency that we may designate from time to time for that purpose. No service charge will be made for any transfer of debt securities, but we may require payment of any tax or other governmental charge payable in connection therewith. (Section 2.8 of the Indenture).

We will not be required to:

- o issue, register the transfer of, or exchange debt securities during a period beginning at the opening of business 15 days preceding the first mailing of notice of redemption of debt securities of that series to be redeemed; or
- o register the transfer of or exchange any debt security, or portion thereof, called for redemption, except the unredeemed portion of any debt security being redeemed in part.

(Section 2.8 of the Indenture).

#### Payment and Paying Agents

Principal, premium, if any, and interest, if any, on debt securities will be payable at any office or agency to be maintained by us in New York, New York, except that at our option, interest may be paid (1) by check mailed to the address of the person entitled thereto as that address appears in our security register or (2) by wire transfer to an account maintained by the person entitled thereto as specified in our security register. (Section 3.1 of the Indenture). Payment of any installment of interest on debt securities will be made to the person in whose name the debt security is registered at the close of business on the regular record date for interest. (Section 2.7 of the Indenture).

We may from time to time designate additional offices or agencies, approve a change in the location of any office or agency and, except as provided above, rescind the designation of any office or agency.

#### Events of Default

Unless otherwise provided for in the prospectus supplement, we will be subject to an "event of default" under the Indenture if any of the following occurs:

- o failure to pay interest for 30 days after the date payment is due and payable; provided, that if we extend an interest payment period in accordance with the terms of the debt securities, the extension will not be a failure to pay interest;
- o failure to pay principal or premium, if any, on any debt security when due, either at maturity, upon any redemption, by declaration or otherwise;
- o failure to make any sinking fund payments when due;

- o failure to perform other covenants under the Indenture for 60 days after the trustee has notified us that performance was required;
- o bankruptcy, insolvency or reorganization of our company; or
- o any other event of default provided in the applicable resolution of our board of directors under which we issue a series of debt securities.

(Section 5.1 of the Indenture).

An event of default for a particular series of debt securities does not necessarily constitute an event of default for any other series of debt securities issued under the Indenture. If an event of default relating to the payment of interest, principal or any sinking fund installment involving any series of debt securities has occurred and is continuing, the trustee or the holders of not less than 25% in aggregate principal amount of outstanding debt securities of each affected series may declare the entire principal amount of all the debt securities of that series (or, if the debt securities of that series are original issue discount securities, that portion of the principal amount as may be specified in the terms thereof) to be due and payable immediately. (Section 5.1 of the Indenture).

Where an event of default has occurred and is continuing with respect to the outstanding debt securities of a series, the trustee is under no obligation to exercise any of its rights or powers under the Indenture at the request, order or direction of the holders of the outstanding debt securities of that series, unless those holders have offered the trustee reasonable indemnity against the expenses and liabilities that it might incur in compliance with the request that the trustee take action in response to an event of default. Subject to these provisions for the indemnification of the trustee, the holders of a majority in principal amount of the outstanding debt securities of a series will have the right to direct the time, method and place of conducting any proceeding for any remedy available to the trustee, or exercising any trust or power conferred on the trustee with respect to the debt securities of that series. (Section 5.9 of the Indenture).

The holders of a majority in principal amount of the outstanding debt securities of a series may, on behalf of the holders of all debt securities of that series, waive any past default under the Indenture with respect to that series and its consequences, except a default (1) in payment of the principal of (or premium, if any) or interest, or any additional amounts payable in respect of any debt security of that series or (2) in respect of a covenant or provision that cannot be modified or amended without the consent of the holder of each affected outstanding debt security of that series. (Section 5.10 of the Indenture)

The Indenture imposes limitations on suits brought by holders of debt securities against us. Except for actions for payment of overdue principal or interest, no holder of debt securities of any series may institute any action against us under the Indenture unless:

- o the holder has previously given to the trustee written notice of default and continuance of that default;
- o the holders of at least 25% in principal amount of the affected outstanding debt securities have requested that the trustee institute the action;
- o the requesting holders have offered the trustee reasonable indemnity for expenses and liabilities that may be incurred by bringing the action;
- o the trustee has not instituted the action within 60 days of the request; and

- o the trustee has not received inconsistent direction by the holders of a majority in principal amount of the outstanding debt securities of that series.

(Sections 5.6 and 5.7 of the Indenture).

We will be required to file annually with the trustee a certificate, signed by an officer of our company, stating whether or not the officer knows of any default by us in the performance, observance or fulfillment of any condition or covenant of the Indenture. (Section 3.5 of the Indenture). The Indenture provides that the trustee may withhold notice of a default (except payment defaults) to the holders of debt securities of the series to which the default applies if the trustee considers it in the interests of those holders of those debt securities to do so. (Section 5.11 of the Indenture).

#### Covenants

The Indenture provides that we comply with the following covenants:

- o punctually pay principal and interest on the debt securities;
- o if the debt securities are no longer in book-entry form, maintain an office in New York, New York where debt securities may be presented for payment, exchange and transfer;
- o appoint a trustee to fill any vacancy;
- o issue a certificate to the trustee on January 31 each year indicating whether we have complied with all covenants and conditions in the Indenture;
- o maintain our corporate existence; and
- o pay our taxes and other assessments and claims as they become due, unless they are being contested in good faith.

#### Merger or Consolidation

The Indenture provides that we may not consolidate with or merge with or into any other corporation or other person or convey or transfer our properties or assets in their entirety or substantially in their entirety to any corporation or other person, unless we are the continuing corporation or the other corporation or other person is organized under the laws of the United States or any state or is organized under the laws of a foreign jurisdiction and consents to the jurisdiction of the United States or a state and assumes by supplemental indenture all of our obligations under the Indenture and the debt securities issued thereunder and immediately after the transaction no default exists.

#### Modification or Waiver

The Indenture provides that the trustee and we may modify and amend the Indenture and enter into supplemental indentures without the consent of any holders of debt securities to:

- o evidence the assumption by a successor corporation of our obligations;
- o add covenants for the protection of the holders of debt securities;

- o cure any ambiguity or correct any inconsistency in the Indenture, provided that this action does not adversely affect the interests of holders of any series of debt securities in any material respect; and
- o evidence and provide for the acceptance of appointment by a successor trustee.

(Section 8.1 of the Indenture).

The Indenture also provides that the trustee and we may, with the consent of the holders, add, eliminate or modify in any way the provisions of the Indenture or modify in any manner the rights of the holders of the debt securities. Consent of the holders means holders of not less than a majority in aggregate principal amount of debt securities of all affected series then outstanding, voting as one class. (Section 8.2 of the Indenture). We cannot do this, however, for those matters requiring the consent of each holder as described below.

The trustee and we may not without the consent of the holder of each outstanding debt security affected thereby:

- o extend the final maturity of any debt security;
- o reduce the principal amount or premium, if any;
- o reduce the rate or extend the time of payment of interest;
- o reduce any amount payable on redemption;
- o reduce the amount of the principal of any debt security issued with an original issue discount that is payable upon acceleration or provable in bankruptcy;
- o impair the right to sue for the enforcement of any payment on any debt security when due; or
- o reduce the percentage of holders of debt securities of any series whose consent is required for any modification of the Indenture.

In determining whether the holders of the requisite principal amount of outstanding debt securities have given any request, demand, authorization, direction, notice, consent or waiver under the Indenture, (1) the principal amount of an original issue discount security that will be deemed to be outstanding will be the amount of the principal thereof that would then be due and payable upon acceleration of the maturity thereof and (2) debt securities owned by us or any other obligor upon the debt securities or any affiliate of ours or of any other obligor will be disregarded. (Section 7.4 of the Indenture).

#### Satisfaction and Discharge, Defeasance and Covenant Defeasance

We can discharge or defease our obligations under the Indenture as stated below or as provided in the prospectus supplement.

We may discharge obligations to holders of any series of debt securities that have not already been delivered to the trustee for cancellation and that have either become due and payable or are to become due and payable, or are scheduled for redemption, within one year. We may discharge these

obligations by irrevocably depositing with the trustee cash or "U.S. Government Obligations" (as defined below), as trust funds, in an amount certified to be enough to pay when due, whether at maturity, upon redemption or otherwise, the principal of and interest on the debt securities and any mandatory sinking fund payments. (Section 9.1 of the Indenture).

We may also discharge any and all of our obligations to holders of any series of debt securities at any time, referred to as "defeasance." We may also be released from the obligations imposed by any covenants of any outstanding series of debt securities and provisions of the Indenture, and we may avoid complying with those covenants without creating an event of default under the Indenture, referred to as "covenant defeasance." We may effect defeasance and covenant defeasance only if, among other things:

- o we irrevocably deposit with the trustee cash or U.S. Government Obligations, as trust funds, in an amount certified to be enough to pay at maturity, or upon redemption, the principal, and interest on all outstanding debt securities of that series; and
- o we deliver to the trustee an opinion of counsel from a nationally recognized law firm to the effect that (1) in the case of covenant defeasance, the holders of the series of debt securities will not recognize income, gain or loss for U.S. federal income tax purposes as a result of that defeasance, and will be subject to tax in the same manner and at the same time as if no covenant defeasance had occurred and (2) in the case of defeasance, either we have received from, or there has been published by, the Internal Revenue Service a ruling or there has been a change in applicable U.S. federal income tax law, and based thereon, the holders of the series of debt securities will not recognize income, gain or loss for U.S. federal income tax purposes as a result of that defeasance, and will be subject to tax in the same manner as if no defeasance had occurred.

(Section 9.1 of the Indenture).

Although we may discharge or decrease our obligations under the Indenture as described in the two preceding paragraphs, we may not avoid, among other things, the rights and obligations of the trustee under the Indenture, to register the transfer or exchange of any series of debt securities, to replace any temporary, mutilated, destroyed, lost or stolen series of debt securities or to maintain an office or agency in respect of any series of debt securities. (Section 9.1 of the Indenture).

If we effect covenant defeasance with respect to any debt securities and those debt securities are declared due and payable because of the occurrence of any event of default other than the event of default resulting from a failure to comply with any covenant in the Indenture after the notice served therefor has elapsed, the amount of U.S. Government Obligations and funds on deposit with the trustee will be sufficient to pay amounts due on those debt securities at the time of their stated maturity but may not be sufficient to pay amounts due on those debt securities at the time of the acceleration resulting from that event of default. In that case, we would remain liable to make payment of those amounts due at the time of acceleration. (Section 9.1 of the Indenture).

If the trustee or any paying agent is prevented by a court or governmental authority from applying any money deposited with the trustee in accordance with the Indenture, then our obligations under the Indenture and the debt securities shall be revived and reinstated as though no deposit had occurred pursuant to the Indenture. Thereafter, our obligation will continue until such time as the trustee or paying agent is permitted to apply all money in accordance with the Indenture. Any payment of principal of (or premium, if any) or interest that we make on any debt security following the reinstatement of our obligations will be subrogated to the rights of the holders of those debt securities to receive such payment from the money held by the trustee or paying agent.

As used above, "U.S. Government Obligations" means securities that are (1) direct obligations of the United States or (2) obligations of a person controlled or supervised by and acting as an agency or instrumentality of the United States, the payment of which is unconditionally guaranteed as a full faith and credit obligation by the United States, which are not callable or redeemable at the option of the issuer thereof (Section 9.1 of the Indenture).

#### Book-Entry Debt Securities

Unless otherwise specified in the applicable prospectus supplement, the debt securities will be issued in registered, global form. See "Book-Entry System."

#### Information About the Trustee

The Indenture provides that there may be more than one trustee under the Indenture, each for one or more series of debt securities. If there are different trustees for different series of debt securities, each trustee will be a trustee under the Indenture separate and apart from the trust administered by any other trustee under the Indenture. Except as otherwise indicated in this prospectus or any prospectus supplement, any action permitted to be taken by a trustee may be taken by that trustee only on the one or more series of debt securities for which it is the trustee under the Indenture. All payments of principal of, premium, if any, and interest on, and all registration, transfer, exchange, authentication and delivery of, the debt securities of a series will be made by the trustee for that series at an office designated by the trustee.

The trustee may resign at any time and if the trustee resigns, we will appoint a successor trustee. We may remove the trustee if the trustee fails to satisfy the eligibility requirements of the Trust Indenture Act, fails to comply with the Trust Indenture Act, is incapable of acting or if the trustee becomes bankrupt or insolvent and, upon removal, we will appoint a successor trustee. The holders of a majority in aggregate principal amount of the debt securities of each series may remove the trustee for that series at any time and, upon removal, we will appoint a successor trustee. (Section 6.11 of the Indenture).

If the trustee becomes our creditor, the Indenture places limitations on the rights of the trustee to obtain payment of claims directly or from property received in respect of that claim as security or otherwise. The trustee may engage in other transactions. If the trustee acquires any conflicting interest relating to any duties concerning the debt securities, however, it must eliminate the conflict or resign as trustee. (Section 6.9 of the Indenture).

The Indenture provides that if an event of default occurs and is not cured or waived, the trustee must use the same degree of care and skill as a prudent person would use in the conduct of his or her own affairs in the exercise of the trustee's power. (Section 6.1 of the Indenture). The trustee will be under no obligation to exercise any of its rights or powers under the Indenture at the request of any of the holders of the debt securities, unless that trustee has been offered security and indemnity satisfactory to that trustee. (Section 6.2 of the Indenture).

We maintain ordinary banking relationships with Chase Manhattan Trust Company, N.A., including credit facilities and lines of credit.

#### Governing Law

The Indenture is governed by Pennsylvania law.

## DESCRIPTION OF COMMON STOCK

The description below is a summary of certain provisions of our common stock. The Pennsylvania Business Corporation Law and our Amended and Restated Articles of Incorporation and Bylaws determine the rights and privileges of holders of our common stock. We encourage you to read such documents, which have been filed with the SEC and are incorporated herein by reference, and the Pennsylvania law for more information regarding such common stock.

### Authorized Capital

Our authorized capital consists of 600,000,000 shares of common stock, no par value, and 100,000,000 shares of Preferred Stock, no par value.

### Common Stock

As of June 30, 2003, 325,848,491 shares of our common stock were issued and outstanding. The outstanding common stock is, and the common stock offered hereby, when issued and paid for, will be, fully paid and non-assessable.

### Dividends

Dividends on the common stock will be paid if, when and as determined by our Board of Directors out of funds legally available for this purpose. The rate and timing of future dividends will depend upon our future earnings and financial condition and upon other relevant factors affecting our dividend policy, which we cannot presently determine. As a practical matter, our ability to pay dividends will be governed by the ability of our operating subsidiaries to pay dividends to us. To date, the funds that we require to enable us to pay dividends on our common stock have been derived predominantly from dividends paid by PECO and ComEd. To date, Generation has not declared or paid dividends.

Our subsidiaries' ability to pay dividends to us will be subject to the prior rights of the holders of such subsidiaries' outstanding debt and preferred securities, the availability of earnings and the needs of their businesses. Neither ComEd nor PECO may declare dividends on any shares of their respective capital stock in the event that: (1) it exercises its right to extend the interest payment periods on the subordinated debt securities which were issued to its financing trusts; (2) it defaults on its guarantee of the payment of distributions on the preferred trust securities of the financing trusts; or (3) an event of default occurs under the indenture under which the subordinated debt securities are issued. The restrictions on the payment of dividends contained in PECO's Amended and Restated Articles of Incorporation do not currently limit the amount of regular quarterly dividends PECO pays on its common stock. In addition, under PUHCA, ComEd, PECO and Generation can pay dividends only from retained, undistributed or current earnings. Similar restrictions also apply to ComEd under the Illinois Public Utilities Act.

### Voting Rights

Holders of common stock are entitled to one vote for each share held of record by them on all matters presented to shareholders. Pursuant to our Amended and Restated Articles of Incorporation, the holders of common stock do not have cumulative voting rights in the election of directors. Our Bylaws provide for a classified board of directors consisting of three classes as nearly equal in number as may be. Each class holds office until the third year following the election of such class, and no director may be removed except for cause upon a majority vote of all outstanding shares. Our Bylaws also provide for certain notice requirements for shareholder nominations and proposals at annual meetings and preclude shareholders from bringing business before any special meeting. Our Amended and Restated Articles of

Incorporation and certain provisions of Pennsylvania law would require a supermajority vote of holders or a majority vote of disinterested directors to approve certain business combinations and other major transactions involving us.

#### Liquidation Rights

After satisfaction of the preferential liquidation rights of any preferred stock, the holders of the common stock are entitled to share, ratably, in the distribution of all remaining net assets.

#### Preemptive and Other Rights

The holders of common stock do not have preemptive rights as to additional issues of common stock or conversion rights. The shares of common stock are not subject to redemption or to any further calls or assessments and are not entitled to the benefit of any sinking fund provisions.

#### Listing

The outstanding shares of common stock are, and the shares offered hereby will be, listed on the New York, Chicago and Philadelphia Stock Exchanges.

#### Transfer Agent and Registrar

The Transfer Agent and Registrar for the common stock is EquiServe Trust Company, N.A.

#### DESCRIPTION OF STOCK PURCHASE CONTRACTS AND STOCK PURCHASE UNITS

We may issue stock purchase contracts representing contracts obligating holders to purchase from us, and us to sell to the holders, a specified number of shares of our common stock (or a range of numbers of shares pursuant to a predetermined formula) at a future date or dates. The price per share of common stock and the number of shares of common stock may be fixed at the time the stock purchase contracts are issued or may be determined by reference to a specific formula set forth in the stock purchase contracts.

The stock purchase contracts may be issued separately or as a part of units, often known as stock purchase units, consisting of a stock purchase contract and either:

- o our debt securities; or
- o debt obligations of third parties, including U.S. Treasury securities,

securing the holders' obligations to purchase the common stock under the stock purchase contracts.

The stock purchase contracts may require us to make periodic payments to the holders of the stock purchase units or vice versa, and such payments may be unsecured or prefunded on some basis. The stock purchase contracts may require holders to secure their obligations in a specified manner and in certain circumstances we may deliver newly issued prepaid stock purchase contracts, often known as prepaid securities, upon release to a holder of any collateral securing such holder's obligations under the original stock purchase contract.

The applicable prospectus supplement will describe the terms of any stock purchase contracts or stock purchase units and, if applicable, prepaid securities. The description in the applicable prospectus supplement will not contain all of the information that you may find useful. For more information, you should review the stock purchase contracts, the collateral arrangements and depositary arrangements, if



applicable, relating to such stock purchase contracts or stock purchase units and, if applicable, the prepaid securities and the document pursuant to which the prepaid securities will be issued. These documents will be filed with the SEC promptly after the offering of the stock purchase contracts or stock purchase units. Material United States federal income tax considerations applicable to the stock purchase contracts and the stock purchase units will also be discussed in the applicable prospectus supplement.

#### DESCRIPTION OF PREFERRED STOCK

##### General.

As of June 30, 2003, our authorized capital stock included 100,000,000 shares of preferred stock, no par value. As of June 30, 2003, there were no shares of preferred stock outstanding.

Our Board of Directors is authorized, without further shareholder action, to divide the preferred stock into one or more series and to determine the following designations, preferences, limitations and special rights of any series (which for any series will be set forth in the related prospectus supplement):

- o the annual dividend rate or rates;
- o the rights, if any, of the holders of shares of the series upon voluntary or involuntary liquidation, dissolution or winding up of our company;
- o the terms and conditions upon which shares may be converted into shares of other series or other capital stock, if issued with the privilege of conversion;
- o the price at and the terms and conditions upon which shares may be redeemed;
- o the terms and amount of any sinking fund for the purchase or redemption of shares of a series; and
- o the exchange or exchanges on which the preferred stock will be listed, if any.

##### Dividend Rights.

The annual dividend rate for each new series of preferred stock and whether such dividends will be cumulative from the date of issuance will be set forth in the applicable prospectus supplement. Dividends will be payable, when declared, quarterly on the first day of February, May, August and November. Any limitations on our rights to pay dividends will be described in the applicable prospectus supplement.

##### Voting Rights.

The voting rights for each new series of preferred stock will be set forth in the applicable prospectus supplement.

##### Liquidation Rights.

The amount per share payable on each series of preferred stock in the event of any voluntary or involuntary liquidation will be set forth in the applicable prospectus supplement.

#### Redemption Provisions.

The redemption provisions, if any, with respect to each series of preferred stock will be set forth in the applicable prospectus supplement.

#### Sinking Fund.

The sinking fund provisions, if any, with respect to each series of preferred stock will be set forth in the applicable prospectus supplement.

#### Miscellaneous.

Holder of our preferred stock will not have any preemptive rights to subscribe for or purchase any additional shares of our capital stock, or other securities or other right or option to purchase shares of capital stock. The new preferred stock, when issued and paid for, will be fully paid and nonassessable.

There is no provision restricting us from purchasing shares of preferred stock in the event of an arrearage in the payment of dividends or sinking fund obligations.

#### Listing.

The prospectus supplement will indicate whether and where the preferred stock to be issued will be listed.

### DESCRIPTION OF TRUST PREFERRED SECURITIES

Each trust may issue trust preferred securities and trust common securities under the terms of its respective trust agreement. A form of the trust agreement has been filed as an exhibit to the registration statement of which this prospectus is a part. We suggest that you read the trust agreement for the complete text of the provisions that are summarized below as well as for the provisions that are not summarized but may be important to you. The trust agreement has been qualified as an indenture under the Trust Indenture Act. The Trust Indenture Act contains provisions that apply to the trust preferred securities, and you may wish to refer to it as well. Wherever particular defined terms of the trust agreement are referred to in this prospectus, those defined terms are incorporated by reference into this prospectus and any related prospectus supplement.

#### General Information.

Both the trust preferred securities and the trust common securities will represent undivided beneficial interests in the assets of the issuing trust. If there is an event of default under a trust agreement, as described below, the rights of the holders of the trust preferred securities at issue will be entitled to priority in right of payment over the holders of trust common securities. We will own all of the trust common securities.

#### Prohibited Actions of the Trust.

Each trust will invest the proceeds from any issuance of trust preferred securities, together with the consideration we pay for the trust common securities, to purchase subordinated debt securities from us. Legal title in the subordinated debt securities will be held by the property trustee in trust for the benefit of the trust and the holders of the trust securities.

In accordance with the trust agreements, each trust may not:

- o acquire any investments or engage in any activities not authorized by the applicable trust agreement;
- o take or consent to any action that would cause the trust to fail or cease to qualify as a grantor trust for United States federal income tax purposes;
- o issue debt or any securities other than the trust securities;
- o incur indebtedness for borrowed money;
- o pledge any of its assets;
- o sell, assign, transfer, exchange or otherwise dispose of trust property or interests except as provided in the applicable trust agreement; or
- o take any action that would vary the investment by the trust.

We will guarantee distributions on the trust preferred securities on a limited basis to the extent described under the caption "Description of Guarantees." The guarantees will not guarantee payment of distributions or amounts payable on redemption of the trust preferred securities or liquidation of the trust when the trust does not have funds on hand legally available for those payments. In that event, a remedy of a holder of trust preferred securities is to direct the property trustee to enforce its rights under the subordinated debt securities held by the issuing trust. If the property trustee fails to enforce its rights with respect to the subordinated debt securities held by the issuing trust, any record holder of the trust preferred securities of that trust may, to the fullest extent permitted by law, institute legal proceedings directly against us to enforce the property trustee's rights under those subordinated debt securities without first instituting any legal proceedings against the property trustee or any other person or entity. In addition, a holder of the trust preferred securities may institute a legal proceeding directly against us for enforcement of payment to that holder of principal of, premium, if any, or interest on the subordinated debt securities having a principal amount equal to the aggregate liquidation amount of the trust preferred securities of that holder on or after the due date specified in the subordinated debt securities.

Holders of the trust preferred securities have no preemptive or similar rights.

#### Distributions.

Distributions on the trust preferred securities of a trust will be payable on the dates and at the rates set forth in the applicable prospectus supplement. The distribution rate and the relevant distribution date for the trust securities will correspond to the payments and payment dates on the associated subordinated debt securities held by the issuing trust. The revenue of the issuing trust available for distribution to holders of the trust preferred securities will be limited to payments under the subordinated debt securities in which the issuing trust will invest the proceeds from the issuance and sale of the trust securities. If we fail to make interest payments on the subordinated debt securities held by the issuing trust, the property trustee will not have funds available to pay distributions on the trust preferred securities.

Unless an event of default under the subordinated debt indenture has occurred and is continuing, we may, on one or more occasions, defer the payment of interest on the subordinated debt securities. The

applicable prospectus supplement will specify the length of time for which such interest deferral period may last. See "Description of Subordinated Debt Securities - Events of Default."

However, no deferral period shall end on a date other than an interest payment date or extend beyond the stated maturity date. Distributions on the trust preferred securities will be deferred by the issuing trust during any such deferral period. Distributions to which holders of the trust preferred securities are entitled during any such deferral period will accumulate additional distributions at the rate per annum set forth in the applicable prospectus supplement.

Upon the termination of any deferral period and the payment of all amounts then due on any interest payment date, we may elect to begin a new deferral period, subject to the requirements described above. No interest shall be due and payable during any deferral period, except at the end of the period, except as permitted by the subordinated debt indenture.

We must give the trust holding the subordinated debt securities at issue and the subordinated debt trustee notice of our election to defer the payment of interest on the subordinated debt securities at least the number of business days specified in the subordinated debt indenture prior to the earlier of:

- o the date the distributions on the trust preferred securities would have been payable except for the election to begin such deferral period; or
- o the date we or the trust are required to give notice to any securities exchange or any other applicable self-regulatory organization or to the holders of trust preferred securities of the record date or the date such distributions are payable.

There is no limitation on the number of times that we may elect to begin a deferral period. Accordingly, there could be multiple deferral periods of varying lengths throughout the term of the trust preferred securities. See "Description of Subordinated Debt Securities - Option to Extend Interest Payment Date."

During any deferral period, we may not declare or pay any dividend on, make any distributions with respect to, or redeem, purchase or make a liquidation payment with respect to, any of our capital stock.

#### Payment of Additional Amounts.

If a Tax Event (the meaning of which can be found under "Description of Subordinated Debt Securities - Special Event Redemption") has occurred and is continuing at any time while the property trustee holds any subordinated debt securities, and a trust or the property trustee in respect of that trust is required to pay any taxes, duties, assessments or other governmental charges of whatever nature (other than withholding taxes) imposed by the United States or any other taxing authority, then, in any case, we will pay any additional amounts as may be required so that the net amounts received and retained by the trust and the property trustee, after paying those taxes, duties, assessments or other governmental charges, will be equal to the amounts the trust and the property trustee would have received had those taxes, duties, assessments or other governmental charges not been imposed as a result of the Tax Event. We refer to these payments in this prospectus as "Additional Amounts." Our payments of Additional Amounts on the subordinated debt securities will ensure that the distributions then due and payable by the trust at issue on the trust's outstanding trust preferred securities and trust common securities will not be reduced as a result of such taxes, duties, assessments or governmental charges imposed as a result of a Tax Event.

#### Redemption.

Whenever subordinated debt securities are repaid (other than following the distribution of subordinated debt securities to the holders of the trust securities), whether at maturity or earlier redemption, the property trustee will apply the proceeds to redeem a Like Amount (as defined below) of the related trust securities, upon not less than 30 nor more than 60 days notice of the date of redemption to the holders of the trust securities, at a redemption price equal to the liquidation amount of the trust securities to be redeemed plus accrued and unpaid interest to the redemption date. See "Description of Subordinated Debt Securities - Optional Redemption" and "- Special Event Redemption." If less than all of the subordinated debt securities are to be redeemed on a redemption date, then the proceeds of such redemption shall be allocated pro rata among the related trust securities, unless an event of default with respect to the subordinated debt securities has occurred and is continuing. See "- Subordination of Trust Common Securities."

The term "Like Amount" means:

- o with respect to a redemption of the trust securities, trust securities having a liquidation amount equal to the principal amount of the subordinated debt securities that are to be contemporaneously paid in accordance with their terms; and
- o with respect to a distribution of subordinated debt securities upon the dissolution and liquidation of the trust, subordinated debt securities having a principal amount equal to the liquidation amount of the trust securities of the holder to whom such subordinated debt securities are being distributed.

We will have the option to redeem the subordinated debt securities:

- o in whole at any time or in part from time to time on or after the date indicated in the prospectus supplement; and
- o in whole, but not in part, at any time within 90 days of the occurrence of a Special Event.

See "Description of Subordinated Debt Securities - Optional Redemption and - Special Event Redemption."

#### Redemption Procedures.

If applicable, trust securities will be redeemed at the applicable redemption price with the proceeds from the contemporaneous repayment or redemption of the related subordinated debt securities. Any redemption of trust securities will be made and the applicable redemption price will be payable on the redemption date only to the extent that a trust has funds legally available for the payment of the applicable redemption price. See also "- Subordination of Trust Common Securities."

If a trust gives a notice of redemption in respect of its trust preferred securities, then, by 2:00 p.m., New York City time, on the redemption date, to the extent funds are legally available to the trust, with respect to the trust preferred securities held by DTC, or its nominees, the property trustee will deposit with DTC funds sufficient to pay the applicable redemption price. See "Book-Entry System." With respect to the trust preferred securities that are held in certificated form, the property trustee, to the extent funds are legally available, will deposit with the paying agent for those trust preferred securities funds sufficient to pay the applicable redemption price and will give that paying agent irrevocable instructions to pay the applicable redemption price to the holders of those trust preferred securities upon

surrender of their certificates evidencing those trust preferred securities. See "- Payment and Paying Agency." Notwithstanding the foregoing, distributions payable on or prior to the redemption date shall be payable to the holders of those trust preferred securities on the relevant record dates for the related distribution dates. If notice of redemption has been given and funds are deposited as required, then upon the date of that deposit, all rights of the holders of the trust preferred securities called for redemption will cease, except the right of those holders to receive the applicable redemption price, and those trust preferred securities will cease to be outstanding.

If any redemption date of trust preferred securities is not a business day, then the redemption price will be paid on the next succeeding day that is a business day. If the next succeeding business day falls in the next calendar year, then the required payment will be made on the immediately preceding business day. If payment of the redemption price is improperly withheld or refused and not paid either by the trust or by us pursuant to the guarantees:

- o distributions on the trust preferred securities will continue to accumulate at the then applicable rate, from the redemption date originally established by the issuing trust to the date the redemption price is actually paid; and
- o the actual payment date will be the redemption date for purposes of calculating the applicable redemption price.

We or our affiliates may, subject to applicable law, from time to time purchase outstanding trust preferred securities by tender, in the open market or by private agreement.

If less than all of a trust's outstanding trust preferred securities and trust common securities are to be redeemed on a redemption date, then the aggregate amount of those trust preferred securities and trust common securities to be redeemed shall be allocated pro rata among such trust's trust preferred securities and trust common securities. The property trustee will select on a pro rata basis the particular outstanding trust preferred securities to be redeemed not more than 60 days prior to the redemption date, by such method as the property trustee shall deem fair and appropriate. The property trustee will promptly notify the trust registrar in writing of the trust preferred securities selected for redemption and, in the case of any trust preferred security selected for partial redemption, the liquidation amount to be redeemed. For all purposes of the trust agreements, unless the context otherwise requires, all provisions relating to the redemption of the trust preferred securities will relate, in the case of any trust preferred security redeemed or to be redeemed only in part, to the portion of the aggregate liquidation amount of trust preferred securities which has been or is to be redeemed.

Notice of any redemption will be mailed at least 30 days but not more than 60 days before the redemption date to each holder of trust securities that are to be redeemed at its registered address. Unless we default in payment of the applicable redemption price on, or in the repayment of, the subordinated debt securities, on and after the redemption date, distributions will cease to accrue on the trust securities called for redemption.

#### Dissolution of a Trust and Distribution of the Subordinated Debt Securities.

Each trust shall automatically dissolve upon the first to occur of:

- o our bankruptcy, dissolution or liquidation;
- o delivery by us to the property trustee of a direction in writing to dissolve the trust and distribute the subordinated debt securities to the holders of the trust's trust securities;

- o the expiration of the term of the trust;
- o the payment at maturity or redemption of the applicable subordinated debt securities and the consequent payment of all of the trust preferred securities as described under "- Redemption"; and
- o the entry of an order for dissolution of the trust by a court of competent jurisdiction.

We have the right at any time to dissolve the trusts and, after satisfaction of liabilities to creditors of the trusts, cause the subordinated debt securities held by the trusts to be distributed to the holders of the trust securities in liquidation of the trusts.

If a dissolution occurs as described in the first or last bullet points in the preceding paragraph, the trust at issue will be wound up by the administrative trustees as expeditiously as possible. After satisfaction (whether by payment or reasonable provision for payment) of liabilities to the trust's creditors, except in connection with a dissolution of the trust resulting from the redemption of trust securities, the property trustee will distribute to the holders of trust securities a Like Amount of the subordinated debt securities held by the trust, unless that distribution is determined by the administrative trustees not to be practicable. In that case, the holders will be entitled to receive pro rata out of the assets of the trust legally available for distribution to holders an amount equal to the aggregate of the liquidation amount plus accumulated and unpaid distributions thereon to the date of payment. If this liquidation distribution can be paid only in part because the trust has insufficient assets on hand legally available to pay in full the aggregate liquidation distribution, then the amount payable directly by the trust on the trust securities will be paid on a pro rata basis, except that if an event of default has occurred and is continuing, the trust preferred securities shall have a priority over the trust common securities. See "- Subordination of Trust Common Securities."

If we elect not to prepay the subordinated debt securities before maturity in accordance with their terms and either elect not to or are unable to dissolve and wind up a trust and distribute the subordinated debt securities to holders of the trust securities, the trust securities will remain outstanding until the repayment of the subordinated debt securities on the stated maturity date.

After the liquidation date is fixed for any distribution of subordinated debt securities to holders of the trust securities:

- o the trust securities will no longer be deemed to be outstanding;
- o any holders who provide certificates representing trust securities will receive certificates representing a Like Amount of subordinated debt securities;
- o any certificates for trust securities not surrendered for exchange will be deemed to represent a Like Amount of subordinated debt securities; and
- o all rights of holders of trust securities will cease except the right to receive a Like Amount of subordinated debt securities.

Subordination of Trust Common Securities.

Payment of distributions on, and the redemption price of, the trust securities will be made pro rata based on the liquidation amount of the trust securities. However, if on any distribution date or redemption date, an event of default has occurred and is continuing, no payment of any distribution on, or applicable

redemption price of, any of the trust common securities, and no other payment on account of the redemption, liquidation or other acquisition of the trust common securities, will be made unless payment in full in cash of all accumulated and unpaid distributions on all of the outstanding trust preferred securities for all distribution periods terminating on or prior thereto, or in the case of payment of the applicable redemption price the full amount of such redemption price, shall have been made or provided for, and all funds available to the property trustee shall first be applied to the payment in full in cash of all distributions on, or redemption price of, the trust preferred securities then due and payable.

In the case of any event of default under the subordinated debt indenture, we, as holder of the trust common securities, will be deemed to have waived any right to act with respect to that event of default until its effect on the trust preferred securities is cured, waived or otherwise eliminated. Until that event of default is so cured, waived or otherwise eliminated, the property trustee will act solely on behalf of the holders of the trust preferred securities and not on behalf of us, as the holder of the trust common securities, and only the holders of the trust preferred securities will have the right to direct the property trustee to act on their behalf.

#### Trust Agreement Events of Default; Notice.

Each trust agreement provides that an event of default under the subordinated debt indenture with respect to the series of subordinated debt securities held by that trust constitutes an event of default with respect to the trust securities. See "Description of Subordinated Debt Securities - Events of Default."

Within ninety days after the occurrence of any trust agreement event of default actually known to the property trustee, the property trustee will transmit notice of that default to the holders of the trust securities and the other persons entitled to such notice under the trust agreement, unless the default is cured or waived. We are required to file annually with the subordinated debt trustee a certificate as to whether or not we are in compliance with all the conditions and covenants under the subordinated debt indenture.

Upon the occurrence of a trust agreement event of default, the subordinated debt trustee or the property trustee as the holder of the subordinated debt securities will have the right under the subordinated debt indenture to declare the principal of and interest on the subordinated debt securities held by the trust to be immediately due and payable.

If a trust agreement event of default occurs and is continuing, then the holders of a majority in aggregate liquidation amount of the trust preferred securities have the right to direct the exercise of any trust or power conferred upon the property trustee under the trust agreement, including the right to direct the property trustee to exercise the remedies available to it as holder of the subordinated debt securities. If the property trustee fails to enforce its rights with respect to the subordinated debt securities held by the trust at issue, any record holder of the trust preferred securities issued by that trust may, to the fullest extent permitted by law, institute legal proceedings directly against us to enforce the property trustee's rights under those subordinated debt securities without first instituting any legal proceedings against the property trustee or any other person or entity. In addition, if a trust agreement event of default has occurred and is continuing and that event is attributable to our failure to pay interest, principal or other required payments on the subordinated debt securities issued to the trust on the date that interest, principal or other payment is otherwise payable, then a record holder of the trust preferred securities may, on or after the respective due dates specified in the subordinated debt securities, institute a proceeding directly against us for enforcement of payment on those subordinated debt securities having a principal amount equal to the aggregate liquidation amount of the trust preferred securities held by that holder. In connection with such an action, we will be subrogated to the rights of that record holder of trust preferred securities to the extent of any payment made by us to that record holder of trust preferred securities.



If a trust agreement event of default has occurred and is continuing, the trust preferred securities shall have a preference over the trust common securities as described above under " - Liquidation of the Trust and Distribution of Subordinated Debt Securities" and " - Subordination of Trust Common Securities."

Removal of a Trust's Trustees.

Unless a trust agreement event of default occurs and is continuing, we may remove any trustee of a trust at any time, as the holder of the trust common securities. If a trust agreement event of default has occurred and is continuing, the property trustee and the Delaware trustee may be removed at that time by the holders of a majority in liquidation amount of the outstanding trust preferred securities. In no event will the holders of the trust preferred securities have the right to vote to appoint, remove or replace the administrative trustees, which voting rights are vested exclusively in the holder of the trust common securities. No resignation or removal of a trustee of a trust and no appointment of a successor trustee shall be effective until the acceptance of appointment by the successor trustee in accordance with the provisions of the applicable trust agreement.

Under the trust agreement, if the property trustee has or shall acquire a conflicting interest within the meaning of the Trust Indenture Act, the property trustee shall either eliminate such interest or resign, to the extent and in the manner provided by, and subject to the provisions of, the Trust Indenture Act and the trust agreement. To the extent permitted by the Trust Indenture Act, the property trustee shall not be deemed to have a conflicting interest by virtue of being trustee under the guarantee.

Mergers, Consolidations, Amalgamations or Replacements of a Trust.

A trust may not merge with or into, convert into, consolidate, amalgamate, or be replaced by, or convey, transfer or lease its properties and assets as an entirety or substantially as an entirety to any corporation or other person, except as described below or as otherwise described under "- Liquidation of the Trust and Distribution of Subordinated Debt Securities." Each trust may, at our request and with the consent of the administrative trustees but without the consent of the holders of the trust preferred securities, the Delaware trustee or the property trustee, merge with or into, convert into, consolidate, amalgamate, or be replaced by a trust organized as such under the laws of any State; provided that:

- o such successor entity either:
  - expressly assumes all of the obligations of the trust with respect to the trust securities; or
  - substitutes for the trust preferred securities other securities having substantially the same terms as the trust preferred securities (successor securities) so long as the successor securities rank the same as the trust preferred securities rank in priority with respect to distributions and payments upon liquidation, redemption and otherwise;
- o we expressly appoint a trustee of that successor entity possessing the same powers and duties as the property trustee as the holder of the subordinated debt securities;
- o the trust preferred securities or any successor securities are listed, or any successor securities will be listed upon notification of issuance, on any national securities exchange or other organization on which the trust preferred securities are then listed or quoted, if any;

- o if the trust preferred securities (including any successor securities) are rated by any nationally recognized statistical rating organization prior to such transaction, such merger, consolidation, amalgamation or replacement does not cause those trust preferred securities (including any successor securities) to be downgraded by any such nationally recognized statistical rating organization;
- o such merger, conversion, consolidation, amalgamation or replacement does not adversely affect the rights, preferences and privileges of the holders of the trust securities (including any successor securities) in any material respect;
- o the successor entity has a purpose substantially identical to the purpose of the trust;
- o prior to such merger, consolidation, amalgamation or replacement, we and the property trustee have received an opinion from counsel to the effect that:
  - the merger, consolidation, amalgamation or replacement does not adversely affect the rights, preferences and privileges of the holders of the trust securities (including any successor securities) in any material respect;
  - following the merger, conversion, consolidation, amalgamation or replacement, neither the trust nor the successor entity will be required to register as an investment company under the Investment Company Act;
  - following such merger, consolidation, amalgamation or replacement, the trust or the successor entity will continue to be classified as a grantor trust for U.S. federal income tax purposes; and
- o we guarantee the obligations of that successor entity under the Successor Securities at least to the extent provided by the guarantees.

Notwithstanding the foregoing, a trust will not, except with the consent of holders of 100% in liquidation amount of its trust securities, consolidate, amalgamate, merge with or into, convert into, or be replaced by any other entity or permit any other entity to consolidate, amalgamate, merge with or into, or replace it if that consolidation, amalgamation, merger or replacement would cause the trust or the successor entity not to be classified as a grantor trust for United States federal income tax purposes.

#### Voting Rights.

Except as provided above under "- Mergers, Consolidations, Amalgamations or Replacements of the Trust" and below under "Description of Guarantees - Amendments and Assignment" and as otherwise required by law and the trust agreements, the holders of the trust preferred securities will have no voting rights.

#### Amendment of the Trust Agreements.

We and the administrative trustees, without the consent of the holders of the trust securities issued pursuant to the trust agreement or the other trustees, may amend each trust agreement from time to time:

- o to cure any ambiguity, correct or supplement any provisions in the trust agreement that may be inconsistent with any other provision, or to make any other provisions with respect to matters or questions arising under the trust agreement, which shall not be

inconsistent with the other provisions of the trust agreement, provided, however, that the interests of the holders of the trust securities shall not be adversely affected in any material respect; or

- o to modify, eliminate or add to any provisions of the trust agreement to such extent as shall be necessary to ensure that the trust will be classified for United States federal income tax purposes as a grantor trust at all times that any trust securities are outstanding.

Any amendments of the trust agreement pursuant to the bullets above shall become effective once notice is given to the holders of the trust securities issued pursuant to the trust agreement at issue.

The sponsor and the administrative trustees may amend a trust agreement:

- o with the consent of holders representing not less than 66-2/3% (based upon liquidation amount) of the outstanding trust securities issued pursuant to the trust agreement; and
- o upon receipt by the trustees of an opinion of counsel to the effect that the amendment or the exercise of any power granted to the trustees in accordance with the amendment will not affect the trust's status as a grantor trust for United States federal income tax purposes or the trust's exemption from status as an "investment company" under the Investment Company Act.

However, without the consent of each holder of trust securities issued pursuant to the trust agreement, a trust agreement may not be amended to:

- o change the amount or timing of any distribution on the trust securities or otherwise adversely affect the amount of any distribution required to be made in respect of the trust securities as of a specified date;
- o restrict the right of a holder of the trust securities to institute suit for the enforcement of any such payment on or after such date; or
- o change the level of consent required from the holders of the trust securities to amend a trust agreement.

The trustees may not enter into or consent to any amendment to a trust agreement which would cause the trust to fail or cease to qualify for the exemption from status of an "investment company" under the Investment Company Act or to not be characterized for U.S. federal income tax purposes as a grantor trust and each holder of trust securities not to be treated as owning an undivided beneficial interest in the subordinated debt securities.

So long as any subordinated debt securities are held by a trust, the trustees will not:

- o direct the time, method and place of conducting any proceeding for any remedy available to the subordinated debt trustee, or execute any trust or power conferred on the subordinated debt trustee with respect to the subordinated debt securities held by the trust;
- o waive any past defaults under the subordinated debt indenture held by the trust;

- o exercise any right to rescind or annul a declaration of acceleration of the maturity of the principal of the subordinated debt securities held by the trust; or
- o consent to any amendment, modification or termination of the subordinated debt indenture or the subordinated debt securities, where that consent shall be required, or to any other action as the holder of the subordinated debt securities held by the trust,

without, in each case, obtaining the prior approval of the holders of at least 66 2/3% in liquidation amount of all outstanding trust preferred securities issued by the trust. However, where a consent under the subordinated debt indenture would require the consent of each holder of subordinated debt securities affected thereby, no such consent shall be given by the trustees without the prior consent of each holder of the trust preferred securities. The trustees will not revoke any action previously authorized or approved by a vote of the holders of the trust preferred securities except pursuant to a subsequent vote of those holders. The property trustee shall notify each holder of the trust preferred securities of any notice of default that it receives with respect to the subordinated debt securities held by the trust. In addition to obtaining the foregoing approvals of the holders of the trust preferred securities, prior to taking any of the foregoing actions, the trustees shall obtain an opinion of counsel experienced in such matters to the effect that the trust will not fail to be classified as a grantor trust for United States federal income tax purposes on account of such action.

Any required approval of holders of trust preferred securities may be given at a meeting of those holders convened for that purpose or pursuant to written consent. The administrative trustees will cause a notice of any meeting at which holders of the trust preferred securities are entitled to vote to be given to each holder of record of trust preferred securities in the manner set forth in the trust agreement.

No vote or consent of the holders of trust preferred securities will be required for a trust to redeem and cancel trust preferred securities in accordance with its trust agreement.

#### Form, Denomination, Book-Entry Procedures and Transfer.

Unless otherwise specified in the applicable prospectus supplement, the trust preferred securities will be issued in registered, global form. See "Book-Entry System."

#### Payment and Paying Agent.

Payments in respect of trust preferred securities held in global form will be made to the depository, which shall credit the relevant accounts at the depository on the applicable distribution dates, or in respect of trust preferred securities that are not held by the depository, those payments shall be made by check mailed to the address of the holder entitled thereto as that address shall appear on the register. The paying agent for the trusts will initially be the property trustee or an affiliate of the property trustee and any co-paying agent chosen by the property trustee and acceptable to the administrative trustees and us. The paying agent will be permitted to resign as paying agent upon 30 days' written notice to the administrative trustees and us. If the paying agent resigns or is removed, the administrative trustees will appoint a successor (which will be a bank or trust company acceptable to the administrative trustees and us) to act as paying agent.

#### Registrar and Transfer Agent.

The property trustee will act as registrar and transfer agent for the trust preferred securities.

Registration of transfers of the trust preferred securities will be effected without charge by or on behalf of the issuing trust, but upon payment of any tax or other governmental charges that may be imposed in connection with any transfer or exchange. The issuing trust will not be required to register or cause to be registered the transfer of the trust preferred securities after they have been called for redemption.

#### Information Concerning the Property Trustee.

The property trustee, other than during the occurrence and continuance of a trust agreement event of default, will perform only such duties as are specifically set forth in the trust agreement and, during the existence of a trust agreement event of default, must exercise the same degree of care and skill as a prudent person would exercise or use in the conduct of his or her own affairs. The property trustee is under no obligation to exercise any of the powers vested in it by the trust agreement at the request of any holder of trust securities unless it is offered reasonable indemnity against the costs, expenses and liabilities that might be incurred thereby. If the property trustee is required to decide between alternative courses of action, construe ambiguous provisions in the trust agreement or is unsure of the application of any provision of the trust agreement, and the matter is not one on which holders of the trust preferred securities are entitled under the trust agreement to vote, then the property trustee shall take such action as is directed by us and, if not so directed, shall take such action as it deems advisable and in the best interests of the holders of the trust securities and will have no liability except for its own bad faith, negligence or willful misconduct.

Wachovia Trust Company, National Association, will serve as the property trustee, the Delaware trustee and the guarantee trustee. See "Description of Guarantees." Wachovia Bank, National Association, serves as the trustee for the subordinated debt securities. See "Description of Subordinated Debt Securities."

#### Miscellaneous.

The administrative trustees are authorized and directed to conduct the affairs of and to operate each trust in such a way that the trust will not be deemed to be an "investment company" required to be registered under the Investment Company Act or classified as an association taxable as a corporation for United States federal income tax purposes and so that the subordinated debt securities will be treated as our indebtedness for United States federal income tax purposes. In this connection, we and the administrative trustees are authorized to take any action, not inconsistent with applicable law, the certificate of trust or the trust agreement, that we and the administrative trustees determine in our discretion is necessary or desirable for such purposes, as long as such action does not materially adversely affect the interests of the holders of the trust securities.

The trust agreements and the trust preferred securities will be governed by and construed in accordance with the internal laws of the State of Delaware.

#### Certain United States Federal Income Tax Consequences.

We may include a discussion of certain United States federal income tax considerations that may be applicable to the purchase, ownership and disposition of a trust preferred security in the prospectus supplement related to the issuance of that trust preferred security. Please refer to any discussion of the taxation of the trusts, subordinated debt securities or trust preferred securities provided in the applicable prospectus supplement.

It is expected that, in connection with the issuance of the trust preferred securities, Ballard Spahr Andrews & Ingersoll LLP, tax counsel to us and to the trusts, will render its opinion that, under then current law and subject to certain assumptions, each of the trusts will be characterized for United States federal income tax purposes as a "grantor trust" and not as an association or publicly traded partnership taxable as a corporation. If a trust is properly characterized as a grantor trust, the trust will not be subject to United States federal income taxes and each beneficial owner of trust preferred securities will be treated for such purposes as owning a pro rata undivided interest in the subordinated debt securities, and will be required to include in income any income with respect to the owner's allocable share of those subordinated debt securities.

Potential purchasers of trust preferred securities should be aware that a subordinated debt security might be treated as having been issued with original issue discount (OID). In general, a subordinated debt security will be treated as having been issued with OID if, among other possibilities:

- o the subordinated debt security has an issue price (determined under applicable regulations) that is less than the subordinated debt security's principal amount, or
- o interest on the subordinated debt security is not considered to be unconditionally payable at least annually during the entire term of the subordinated debt security at a single fixed rate or, subject to certain exceptions, at one or more variable rates.

Our ability to defer interest payments on the subordinated debt securities, described in "Distributions" and "Description of Subordinated Debt Securities - Option to Extend Interest Payment Date" might result in the subordinated debt securities having OID. A beneficial owner of a trust preferred security evidencing an interest in a subordinated debt security with OID generally will be required to include that OID in income as it accrues, regardless of the owner's method of accounting for United States federal income tax purposes, before receipt of cash payments attributable to that income.

If relevant, the applicable prospectus supplement will contain a more complete discussion of the rules governing the treatment of OID, including a discussion of the consequences under those rules of our ability to defer interest payments on the subordinated debt securities.

The United States federal income tax discussion set forth above is included for general information only and does not purport to be a complete discussion of the United States federal income tax considerations that may be applicable to the purchase, ownership and disposition of a trust preferred security. Prospective purchasers of a trust preferred security should consult the prospectus supplement related to the issuance of the trust preferred security they are considering purchasing and their own tax advisors with respect to the tax consequences to them of the purchase, ownership and disposition of a trust preferred security.

#### DESCRIPTION OF SUBORDINATED DEBT SECURITIES

We will issue the subordinated debt securities under an Indenture between us and Wachovia Bank, National Association, as subordinated debt trustee. We refer to this Indenture, as amended and supplemented, in this prospectus as the "subordinated debt indenture" and to Wachovia Bank, National Association, in its capacity as trustee under the subordinated debt indenture, as the "subordinated debt trustee." The subordinated debt indenture will be qualified under the Trust Indenture Act. We have summarized selected provisions of the subordinated debt indenture below. We suggest that you read the form of subordinated debt indenture for the complete text of those provisions as well as for the provisions that are not summarized but may be important to you. A copy of the form of subordinated debt indenture is incorporated by reference as an exhibit to the registration statement of which this prospectus is a part.

The subordinated debt securities may be distributed to the holders of trust securities in liquidation of the issuing trust. See "Description of Trust Preferred Securities - Liquidation of the Trust and Distribution of the Subordinated Debt Securities." If that occurs, we will use our best efforts to have the subordinated debt securities listed on the New York Stock Exchange or on the exchange on which the trust preferred securities are then listed.

#### General Information.

Each trust will invest the proceeds obtained from any issuance of its trust preferred securities, together with the consideration paid by us for its trust common securities, in subordinated debt securities issued by us. The subordinated debt securities will bear interest from the same date and at the same rate as the trust preferred securities. It is anticipated that, until the liquidation, if any, of the issuing trust, each subordinated debt security will be held in the name of the property trustee in trust for the benefit of the holders of the trust securities.

Unless otherwise specified in the accompanying prospectus supplement, we will initially issue each of the subordinated debt securities in the form of one or more global securities, in registered form, as described under "- Form, Registration and Transfer" below and "Book-Entry System." The subordinated debt securities will be issued in denominations and integral multiples as provided in the applicable prospectus supplement. Payments with respect to global subordinated debt securities will be made to the depository as described under "Book-Entry System." In the event the subordinated debt securities are issued in certificated form, principal and interest will be payable, the transfer of the subordinated debt securities will be registrable and the subordinated debt securities may be exchanged for subordinated debt securities of other denominations for a like aggregate principal amount at the corporate trust office of the subordinated debt trustee in Philadelphia, Pennsylvania. See "- Payment and Paying Agents."

#### Ranking.

The subordinated debt securities will rank equally with all other subordinated debt and will be unsecured, subordinate, and junior in right of payment to all Senior Indebtedness to the extent and in the manner set forth in the subordinated debt indenture. The subordinated debt securities will mature on the date provided in the applicable prospectus supplement.

Unless otherwise specified in the applicable prospectus supplement, the subordinated debt securities will not be subject to a sinking fund provision.

#### Subordination.

In the subordinated debt indenture, we will covenant and agree that any subordinated debt securities issued under the subordinated debt indenture will be subordinate and junior in right of payment to all Senior Indebtedness (the meaning of which is set forth below). Upon any payment or distribution of assets to creditors upon any liquidation, dissolution, winding up, reorganization, or in connection with any insolvency, receivership or bankruptcy proceeding with respect to us, all Senior Indebtedness must be paid in full before the holders of subordinated debt securities will be entitled to receive or retain any payment in respect thereof.

No payments on account of principal, or premium, or interest, if any, in respect of the subordinated debt securities may be made if a default in any payment with respect to Senior Indebtedness has occurred and is continuing, or an event of default with respect to any Senior Indebtedness resulting in the acceleration of the maturity thereof has occurred and is continuing, or if any judicial proceeding shall be pending with respect to any such default.

The term "Senior Indebtedness" means:

- o all of our obligations for borrowed money;
- o all of our obligations evidenced by securities, bonds, notes, debentures issued under indentures other than the subordinated debt indenture or other similar instruments;
- o all of our capital lease obligations;
- o all of our obligations issued or assumed as the deferred purchase price of property, all of our conditional sale obligations and our obligations under any title retention agreement, but excluding our trade accounts payable arising in the ordinary course of business;
- o all of our reimbursement obligations with respect to any letter of credit, banker's acceptance, security purchase facility or similar credit transactions;
- o all obligations of the type referred to in the preceding bullet points of another person that we have guaranteed or are responsible or liable for as obligor or otherwise; and
- o all obligations of the type referred to in the preceding bullet points of another person secured by any lien on any of our property or assets (whether or not that obligation has been assumed by us),

except for:

- those obligations that, by their terms, rank equally with or junior to the subordinated debt securities, including all of our obligations and associated guarantees to our other trusts, partnerships or entities that act as our financing vehicle for the issuance of preferred securities that rank equally with or junior to the trust preferred securities; and
- obligations between our affiliates and us.

Senior Indebtedness continues to be Senior Indebtedness and to be entitled to the benefits of the subordination provisions irrespective of any amendment, modification or waiver of any term of that Senior Indebtedness.

The subordinated debt indenture does not limit the aggregate amount of Senior Indebtedness that we may issue, nor does it afford holders of the subordinated debt securities protection in the event of a highly leveraged or similar transaction involving our company.

Certain Covenants.

We covenant that we will not, and will not permit any subsidiary to declare or pay any dividends or distributions on, or redeem, purchase, acquire, or make a liquidation payment with respect to, any of our capital stock (subject to certain exceptions) if at such time there shall have occurred any event that would constitute an event of default under the subordinated debt indenture or we are in default with respect to payments of any of our obligations under the guarantees.

If we have given notice of our election to defer interest payments on the subordinated debt securities as provided in the subordinated debt indenture and the deferral period, or any extension thereof,



is continuing, we covenant not to declare or pay any dividend on, make any distributions with respect to, or redeem, purchase or make a liquidation payment with respect to, any of our capital stock.

So long as an issuing trust's trust preferred securities remain outstanding, we also covenant:

- o to maintain 100% direct or indirect ownership of the issuing trust's trust common securities; provided, however, that any successor to us is permitted under the subordinated debt indenture to succeed to our ownership of the trust common securities;
- o to not cause or permit the dissolution, winding-up or termination of the issuing trust, except in connection with the distribution of subordinated debt securities or in connection with certain mergers, consolidations or amalgamations, each as permitted by the applicable trust agreement; and
- o to use our reasonable efforts to cause the issuing trust:
  - to remain a statutory trust, except in connection with the distribution of subordinated debt securities to the holders of trust securities in liquidation of the trust, the redemption of all of the trust securities, or certain mergers, consolidations or amalgamations as permitted by the applicable trust agreement; and
  - to continue otherwise to be treated as a grantor trust for United States federal income tax purposes.

#### Optional Redemption.

Unless otherwise specified in the applicable prospectus supplement, we may redeem a series of subordinated debt securities, at our option, in whole at any time or in part from time to time, on or after the date indicated in the prospectus supplement. Unless the applicable prospectus supplement states otherwise, the redemption price for such an optional redemption will be equal to 100% of the principal amount of subordinated debt securities to be redeemed plus any accrued and unpaid interest, including Additional Amounts and Compounded Interest, if any, as described under "- Interest," to the redemption date.

If a partial redemption of a series of subordinated debt securities would result in the delisting of the trust preferred securities from any national securities exchange or other organization on which those securities are then listed, we may only redeem a series of subordinated debt securities in whole.

Unless otherwise specified in the applicable prospectus supplement, upon the occurrence of a Tax Event as described under "- Special Event Redemption" below, we may, at our option in certain circumstances redeem the subordinated debt securities in whole, but not in part, within 90 days following the occurrence of the Special Event at a redemption price equal to 100% of the principal amount of subordinated debt securities to be redeemed plus any accrued and unpaid interest to the redemption date.

#### Cancellation.

All subordinated debt securities surrendered for payment, redemption, transfer or exchange shall, if surrendered to any person, other than the subordinated debt trustee, be delivered to the subordinated debt trustee, and any of those subordinated debt securities surrendered directly to the subordinated debt trustee for any such purpose shall be promptly canceled by it. Our acquisition at any time of any

subordinated debt securities shall not operate as a redemption or satisfaction of the indebtedness represented by those subordinated debt securities unless and until we deliver the same to the subordinated debt trustee for cancellation.

Option to Extend Interest Payment Date.

The applicable prospectus supplement will set forth the length of time for which we may defer the payment of interest on a series of subordinated debt securities. No deferral period may end on a date other than an interest payment date or extend beyond the stated maturity date of the subordinated debt securities. At the end of any deferral period, we will pay all interest then accrued and unpaid (including Additional Amounts and Compounded Interest, if any).

During any interest deferral period at any time when a trust is the holder of subordinated debt securities, we will not make specified payments on our capital stock. See "- Certain Covenants."

Prior to the termination of any deferral period, we may further extend that deferral period, so long as the extension does not cause that deferral period to exceed the time period specified in the applicable prospectus supplement or extend beyond the stated maturity date of the subordinated debt securities. Upon the termination of any deferral period and the payment of all amounts then due, we may elect to begin a new deferral period, subject to the above requirements. No interest shall be due and payable during a deferral period, except at the end thereof, but we have the option to prepay at any time all or a portion of the interest accrued during any deferral period.

We will give the trust holding the subordinated debt securities at issue notice of our selection or extension of a deferral period at least the number of business days specified in the applicable prospectus supplement prior to:

- o the next date on which distributions on the applicable trust securities are payable; or
- o the date on which we or the trust are required to give notice to any securities exchange or other applicable self-regulatory organization of the record date or the date such distributions are payable, but in any event at least one business day before that record date.

There is no limitation in the subordinated debt indenture on the number of times that we may elect to begin a deferral period. Accordingly, there could be multiple deferral periods of varying lengths throughout the term of the subordinated debt securities.

Interest.

We will pay interest on the subordinated debt securities as set forth in the applicable prospectus supplement. We will also pay the following amounts on the subordinated debt securities:

- o Additional Amounts, in the circumstances described under "Description of Trust Preferred Securities - Payment of Additional Amounts"; and
- o interest on interest payments that are deferred because of an interest deferral period, which we refer to in this prospectus as Compounded Interest.

Special Event Redemption.

Unless otherwise specified in the applicable prospectus supplement, if a Special Event occurs and is continuing, we may, at our option, redeem the subordinated debt securities in whole or in part at any time within 90 days of the occurrence of that Special Event, at a redemption price to be specified in the applicable prospectus supplement.

A "Special Event" means a Tax Event or an Investment Company Event.

An "Investment Company Event" means the receipt by us of an opinion of counsel to the effect that, as a result of the occurrence of a change in law or regulation or a written change in interpretation or application of law or regulation by any legislative body, court, governmental agency or regulatory authority, there is more than an insubstantial risk that the trust is or will be considered an "investment company" that is required to be registered under the Investment Company Act of 1940, as amended, which change or prospective change becomes effective on or after the date of the original issuance of the trust preferred securities.

A "Tax Event" means the receipt by us of an opinion of counsel experienced in such matters to the effect that, as a result of:

- o any amendment to, or change (including any announced prospective change) in, the laws (or any regulations thereunder) of the United States or any political subdivision or taxing authority thereof or therein, or
- o any amendment to, or change in, any interpretation or application of such laws or regulations,

which change or amendment becomes effective on or after the date of the original issuance of the trust preferred securities, there is more than an insubstantial risk that:

- o a trust would be subject to United States federal income tax with respect to income received or accrued on the subordinated debt securities;
- o interest payable by us to a trust on the subordinated debt securities would not be deductible by a member of our consolidated tax group for United States federal income tax purposes; or
- o a trust would be subject to more than a de minimis amount of other taxes, duties or other governmental charges.

Notice of any redemption will be mailed at least 30 days but not more than 60 days before the redemption date to each holder of subordinated debt securities to be redeemed at its registered address. Unless we default in payment of the redemption price, on and after the redemption date interest ceases to accrue on such those subordinated debt securities called for redemption.

Modification of Subordinated Debt Indenture.

From time to time we and the subordinated debt trustee may, without the consent of the holders of subordinated debt securities, amend the subordinated debt indenture for specified purposes, including, among other things, to cure any ambiguity, defect or inconsistency contained in the subordinated debt indenture or the trust preferred securities and to create any new series of subordinated debt securities.

The subordinated debt indenture contains provisions permitting us and the Subordinated Debt Trustee, with the consent of the holders of at least 66-2/3% in aggregate principal amount of the subordinated debt securities, to modify the subordinated debt indenture or any supplemental indenture in a manner affecting the rights of the holders of subordinated debt securities. However, no such modification may, without the consent of the holders of each outstanding subordinated debt security so affected:

- o extend the fixed maturity, or reduce the rate of interest or extend the time of payment of interest on, or reduce the principal amount of, the subordinated debt securities or reduce the amount payable on redemption thereof; or
- o reduce the percentage of principal amount of subordinated debt securities, the holders of which are required to consent to any such modification of the subordinated debt indenture.

Events of Default.

The subordinated debt indenture provides that any one or more of the following constitute an event of default with respect to the subordinated debt securities:

- o failure to pay any interest on the subordinated debt securities when due for 30 days, subject to the deferral of any due date in the case of an extension period;
- o failure to pay any principal or premium, if any, on the subordinated debt securities when due whether at maturity, upon redemption, by declaration of acceleration of maturity or otherwise, subject to the deferral of any due date in the case of an extension period;
- o failure to observe or perform any of our other covenants contained in the subordinated debt indenture for 90 days after written notice to us from the subordinated debt trustee or the holders of at least 25% in aggregate outstanding principal amount of subordinated debt securities;
- o our bankruptcy, insolvency or reorganization, in certain cases; or
- o the voluntary or involuntary dissolution, winding-up or termination of the trust, except in connection with the distribution of subordinated debt securities to the holders of trust securities in liquidation of the trust, the redemption of all of the trust securities, or certain mergers, consolidations or amalgamations as permitted by the applicable trust agreement.

The holders of a majority in aggregate outstanding principal amount of the subordinated debt securities have the right to direct the time, method and place of conducting any proceeding for any remedy available to the subordinated debt trustee. If an event of default has occurred and is continuing, the subordinated debt trustee or the holders of not less than 25% in aggregate outstanding principal amount of the subordinated debt securities may declare the principal amount on all subordinated debt securities due and payable immediately upon an event of default. The holders of a majority in aggregate outstanding principal amount of the subordinated debt securities may annul such declaration and waive the default if the default has been cured and a sum sufficient to pay all matured installments of interest and principal of, and premium, if any, due otherwise than by acceleration has been deposited with the subordinated debt trustee.

The holders of a majority in aggregate outstanding principal amount of the subordinated debt securities affected thereby may, on behalf of the holders of all the subordinated debt securities, waive any past default or event of default and its consequences, except:

- o a default in the payment of principal, premium, if any, on or interest (unless such a default has been cured and a sum sufficient to pay all matured installments of interest and principal due otherwise than by acceleration and any applicable premium has been deposited with the subordinated debt trustee); or
- o a default in our covenant not to declare or pay dividends on, or make distributions with respect to, or redeem, purchase or acquire any of our capital stock during any interest deferral period.

In case an event of default shall occur and be continuing, the property trustee will have the right to declare the principal of and the interest on the subordinated debt securities, and any other amounts payable under the subordinated debt indenture, to be forthwith due and payable and to enforce its other rights as a creditor with respect to the subordinated debt securities.

An event of default under the subordinated debt indenture also constitutes an event of default under the related trust agreement. The holders of trust preferred securities in certain circumstances have the right to direct the property trustee to exercise its rights as the holder of the subordinated debt securities. See "Description of Trust Preferred Securities - Trust Agreement Events of Default; Notice."

#### Consolidation, Merger, Sale of Assets and Other Transactions.

The subordinated debt indenture does not contain any covenant which restricts our or the trusts' ability to:

- o merge or consolidate with or into any corporation;
- o sell or convey all or substantially all of our or the trust's assets to any person, firm or corporation; or
- o otherwise engage in restructuring transactions;

provided that the due and punctual performance and observance of all the covenants and conditions of the subordinated debt indenture is expressly assumed by any successor to us.

#### Satisfaction and Discharge.

We may be discharged from all of our obligations under the subordinated debt indenture (except as otherwise provided in the subordinated debt indenture) when:

- o either (1) all of the subordinated debt securities have been delivered to the subordinated debt trustee for cancellation, or (2) all subordinated debt securities not delivered to the subordinated debt trustee for cancellation
  - have become due and payable,
  - will become due and payable by their terms within one year, or

- are to be called for redemption within one year under arrangements satisfactory to the subordinated debt trustee for the giving of notice of redemption,

and we, in the case of clause (2), have deposited or caused to be deposited with the subordinated debt trustee, in trust, an amount in moneys or Governmental Obligations, or any combination of the foregoing, sufficient in the opinion of a nationally recognized firm of independent public accountants expressed in a written certification delivered to the subordinated debt trustee to pay all principal, premium, if any, and interest on those subordinated debt securities due or to become due;

- o we have paid or caused to be paid all other sums payable by us under the subordinated debt indenture; and
- o we have delivered to the subordinated debt trustee an opinion of counsel to the effect that, based upon our receipt from, or the publication by the Internal Revenue Service of a ruling or change in law, the holders of subordinated debt securities will not recognize income, gain or loss for United States federal income tax purposes as a result of the deposit, defeasance and discharge and will be subject to United States federal income tax on the same amount and in the same manner and at the same times as would have been the case if the deposit, defeasance and discharge had not occurred.

#### Form, Registration and Transfer.

If the subordinated debt securities are distributed to the holders of the trust securities, the subordinated debt securities may be represented by one or more global certificates registered in the name of DTC or its nominee. Under those circumstances, the depository arrangements for the subordinated debt securities would be expected to be substantially similar to those in effect for the trust preferred securities. For a description of DTC and the terms of the depository arrangements relating to payments, transfers, voting rights, redemptions and other notices and other matters, see "Book-Entry System."

#### Payment and Paying Agents.

Payment of principal of, premium, if any, and interest on the subordinated debt securities will be made at the office of the subordinated debt trustee or at the office of any other paying agent or paying agents as we may designate from time to time, except that, at our option, payment of any interest may be made, except in the case of subordinated debt securities in global form, by check mailed to the address of the holder thereof as such address shall appear in the register for subordinated debt securities.

Payment of any interest on any subordinated debt security will be made to the person in whose name that subordinated debt security is registered at the close of business on the record date for that interest. We may at any time designate additional paying agents or rescind the designation of any paying agent; however, we will at all times be required to maintain a paying agent in each place of payment for the subordinated debt securities.

Any monies deposited with the subordinated debt trustee or any paying agent for the payment of the principal of, and premium, if any, or interest on any subordinated debt security and remaining unclaimed for two years after that principal, and premium, if any, or interest has become due and payable shall, at our request, be repaid to us and the holder of that subordinated debt security shall thereafter look only to us for payment thereof.

Governing Law.

The subordinated debt indenture and the subordinated debt securities will be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania, without regard to conflicts of laws principles thereof.

Information Concerning the Subordinated Debt Trustee.

The subordinated debt trustee will be subject to all the duties and responsibilities specified with respect to an indenture trustee under the Trust Indenture Act. Subject to those provisions, the subordinated debt trustee is under no obligation to exercise any of the powers vested in it by the subordinated debt indenture at the request of any holder of subordinated debt securities, unless offered reasonable indemnity by that holder against the costs, expenses and liabilities which might be incurred thereby. However, the foregoing shall not relieve the subordinated debt trustee, upon the occurrence of an event of default under the subordinated debt indenture, from exercising the rights and powers vested in it by the subordinated debt indenture. Under the subordinated debt indenture, if the subordinated debt trustee has or shall acquire any "conflicting interest" within the meaning of Section 310(b) of the Trust Indenture Act, the subordinated debt trustee and we shall in all respects comply with the provisions of Section 310(b) of the Trust Indenture Act. The subordinated debt trustee is not required to expend or risk its own funds or otherwise incur personal financial liability in the performance of its duties if the subordinated debt trustee reasonably believes that repayment or adequate indemnity is not reasonably assured to it. Wachovia Bank, National Association, will serve as subordinated debt trustee. See "Description of Trust Preferred Securities - Information Concerning the Property Trustee."

Miscellaneous.

We have the right at all times to assign any of our rights or obligations under the subordinated debt indenture to a direct or indirect wholly owned subsidiary of us; provided that, in the event of any such assignment, we will remain liable for all of our obligations under the subordinated debt indenture. Subject to the foregoing, the subordinated debt indenture will be binding upon and inure to the benefit of the parties thereto and their respective successors and assigns. The subordinated debt indenture provides that it may not otherwise be assigned by the parties thereto.

We have covenanted in the subordinated debt indenture to pay all fees and expenses related to:

- o the offering of the trust preferred securities and the subordinated debt securities;
- o the organization, maintenance and dissolution of the trusts;
- o the retention of the trusts' trustees; and
- o the enforcement by the property trustee of the rights of holders of trust preferred securities.

DESCRIPTION OF GUARANTEES

Set forth below is a summary of information concerning the guarantees, which will be executed and delivered by us for the benefit of the holders from time to time of the trust preferred securities. The guarantee has been qualified under the Trust Indenture Act. Wachovia Trust Company, National Association, the guarantee trustee, will hold the guarantees for the benefit of the holders of the trust preferred securities. The following summary is not necessarily complete, and reference is hereby made to

the copy of the form of the guarantee (including the definitions therein of certain terms), which is filed as an exhibit to the registration statement of which this prospectus forms a part, and to the Trust Indenture Act.

#### General Information.

We will irrevocably and unconditionally agree to pay in full on a subordinated basis guarantee payments to the holders of the trust preferred securities, as and when due, regardless of any defense, right of setoff or counterclaim that we, in our capacity as guarantor, may have or assert other than the defense of payment. The following payments with respect to the trust preferred securities, to the extent not paid by or on behalf of the trust, will be subject to the guarantee:

- o any accrued and unpaid distributions required to be paid on the trust preferred securities, to the extent that the issuing trust has funds on hand legally available therefor at that time;
- o the applicable redemption price with respect to the trust preferred securities called for redemption, to the extent that the issuing trust has funds on hand legally available therefor at that time; and
- o upon a voluntary or involuntary dissolution, winding-up or liquidation of the issuing trust (other than in connection with the distribution of the subordinated debt securities held by the issuing trust to holders of its trust preferred securities), the lesser of:
  - the aggregate of the liquidation amount and all accrued and unpaid distributions on the trust preferred securities, to the extent the trust has funds legally available therefor at the time; and
  - the amount of assets of the trust remaining available for distribution to holders of the trust preferred securities after satisfaction of liabilities to creditors of the trust as required by applicable law.

Our obligation to make a guarantee payment may be satisfied by direct payment of the required amounts by us to the holders of the trust preferred securities or by causing the trust to pay those amounts to those holders.

Each guarantee will be a guarantee of the guarantee payments with respect to the trust preferred securities at issue from the time of issuance of the trust preferred securities, but will not apply to distributions and other payments on the trust preferred securities when the issuing trust does not have sufficient funds legally and immediately available to make such distributions or other payments. Therefore, if we do not make interest payments on the subordinated debt securities held by the property trustee, the issuing trust will not make distributions on the trust preferred securities.

Through the guarantees, the trust agreements, the subordinated debt securities and the subordinated debt indenture, taken together, we will fully, irrevocably and unconditionally guarantee all of the issuing trust's obligations under its trust preferred securities. No single document standing alone or operating in conjunction with fewer than all of the other documents constitutes such guarantee. It is only the combined operation of these documents that has the effect of providing a full, irrevocable and unconditional guarantee of the trust's obligations under the trust preferred securities. See "Relationship Among the Trust Preferred Securities, the Subordinated Debt Securities and the Guarantee."



#### Status of the Guarantees.

Each guarantee will constitute our unsecured obligation and will rank (x) subordinate and junior in right of payment to all of our other liabilities, including the subordinated debt securities, except those obligations or liabilities made pari passu or subordinate by their terms, (y) pari passu with any guarantee in respect of any preferred stock of any affiliate of ours and (z) senior to all of our preferred and common stock.

Our obligations under each guarantee effectively will be subordinated to all existing and future liabilities of our subsidiaries and all liabilities of any of our future subsidiaries. Claimants should look only to us for payments under the guarantees. See "Description of Subordinated Debt Securities - Subordination." The guarantees do not limit us or any of our subsidiaries from incurring or issuing other secured or unsecured debt, including Senior Indebtedness, whether under the subordinated debt indenture, any other indenture that we may enter into in the future or otherwise.

Each guarantee will constitute a guarantee of payment and not of collection. Each guarantee will be held for the benefit of the holders of the trust preferred securities and will not be discharged except by payment of the guarantee payments in full to the extent not paid by the trust or upon distribution to the holders of the trust preferred securities of the subordinated debt securities. The guarantees do not limit the amount of additional Senior Indebtedness that we may incur.

#### Guarantee Events of Default.

An event of default under a guarantee will occur upon our failure to perform any of our payment obligations thereunder. The holders of more than 50% in liquidation amount of the trust preferred securities affected by such an event of default will have the right to direct the time, method and place of conducting any proceeding for any remedy available to the guarantee trustee in respect of the guarantee or to direct the exercise of any trust or power conferred upon the guarantee trustee under the guarantee.

If the guarantee trustee fails to enforce the guarantee at issue, any holder of the trust preferred securities at issue may institute a legal proceeding directly against us to enforce its rights under the guarantee without first instituting a legal proceeding against the issuing trust, the guarantee trustee or any other person or entity.

We, as guarantor, will be required to file annually with the guarantee trustee a certificate as to whether or not we are in compliance with all the conditions and covenants applicable to us under the guarantee.

#### Amendments and Assignment.

Except with respect to any changes that do not materially and adversely affect the rights of holders of the trust preferred securities (in which case no consent will be required), each guarantee may be amended only with the prior approval of the holders of not less than 66-2/3% of the liquidation amount of the outstanding trust preferred securities at issue. The manner of obtaining that approval will be as set forth under "Description of Trust Preferred Securities, - Voting Rights, - Amendment of the Trust Agreement." All guarantees and agreements contained in the guarantee shall bind our successors, assigns, receivers, trustees and representatives and shall inure to the benefit of the holders of the trust preferred securities then outstanding. Except in connection with our consolidation or merger or a conveyance, transfer or lease by us, we may not assign our obligations under the guarantee.

Termination of the Guarantees.

Each guarantee will terminate and be of no further force and effect upon:

- o full payment of the applicable redemption price of the trust preferred securities covered by the guarantee; or
- o upon liquidation of the issuing trust, the full payment of the liquidation distribution or the distribution of the subordinated debt securities to the holders of the trust preferred securities.

Each guarantee will continue to be effective or will be reinstated, as the case may be, if at any time any holder of the trust preferred securities covered by the guarantee must restore payment of any sums paid under the trust preferred securities or the guarantee.

Information Concerning the Guarantee Trustee.

Other than during the occurrence and continuance of a default by us in performance of the guarantee, the guarantee trustee will undertake to perform only those duties as are specifically set forth in the guarantee and, in case default with respect to the guarantee has occurred, must exercise the same degree of care and skill as a prudent person would exercise or use in the conduct of his or her own affairs. Subject to this provision, the guarantee trustee will be under no obligation to exercise any of the powers vested in it by the guarantee at the request of any holder of the trust preferred securities unless it is offered indemnity satisfactory to it against the costs, expenses and liabilities that might be incurred thereby. If the guarantee trustee has or shall acquire a "conflicting interest" within the meaning of Section 301(b) of the Trust Indenture Act, the guarantee trustee and we shall in all respects comply with the provisions of Section 310(b) of the Trust Indenture Act.

Governing Law.

The guarantee will be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania, without regard to conflict of laws principles thereof.

RELATIONSHIP AMONG THE TRUST PREFERRED SECURITIES, THE SUBORDINATED DEBT SECURITIES AND THE GUARANTEES

Full and Unconditional Guarantee.

Payments of distributions and other amounts due on the trust preferred securities (to the extent the issuing trust has funds on hand legally available for the payment of such distributions) are irrevocably guaranteed by us as and to the extent set forth under "Description of Guarantees." Taken together, our obligations under the subordinated debt securities, the subordinated debt indenture, the trust agreements and the guarantees provide, in the aggregate, a full, irrevocable and unconditional guarantee of payments of distributions and other amounts due on the trust preferred securities. No single document standing alone or operating in conjunction with fewer than all of the other documents constitutes such guarantee. It is only the combined operation of these documents that has the effect of providing a full, irrevocable and unconditional guarantee of the issuing trust's obligations under the trust preferred securities. If and to the extent that we do not make the required payments on the subordinated debt securities held by the trust, the trust will not have sufficient funds to make the related payments, including distributions, on the trust preferred securities. The guarantees will not cover any such payment when the trust does not have sufficient funds on hand legally available therefor. In that event, the remedy of a holder of trust preferred

securities is to institute a direct action against us. Our obligations under the guarantees are subordinate and junior in right of payment to all Senior Indebtedness.

#### Sufficiency of Payments.

As long as payments of interest and other payments are made when due on the subordinated debt securities, such payments will be sufficient to cover distributions and other payments due on the trust securities, primarily because:

- o the aggregate principal amount or redemption price of the subordinated debt securities is equal to the sum of the liquidation amount or redemption price, as applicable, of the trust securities;
- o the interest rate and interest and other payment dates on the subordinated debt securities will match the distribution rate and distribution and other payment dates for the trust securities;
- o we will pay for all and any costs, expenses and liabilities of the trusts except the trusts' obligations to holders of trust securities under the trust securities; and
- o each trust agreement will provide that the trust is not authorized to engage in any activity that is not consistent with the limited purposes thereof.

Notwithstanding anything to the contrary in the subordinated debt indenture, we have the right to set-off any payment we are otherwise required to make with and to the extent we have theretofore made, or are concurrently on the date of such payment making, a payment under the guarantee.

#### Enforcement Rights of Holders of Trust Preferred Securities.

A holder of any trust preferred security may institute a legal proceeding directly against us to enforce its rights under the guarantee without first instituting a legal proceeding against the applicable guarantee trustee, trust or any other person or entity.

#### Limited Purpose of the Trusts.

The trust preferred securities represent preferred undivided beneficial interests in the assets of the issuing trust, and the issuing trust exists for the sole purpose of:

- o issuing and selling its trust securities;
- o using the proceeds from the sale of its trust securities to acquire the subordinated debt securities; and
- o engaging in only those other activities necessary or incidental to these purposes.

A principal difference between the rights of a holder of a trust preferred security and a holder of a subordinated debt security is that a holder of a subordinated debt security will be entitled to receive from us the principal amount of, and premium, if any, and interest on subordinated debt securities held, while a holder of trust preferred securities is entitled to receive distributions from the trust (or, in certain circumstances, from us under the guarantee) if and to the extent the issuing trust has funds on hand legally available for the payment of those distributions.

## Rights Upon Dissolution.

Unless the subordinated debt securities are distributed to holders of the related trust securities or if the trust securities have been redeemed, upon any voluntary or involuntary dissolution and liquidation of the issuing trust, after satisfaction of liabilities to creditors of the issuing trust as required by applicable law, the holders of the trust securities will be entitled to receive, out of assets held by the issuing trust, the liquidation distribution in cash. See "Description of Trust Preferred Securities - Liquidation of the Trust and Distribution of Subordinated Debt Securities." Upon our voluntary or involuntary liquidation or bankruptcy, each property trustee, as holder of the subordinated debt securities, would be our subordinated creditor, subordinated in right of payment to all Senior Indebtedness as set forth in the subordinated debt indenture, but entitled to receive payment in full of principal, and premium, if any, and interest, before any of our stockholders receive payments or distributions. Since we will be the guarantor under the guarantees and will agree to pay for all costs, expenses and liabilities of the trusts (other than the trusts' obligations to the holders of the trust securities), the positions of a holder of trust preferred securities and a holder of subordinated debt securities relative to other creditors and to our shareholders in the event of our liquidation or bankruptcy are expected to be substantially the same.

## BOOK-ENTRY SYSTEM

Unless otherwise indicated in the applicable prospectus supplement, each series of debt securities, common stock, preferred stock and trust preferred securities will initially be issued in the form of one or more global securities, in registered form, without coupons (as applicable). The global security will be deposited with, or on behalf of, a depository, and registered in the name of that depository or a nominee of that depository. Unless otherwise indicated in the applicable prospectus supplement, the depository for any global securities will be DTC.

The global securities will be issued as fully registered securities registered in the name of Cede & Co., DTC's partnership nominee. One fully registered global security certificate will be issued for each issue of the global securities, each in the aggregate principal amount of that issue and will be deposited with DTC. So long as the depository, or its nominee, is the registered owner of a global security, that depository or such nominee, as the case may be, will be considered the owner of that global security for all purposes under the Indenture, the subordinated debt indenture or the trust agreement, as applicable, including for any notices and voting. Except as otherwise provided below, the owners of beneficial interests in a global security will not be entitled to have securities registered in their names, will not receive or be entitled to receive physical delivery of any such securities and will not be considered the registered holder thereof under the indenture, subordinated debt indenture or the trust agreement, as applicable. Accordingly, each person holding a beneficial interest in a global security must rely on the procedures of the depository and, if that person is not a direct participant, on procedures of the direct participant through which that person holds its interest, to exercise any of the rights of a registered owner of such security.

A global security may not be transferred as a whole except by DTC to another nominee of DTC or to a successor of DTC or its nominee. Beneficial interests in the global securities shall be transferred and exchanged through the facilities of DTC. Beneficial interests in the global securities may not be exchanged for securities in certificated form except in the circumstances described in the following paragraph.

We will be obligated to exchange global securities in whole for certificated securities only if:

- o the depository notifies us that it is unwilling or unable to continue as depository for the global securities or the depository has ceased to be a clearing agency registered under

applicable law and, in either case, we thereupon fail to appoint a successor depository within 90 days;

- o we, at our option, notify the applicable trustee in writing that we elect to cause the issuance of certificated securities; or
- o there shall have occurred and be continuing an event of default with respect to the applicable securities of any series.

In all cases, certificated securities delivered in exchange for any global security or beneficial interest therein will be registered in the names, and issued in any approved denominations, requested by or on behalf of the depository (in accordance with customary procedures).

The descriptions of operations and procedures of DTC that follow are provided solely as a matter of convenience. These operations and procedures are solely within DTC's control and are subject to changes by DTC from time to time. We take no responsibility for these operations and procedures and urge you to contact DTC or its participants directly to discuss these matters. DTC has advised us as follows:

- o DTC is a limited-purpose trust company organized under the New York Banking Law, a "banking organization" within the meaning of the New York Banking Law, a member of the Federal Reserve System, a "clearing corporation" within the meaning of the New York Uniform Commercial Code, and a "clearing corporation" registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934.
- o DTC holds securities that its direct participants deposit with DTC. DTC also facilitates the settlement among direct participants of securities transactions, such as transfers and pledges, in deposited securities through electronic computerized book-entry changes in direct participants' accounts, thereby eliminating the need for physical movement of securities certificates.
- o Direct participants include securities brokers and dealers, banks, trust companies, clearing corporations and certain other organizations.
- o DTC is owned by a number of its direct participants and by the New York Stock Exchange, Inc., the American Stock Exchange, Inc. and the National Association of Securities Dealers, Inc.
- o Access to the DTC system is also available to others such as securities brokers and dealers, banks and trust companies that clear through or maintain a custodial relationship with a direct participant, either directly or indirectly, which are referred to as indirect participants and, together with the direct participants, the participants.
- o The rules applicable to DTC and its participants are on file with the SEC.

Purchases of global securities under the DTC system must be made by or through direct participants, who will receive a credit for such purchases of global securities on DTC's records. The ownership interest of each actual purchaser of each global security, or beneficial owner, is in turn to be recorded on the direct and indirect participants' records. Beneficial owners will not receive written confirmation from DTC of their purchase, but beneficial owners are expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from

the direct or indirect participant through which the beneficial owner entered into the transaction. Transfers of ownership interests in the global securities are to be accomplished by entries made on the books of participants acting on behalf of beneficial owners. Beneficial owners will not receive certificates representing their ownership interests in the global securities, except in the event that use of the book-entry system for the global securities is discontinued.

To facilitate subsequent transfers, all global securities deposited by participants with DTC are registered in the name of DTC's partnership nominee, Cede & Co. The deposit of global securities with DTC and their registration in the name of Cede & Co. effect no change in beneficial ownership. DTC has no knowledge of the actual beneficial owners of the global securities; DTC's records reflect only the identity of the direct participants to whose accounts such global securities are credited which may or may not be the beneficial owners. The participants will remain responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to direct participants, by direct participants to indirect participants, and by direct participants and indirect participants to beneficial owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time. If the global securities are redeemable, redemption notices shall be sent to Cede & Co. If less than all of the global securities are being redeemed, DTC's practice is to determine by lot the amount of the interest of each direct participant in such issue to be redeemed.

Neither DTC nor Cede & Co. will consent or vote with respect to the global securities. Under its usual procedures, DTC mails an omnibus proxy to us as soon as possible after the record date. The omnibus proxy assigns Cede & Co.'s consenting or voting rights to those direct participants whose accounts the global securities are credited on the record date, identified in a listing attached to the omnibus proxy.

Payments of distributions, dividends, principals, interests, premiums and liquidation amounts, if any, on the global securities will be made to DTC in immediately available funds. DTC's practice is to credit direct participants' accounts on the date on which interest is payable in accordance with the respective holdings shown on DTC's records, unless DTC has reason to believe that it will not receive payment on that date. Payments by participants to beneficial owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of that participant and not of DTC, the trustee for those securities, or us, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of distributions, dividends, principals, interests, premiums and liquidation amounts, if any, on any of the aforementioned securities represented by global securities to DTC is the responsibility of the appropriate trustee and us. Disbursement of those payments to direct participants shall be the responsibility of DTC, and disbursement of those payments to the beneficial owners shall be the responsibility of the participants.

DTC may discontinue providing its services as securities depository with respect to the global securities at any time by giving us reasonable notice. Although DTC has agreed to the foregoing procedures in order to facilitate transfers of beneficial ownership interests in the global securities among participants, it is under no obligation to perform or continue to perform those procedures, and those procedures may be discontinued at any time.

The underwriters, dealers or agents of any of the securities may be direct participants of DTC.

None of the trustees, us or any agent for payment on or registration of transfer or exchange of any global security will have any responsibility or liability for any aspect of the records relating to, or payments made on account of, beneficial interests in that global security or for maintaining, supervising or reviewing any records relating to those beneficial interests.

#### PLAN OF DISTRIBUTION

We may sell the securities offered pursuant to this prospectus through agents, through underwriters or dealers or directly to one or more purchasers.

Underwriters, dealers and agents that participate in the distribution of the securities offered pursuant to this prospectus may be underwriters as defined in the Securities Act of 1933 and any discounts or commissions received by them from us and any profit on the resale of the offered securities by them may be treated as underwriting discounts and commissions under the Securities Act. Any underwriters or agents will be identified and their compensation, including underwriting discount, will be described in the applicable prospectus supplement. The prospectus supplement will also describe other terms of the offering, including any discounts or concessions allowed or reallocated or paid to dealers and any securities exchanges on which the offered securities may be listed.

The distribution of the securities offered under this prospectus may occur from time to time in one or more transactions at a fixed price or prices, which may be changed, at market prices prevailing at the time of sale, at prices related to such prevailing market prices or at negotiated prices.

If the applicable prospectus supplement indicates, we will authorize dealers or our agents to solicit offers by certain institutions to purchase offered securities from us pursuant to contracts that provide for payment and delivery on a future date. We must approve all institutions, but they may include, among others:

- o commercial and savings banks;
- o insurance companies;
- o pension funds;
- o investment companies; and
- o educational and charitable institutions.

The institutional purchaser's obligations under the contract are only subject to the condition that the purchase of the offered securities at the time of delivery is allowed by the laws that govern the purchaser. The dealers and our agents will not be responsible for the validity or performance of the contracts.

We may have agreements with the underwriters, dealers and agents to indemnify them against certain civil liabilities, including liabilities under the Securities Act, or to contribute with respect to payments which the underwriters, dealers or agents may be required to make as a result of those certain civil liabilities.

When we issue the securities offered by this prospectus, except for shares of our common stock, they may be new securities without an established trading market. If we sell a security offered by this prospectus to an underwriter for public offering and sale, the underwriter may make a market for that

security, but the underwriter will not be obligated to do so and could discontinue any market making without notice at any time. Therefore, we cannot give any assurances to you concerning the liquidity of any security offered by this prospectus.

Underwriters and agents and their affiliates may be customers of, engage in transactions with, or perform services for us or our subsidiaries in the ordinary course of their and/or our businesses.

#### LEGAL MATTERS

Ballard Spahr Andrews & Ingersoll, LLP, Philadelphia, Pennsylvania, will render an opinion as to the validity of the securities (other than the trust preferred securities) for us, and Winston & Strawn LLP, Chicago, Illinois, will render an opinion as to the validity of the securities (other than the trust preferred securities) for any underwriters, dealers, purchasers or agents. Richards, Layton & Finger, P.A., special Delaware counsel to us and the trusts, will render an opinion as to the validity of the trust preferred securities. Winston & Strawn LLP provides legal services to Exelon and its subsidiaries from time to time.

#### EXPERTS

The financial statements incorporated in this Prospectus by reference to the Annual Report on Form 10-K for the year ended December 31, 2002 have been so incorporated in reliance on the report of PricewaterhouseCoopers LLP, independent accountants, given on the authority of said firm as experts in auditing and accounting.



PART II

INFORMATION NOT REQUIRED IN PROSPECTUS

ITEM 14. OTHER EXPENSES OF ISSUANCE AND DISTRIBUTION.

The expenses in connection with the issuance and distribution of the securities are set forth in the following table. All amounts except the SEC registration fee are estimated.

SEC registration fee.....	\$	80,900
Listing fees and expenses.....	\$	25,000
Accounting fees and expenses.....	\$	25,000
Printing and engraving expenses.....	\$	85,000
Legal fees and expenses.....	\$	100,000
Trustee fee.....	\$	17,500
Miscellaneous.....	\$	1,000
Total.....	\$	334,400

ITEM 15. INDEMNIFICATION OF DIRECTORS AND OFFICERS.

Exelon Corporation

Chapter 17, Subchapter D of the Pennsylvania Business Corporation Law of 1988, as amended (the PBCL) contains provisions permitting indemnification of officers and directors of a business corporation incorporated in Pennsylvania. Sections 1741 and 1742 of the PBCL provide that a business corporation may indemnify directors and officers against liabilities and expenses he or she may incur in connection with a threatened, pending or completed civil, administrative or investigative proceeding by reason of the fact that he or she is or was a representative of the corporation or was serving at the request of the corporation as a representative of another enterprise, provided that the particular person acted in good faith and in a manner he or she reasonably believed to be in, or not opposed to, the best interests of the corporation, and, with respect to any criminal proceeding, had no reasonable cause to believe his or her conduct was unlawful. In general, the power to indemnify under these sections does not exist in the case of actions against a director or officer by or in the right of the corporation if the person otherwise entitled to indemnification shall have been adjudged to be liable to the corporation, unless it is judicially determined that, despite the adjudication of liability but in view of all the circumstances of the case, the person is fairly and reasonably entitled to indemnification for the expenses the court deems proper. Section 1743 of the PBCL provides that the corporation is required to indemnify directors and officers against expenses they may incur in defending these actions if they are successful on the merits or otherwise in the defense of such actions.

Section 1746 of the PBCL provides that indemnification under the other sections of Subchapter D is not exclusive of other rights that a person seeking indemnification may have under any by-law, agreement, vote of shareholders or disinterested directors or otherwise, whether or not the corporation would have the power to indemnify the person under any other provision of law. However, Section 1746 prohibits indemnification in circumstances where the act or failure to act giving rise to the claim for indemnification is determined by a court to have constituted willful misconduct or recklessness.

Section 1747 of the PBCL permits a corporation to purchase and maintain insurance on behalf of any person who is or was a director or officer of the corporation, or is or was serving at the request of the corporation as a representative of another enterprise, against any liability asserted against such person and

incurred by him or her in that capacity, or arising out of his status as such, whether or not the corporation would have the power to indemnify the person against such liability under Subchapter D.

Exelon's Bylaws provide that it is obligated to indemnify directors and officers and other persons designated by the board of directors against any liability, including any damage, judgment, amount paid in settlement, fine, penalty, cost or expense (including, without limitation, attorneys' fees and disbursements) including in connection with any proceeding. Exelon's Bylaws provide that no indemnification shall be made where the act or failure to act giving rise to the claim for indemnification is determined by arbitration or otherwise to have constituted willful misconduct or recklessness or attributable to receipt from Exelon of a personal benefit to which the recipient is not legally entitled.

As permitted by PBCL Section 1713, Exelon's Bylaws provide that directors generally will not be liable for monetary damages in any action, whether brought by shareholders directly or in the right of Exelon or by third parties, unless they fail in the good faith performance of their duties as fiduciaries (the standard of care established by the PBCL), and such failure constitutes self-dealing, willful misconduct or recklessness.

Exelon has purchased directors' and officers' liability insurance.

Exelon Capital Trust I, Exelon Capital Trust II and Exelon Capital Trust III

Section 3817 of the Delaware Statutory Trust Act, 12 Del. C. Section 3801, et seq., provides that, subject to such standards and restrictions, if any, as set forth in the governing instrument of the trust, a statutory trust shall have the power to indemnify and hold harmless any trustee or beneficial owner or other person from and against any and all claims and demands whatsoever. The trust agreements provide that Exelon Corporation, as the sponsor of the trusts, will indemnify the trustees for, and to hold the trustees harmless against, any and all loss, damage, claims, liability or expense incurred without willful misconduct, gross negligence (ordinary negligence in the case of the Property Trustee) or bad faith on their part, arising out of or in connection with the acceptance or administration of the trust agreements, including the costs and expenses of defending themselves against any claim or liability in connection with the exercise or performance of any of their powers or duties thereunder.

ITEM 16. EXHIBITS.

Exhibit No.	Description
1.1*	Form of Underwriting Agreement relating to common stock, preferred stock, debt securities, stock purchase contracts and stock purchase units.
1.2*	Form of Underwriting Agreement relating to trust preferred securities.
4.1	Articles of Incorporation of Exelon Corporation (incorporated herein by reference to Exhibit 3.1 of Exelon's Registration Statement on Form S-4, Registration Statement No. 333-37082).
4.2	Bylaws of Exelon Corporation (incorporated herein by reference to Exhibit 3.2 of Exelon's Registration Statement on Form S-4, Registration Statement No. 333-37082).

- 4.3\* Indenture dated as of May 1, 2001 between Exelon Corporation and Chase Manhattan Trust Company, N.A., as trustee, relating to debt securities.
- 4.4\* Form of Indenture between Exelon Corporation and Wachovia Bank, National Association, relating to subordinated debt securities.
- 4.5\* Certificate of Trust of Exelon Capital Trust I dated as of August 25, 2003
- 4.6\* Certificate of Trust of Exelon Capital Trust II dated as of August 25, 2003
- 4.7\* Certificate of Trust of Exelon Capital Trust III dated as of August 25, 2003
- 4.8\* Declaration of Trust of Exelon Capital Trust I dated as of August 25, 2003
- 4.9\* Declaration of Trust of Exelon Capital Trust II dated as of August 25, 2003
- 4.10\* Declaration of Trust of Exelon Capital Trust III dated as of August 25, 2003
- 4.11\* Form of Amended and Restated Declaration of Trust (including form of trust preferred security certificate)
- 4.12\* Form of Guarantee Agreement of Exelon Corporation
- 4.13\* Form of Statement with Respect to Shares for Exelon Corporation preferred stock
- 5.1\* Opinion of Ballard Spahr Andrews & Ingersoll, LLP regarding the legality of the shares of common stock, stock purchase contracts and stock purchase units, preferred stock, debt securities, subordinated debt securities and guarantees.
- 5.2\* Opinion of Richards, Layton & Finger, P.A., special Delaware counsel, as to the validity of the trust preferred securities to be issued by Exelon Capital Trust I, Exelon Capital Trust II and Exelon Capital Trust III.
- 8.1\* Opinion of Ballard Spahr Andrews & Ingersoll, LLP as to certain federal income tax matters
- 12.1\* Statement regarding computation of ratio of earnings to fixed charges.
- 23.1\* Consent of PricewaterhouseCoopers LLP.
- 23.2\* Consent of Ballard Spahr Andrews & Ingersoll, LLP (included in Exhibit 5.1).
- 23.3\* Consent of Richards, Layton & Finger, P.A., special Delaware counsel (included in Exhibit 5.3).
- 24.1\* Powers of Attorney (included on signature page).
- 25.1\* Form T-1 Statement of Eligibility and Qualification under the Trust Indenture Act of 1939 of Chase Manhattan Trust Company, N.A., as trustee under the Indenture relating to debt securities.

- 25.2\* Form T-1 Statement of Eligibility and Qualification under the Trust Indenture Act of 1939 of Wachovia Trust Company, National Association, as property trustee under the Amended and Restated Declaration of Trust.
- 25.3\* Form T-1 Statement of Eligibility and Qualification under the Trust Indenture Act of 1939 of Wachovia Bank, National Association, as trustee under the Indenture relating to subordinated debt securities.
- 25.4\* Form T-1 Statement of Eligibility and Qualification under the Trust Indenture Act of 1939 of Wachovia Trust Company, National Association, as guarantee trustee under the Guarantee Agreement.

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\* Filed herewith

ITEM 17. UNDERTAKINGS.

(a) Each of the undersigned Registrants hereby undertakes:

- (1) To file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement:
  - (i) To include any prospectus required by Section 10(a)(3) of the Securities Act of 1933;
  - (ii) To reflect in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement.

Notwithstanding the foregoing, any increase or decrease in volume of shares of common stock offered (if the total dollar value of shares of common stock offered would not exceed that which was registered) and any deviation from the low or high and of the estimated maximum offering range may be reflected in the form of prospectus filed with the Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than a 20 percent change in the maximum aggregate offering price set forth in the "Calculation of Registration Fee" table in the effective registration statement; and

- (iii) To include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement;

provided, however, that paragraphs (a)(1)(i) and (a)(1)(ii) do not apply if the registration statement is on Form S-3, Form S-8 or Form F-3, and the information required to be included in a post-effective amendment by those paragraphs is contained in periodic reports filed with or furnished to the Commission by the Registrant pursuant to Section 13 or 15(d) of

the Securities Exchange Act of 1934 that are incorporated by reference in the registration statement.

- (2) That, for the purpose of determining any liability under the Securities Act of 1933, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.
  - (3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.
- (b) Each of the undersigned Registrants hereby undertakes that, for purposes of determining any liability under the Securities Act of 1933, each filing of the Registrant's annual report pursuant to Section 13(a) or Section 15(d) of the Securities Exchange Act of 1934 that is incorporated by reference in the registration statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.
- (c) Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of the Registrant pursuant to the provisions referred to in Item 15 above, or otherwise, the registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the shares of common stock being registered, the Registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Act and will be governed by the final adjudication of such issue.
- (d) Each of the Registrants hereby undertakes that:
- (1) For purposes of determining any liability under the Securities Act of 1933, the information omitted from the form of prospectus filed as part of this registration statement in reliance upon Rule 430A and contained in a form of prospectus filed by the Registrants pursuant to Rule 424(b)(1) or (4) or 497(h) under the Securities Act of 1933 shall be deemed to be part of this registration statement as of the time it was declared effective.
  - (2) For the purpose of determining any liability under the Securities Act of 1933, each post-effective amendment that contains a form of prospectus shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the Registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-3 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Chicago, State of Illinois, on this 5th day of September, 2003.

EXELON CORPORATION

By: /s/ John W. Rowe  
-----  
John W. Rowe  
Chairman, Chief Executive  
Officer and Director

By: /s/ Robert S. Shapard  
-----  
Robert S. Shapard  
Executive Vice President and Chief  
Financial Officer

By: /s/ Matthew F. Hilzinger  
-----  
Matthew F. Hilzinger  
Vice President and Corporate  
Controller

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints John W. Rowe, his or her true and lawful attorney-in-fact and agent, with full power of substitution and resubstitution, for him or her and in his or her name, place and stead, in any and all capacities, to sign any and all amendments (including post-effective amendments) to this registration statement and any registration statement relating to any offering made pursuant to this registration statement that is to be effective upon filing pursuant to Rule 462(b) under the Securities Act, and to file the same, with all exhibits thereto, and other documents in connection therewith, with the SEC, granting unto said attorney-in-fact and agent, full power and authority to perform each and every act and thing requisite and necessary to be done in connection therewith, as fully to all intents and purposes as he or she might or could do in person, hereby ratifying and confirming all that said attorney-in-fact and agent, or his substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this Registration Statement has been signed by the following persons in the capacities and on the dates indicated.

Signature -----	Title -----	Date ----
/s/ Edward A. Brennan ----- Edward A. Brennan	Director	September 5, 2003
/s/ M. Walter D'Alessio ----- M. Walter D'Alessio	Director	September 5, 2003
/s/ Nicholas DeBenedictis ----- Nicholas DeBenedictis	Director	September 5, 2003
/s/ Bruce DeMars ----- Bruce DeMars	Director	September 5, 2003
/s/ Rosemarie B. Greco ----- Rosemarie B. Greco	Director	September 5, 2003
/s/ Edgar D. Jannotta ----- Edgar D. Jannotta	Director	September 5, 2003
/s/ John M. Palms, Ph.D ----- John M. Palms, Ph.D.	Director	September 5, 2003
/s/ John W. Rogers, Jr. ----- John W. Rogers, Jr.	Director	September 5, 2003
/s/ Ronald Rubin ----- Ronald Rubin	Director	September 5, 2003
/s/ Richard L. Thomas ----- Richard L. Thomas	Director	September 5, 2003

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the Registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-3 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Chicago, State of Illinois, on this 5th day of September, 2003.

EXELON CAPITAL TRUST I

By: /s/ Thomas R. Miller  
-----  
Name: Thomas R. Miller  
Title: Administrative Trustee

EXELON CAPITAL TRUST II

By: /s/ Thomas R. Miller  
-----  
Name: Thomas R. Miller  
Title: Administrative Trustee

EXELON CAPITAL TRUST III

By: /s/ Thomas R. Miller  
-----  
Name: Thomas R. Miller  
Title: Administrative Trustee



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- 12.1\* Statement regarding computation of ratio of earnings to fixed charges.
- 23.1\* Consent of PricewaterhouseCoopers LLP.
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\* Filed herewith



Debt Securities  
 Common Stock  
 Preferred Stock  
 Stock Purchase Contracts  
 Stock Purchase Units

## FORM OF UNDERWRITING AGREEMENT

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1. Introductory. Exelon Corporation, a Pennsylvania corporation ("Company"), proposes to issue and sell from time to time certain of its unsecured senior debt securities ("Debt Securities"), shares of its common stock, no par value per share ("Common Stock"), shares of its preferred stock, no par value per share ("Preferred Stock") and contracts to purchase Common Stock (the "Stock Purchase Contracts"), which may be offered separately or as part of units consisting of one or more such securities ("Units"), registered under the registration statement referred to in Section 2(a) (such Debt Securities, Common Stock, Preferred Stock and Stock Purchase Contracts and Units are collectively referred to as the "Registered Securities"). The Registered Securities constituting Debt Securities or Units containing Debt Securities will be issued under an indenture, dated as of May 1, 2001 (the "Indenture"), between the Company and Chase Manhattan Trust Company, N.A., as Trustee (the "Trustee"), in one or more series, which series may vary as to interest rates, maturities, redemption provisions, selling prices and other terms. The Stock Purchase Contracts and Units containing the foregoing will be issued under one or more purchase contract agreements (the "Purchase Contract Agreements") between the Company and the Purchase Contract Agent identified in the Purchase Contract Agreement. Particular series or offerings of Registered Securities will be sold pursuant to a Terms Agreement referred to in Section 3 for resale in accordance with terms of offering determined at the time of sale.

The Registered Securities involved in any such offering are hereinafter referred to as the "Offered Securities." The firm or firms which agree to purchase the Offered Securities are hereinafter referred to as the "Underwriters" of such securities, and the representative or representatives of the Underwriters, if any, specified in a Terms Agreement referred to in Section 3 are hereinafter referred to as the "Representatives"; provided, however, that if the Terms Agreement does not specify any representative of the Underwriters, the term "Representatives," as used in this Agreement (other than in Sections 2(b), the second sentence of Section 3, and Section 6), shall mean the Underwriters.

2. Representations and Warranties of the Company. The Company, as of the date of each Terms Agreement referred to in Section 3, represents and warrants to, and agrees with, each Underwriter that:

(a) A registration statement (No. 333-\_\_\_\_\_), including a prospectus, relating to the Registered Securities has been filed with the Securities and Exchange Commission ("Commission") and has become effective, which registration statement also constitutes a post-effective amendment to registration statement (No. 333-57640) relating to the Debt Securities, which has been filed with the Commission and has become effective. Such registration statements, as amended at the time of any Terms Agreement referred to in Section 3, are hereinafter referred to collectively as the "Registration Statement," and the prospectuses included in such Registration Statement, as supplemented as contemplated by Section 3 to reflect the terms of the Offered Securities (if they are Debt Securities, Stock Purchase Contracts or Units) and the terms of the offering of the Offered Securities, as first filed with the Commission pursuant to and

in accordance with Rule 424(b) ("Rule 424(b)") under the Securities Act of 1933 ("Act"), including all material incorporated by reference therein, are hereinafter referred to collectively as the "Prospectus." No document has been or will be prepared or distributed in reliance on Rule 434 under the Act.

(b) On the effective date of the Registration Statement, such Registration Statement conformed in all respects to the requirements of (i) the Act, (ii) if applicable, the Trust Indenture Act of 1939 ("Trust Indenture Act"), and (iii) the rules and regulations of the Commission under said acts ("Rules and Regulations") and did not include any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading, and on the date of each Terms Agreement referred to in Section 3, the Registration Statement and the Prospectus will conform in all respects to the requirements of the Act, the Trust Indenture Act, if applicable, and the Rules and Regulations, and neither of such documents will include any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, except that the foregoing does not apply to statements in or omissions from any of such documents based upon written information furnished to the Company by any Underwriter through the Representatives, if any, specifically for use therein or, if applicable, to any statements in or omissions from the Statement of Eligibility and Qualification of the Trustee under the Indenture.

(c) PricewaterhouseCoopers, LLP are independent certified public

accountants as required by the Act and the Rules and Regulations.

(d) The Company's authorized capitalization is as set forth or incorporated by reference in the Prospectus and all of the issued and outstanding shares of capital stock of the Company have been duly authorized and validly issued and are fully paid and non-assessable.

(e) The Company is a validly subsisting corporation in good standing under the laws of the Commonwealth of Pennsylvania. Each of the Company's subsidiaries which constitutes a "gas utility company" or an "electric utility company," as defined in the Public Utility Holding Company Act of 1935, as amended ("PUHCA"), is a validly existing corporation or limited liability company under the laws of its jurisdiction of incorporation or organization (each a "Utility Subsidiary"). The Company and each Utility Subsidiary have all requisite corporate or limited liability company power and authority to own and occupy their respective properties and carry on their respective businesses as presently conducted and as described in the Prospectus and are duly qualified as foreign organizations to do business and in good standing in every jurisdiction in which the nature of the business conducted or property owned by them makes such qualification necessary and in which the failure to so qualify would have a materially adverse effect on the Company; and the capital stock or membership interests of each Utility Subsidiary listed in Schedule I that is owned directly or indirectly by the Company, is owned free from liens, encumbrances and defects.

(f) If the Offered Securities are Debt Securities or Units containing Debt Securities: the Offered Securities and the Indenture have been duly authorized by the Company and will conform to the description thereof in the Prospectus; the Indenture has been qualified under the Trust Indenture Act; and when the Offered Securities are delivered and paid for pursuant to the Terms Agreement on the Closing Date (as defined below), the Indenture will have been duly executed and delivered, such Offered Securities will have been duly executed, authenticated, issued and delivered and the Indenture and such Offered Securities will constitute valid and legally binding obligations of the Company, enforceable in accordance with their terms, subject to

bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and similar laws of general applicability relating to or affecting creditors' rights and to general equity principles.

(g) If the Offered Securities are Common Stock, Preferred Stock or Units containing shares of Common Stock: the Offered Securities and all other outstanding shares of capital stock of the Company have been duly authorized; all outstanding shares of capital stock of the Company are, and, when the Offered Securities have been delivered and paid for in accordance with the Terms Agreement on the Closing Date, such Offered Securities will have been, validly issued, fully paid and nonassessable and will conform to the description thereof contained in the Prospectus; and the stockholders of the Company have no preemptive rights with respect to its Common Stock and Preferred Stock.

(h) If the Offered Securities are convertible into or exercisable for Common Stock: when the Offered Securities are delivered and paid for pursuant to the Terms Agreement on the Closing Date, such Offered Securities will be convertible into or exercisable for Common Stock of the Company in accordance with the Indenture or the Purchase Agreement, as the case may be; the shares of Common Stock initially issuable upon conversion or exercise of such Offered Securities have been duly authorized and reserved for issuance upon such conversion or exercise and, when issued upon such conversion or exercise, will be validly issued, fully paid and nonassessable; the outstanding shares of Common Stock have been duly authorized and validly issued, are fully paid and nonassessable and conform to the description thereof contained in the Prospectus; and the stockholders of the Company have no preemptive rights with respect to the Common Stock.

(i) If the Offered Securities are Stock Purchase Contracts or Units containing Stock Purchase Contracts: the Offered Securities and the Purchase Contract Agreement have been duly authorized by the Company and will conform to the description thereof in the Prospectus; and when the Offered Securities are delivered and paid for pursuant to the Terms Agreement on the Closing Date, the Purchase Contract Agreement will have been duly executed and delivered, such Offered Securities will have been duly executed, authenticated, issued and delivered and the Purchase Contract Agreement and such Offered Securities will constitute valid and legally binding obligations of the Company enforceable in accordance with their terms, subject to bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and similar laws of general applicability relating to or affecting creditors' rights and to general equity principles.

(j) If the Offered Securities are Common Stock, convertible into Common Stock, Stock Purchase Contracts or Units containing shares of Common Stock or Stock Purchase Contracts: (i) except as disclosed in the Prospectus, there are no contracts, agreements or understandings between the Company and any person that would give rise to a valid claim against the Company or any Underwriter for a brokerage commission, finder's fee or other like payment; and (ii) the outstanding shares of Common Stock are listed on the New York Stock Exchange (the "Stock Exchange") and the Offered Securities (if they are Common Stock), the Common Stock into which the Offered Securities are convertible (if they are convertible), the Common Stock for which the Offered Securities are exercisable (if they are Stock Purchase Contracts) or the Common Stock underlying the Units has been approved for listing on the Stock Exchange, subject to notice of issuance.

(k) If the Offered Securities are Debt Securities, they have been approved for listing on the stock exchange indicated in the Terms Agreement, subject to notice of issuance.

(l) Except for (a) the orders of the Commission making the Registration Statement effective, (b) the Order of the Commission under PUHCA authorizing the Company to issue and sell the Offered Securities as contemplated by the Terms Agreement (including the provisions of this Agreement), (c) qualification under the Trust Indenture Act if the Offered Securities are Debt Securities or Units containing Debt Securities, (d) permits and similar authorizations required under the securities or "Blue Sky" laws of any jurisdiction, and (e) such undertakings, if any, required pursuant to the Undertakings set forth in Part II of the Registration Statement, no consent, approval, authorization or other order of any governmental authority is legally required for the valid issuance and sale of the Offered Securities.

(m) The execution, delivery and performance of the Indenture (if the Offered Securities are Debt Securities or Units containing Debt Securities), the Purchase Contract Agreement (if the Offered Securities are Stock Purchase Contracts or Units containing Stock Purchase Contracts), the Terms Agreement (including the provisions of this Agreement) and any Delayed Delivery Contracts and the issuance and sale of the Offered Securities and, if the Offered Securities are Debt Securities, Units containing Debt Securities, Stock Purchase Contracts or Units containing Stock Purchase Contracts, compliance with the terms and provisions thereof, will not result in a breach of any of the terms or provisions of, or constitute a default under, the Company's Amended and Restated Articles of Incorporation or Bylaws or those of any of the subsidiaries listed in Schedule I or any indenture, mortgage, deed of trust or other agreement or instrument to which the Company or any such subsidiary is now a party, or any effective order of any court or administrative agency entered in any proceedings to which the Company was or is now a party or by which it is bound.

(n) The Terms Agreement (including the provisions of this Agreement) and, if the Offered Securities are Debt Securities, any Delayed Delivery Contracts (as defined below) have been duly authorized, executed and delivered by the Company.

(o) The Company is not and, after giving effect to the offering and sale of the Offered Securities and the application of the proceeds thereof as described in the Prospectus, will not be an "investment company" as defined in the Investment Company Act of 1940.

3. Purchase and Offering of Offered Securities. The obligation of the Underwriters to purchase the Offered Securities will be evidenced by an agreement or exchange of other written communications ("Terms Agreement") at the time the Company determines to sell the Offered Securities. The Terms Agreement will incorporate by reference the provisions of this Agreement, except as otherwise provided therein, and will specify the firm or firms which will be Underwriters, the names of any Representatives, the principal amount or number of shares to be purchased by each Underwriter, the purchase price to be paid by the Underwriters and (if the Offered Securities are Debt Securities, Stock Purchase Contracts or Units containing Debt Securities or Stock Purchase Contracts) the terms of the Offered Securities not already specified (in the Indenture, in the case of Offered Securities that are Debt Securities or Units containing Debt Securities, or in the Purchase Contract Agreement, in the case of Offered Securities that are Stock Purchase Contracts or Units containing Stock Purchase Contracts), including, but not limited to, interest rate (if Debt Securities or Units containing Debt Securities), maturity (if Debt Securities or Units containing Debt Securities), any redemption provisions and any sinking fund requirements and whether any of the Offered Securities may be sold to institutional investors pursuant to Delayed Delivery Contracts (as defined below). The Terms Agreement will also specify the time and date of delivery and payment (such time and date, or such other time not later than seven full business days thereafter as the Underwriter first named in the Terms Agreement (the "Lead Underwriter") and the Company agree as the time for payment and delivery, being herein and in the Terms Agreement referred to as the "Closing Date"), the place of delivery and payment and any details of the terms of

offering that should be reflected in the prospectus supplement relating to the offering of the Offered Securities. For purposes of Rule 15c6-1 under the Securities Exchange Act of 1934, the Closing Date (if later than the otherwise applicable settlement date) shall be the date for payment of funds and delivery of securities for all the Offered Securities sold pursuant to the offering, other than Contract Securities (as defined below) for which payment of funds and delivery of securities shall be as hereinafter provided. The obligations of the Underwriters to purchase the Offered Securities will be several and not joint. It is understood that the Underwriters propose to offer the Offered Securities for sale as set forth in the Prospectus.

If the Terms Agreement provides for sales of Offered Securities pursuant to delayed delivery contracts, the Company authorizes the Underwriters to solicit offers to purchase Offered Securities pursuant to delayed delivery contracts substantially in the form of Annex I attached hereto ("Delayed Delivery Contracts") with such changes therein as the Company may authorize or approve. Delayed Delivery Contracts are to be with institutional investors, including commercial and savings banks, insurance companies, pension funds, investment companies and educational and charitable institutions. On the Closing Date the Company will pay, as compensation, to the Representatives for the accounts of the Underwriters, the fee set forth in such Terms Agreement in respect of the principal amount or number of shares of Offered Securities to be sold pursuant to Delayed Delivery Contracts ("Contract Securities"). The Underwriters will not have any responsibility in respect of the validity or the performance of Delayed Delivery Contracts. If the Company executes and delivers Delayed Delivery Contracts, the Contract Securities will be deducted from the Offered Securities to be purchased by the several Underwriters and the aggregate principal amount or number of shares of Offered Securities to be purchased by each Underwriter will be reduced pro rata in proportion to the principal amount or number of shares of Offered Securities set forth opposite each Underwriter's name in such Terms Agreement, except to the extent that the Lead Underwriter determines that such reduction shall be otherwise than pro rata and so advise the Company. The Company will advise the Lead Underwriter not later than the business day prior to the Closing Date of the principal amount or number of shares of Contract Securities.

If the Offered Securities are Common Stock or Preferred Stock, the certificates for the Offered Securities delivered to the Underwriters on the Closing Date will be in definitive form, and if the Offered Securities are Debt Securities, Stock Purchase Contracts or Units, the Offered Securities delivered to the Underwriters on the Closing Date will be in definitive fully registered form, in each case in such denominations and registered in such names as the Lead Underwriter requests.

If the Offered Securities are Debt Securities, Stock Purchase Contracts or Units and the Terms Agreement specifies "Book-Entry Only" settlement or otherwise states that the provisions of this paragraph shall apply, the Company will deliver against payment of the purchase price the Offered Securities in the form of one or more permanent global securities in definitive form (the "Global Securities") deposited with the Trustee as custodian for The Depository Trust Company ("DTC") and registered in the name of Cede & Co., as nominee for DTC. Interests in any permanent global securities will be held only in book-entry form through DTC, except in the limited circumstances described in the Prospectus. Payment for the Offered Securities shall be made by the Underwriters in Federal (same day) funds by official check or checks or wire transfer to an account previously designated by the Company at a bank acceptable to the Lead Underwriter, in each case drawn to the order of at the place of payment specified in the Terms Agreement on the Closing Date, against delivery to the Trustee as custodian for DTC of the Global Securities representing all of the Offered Securities.

4. Certain Agreements of the Company. The Company agrees with the several Underwriters that it will furnish to counsel for the Underwriters, one signed copy of the Registration Statement, including all exhibits, in the form it became effective and of all amendments thereto and that, in connection with each offering of Offered Securities:



(a) The Company will file the Prospectus with the Commission pursuant to and in accordance with Rule 424(b)(2) (or, if applicable and if consented to by the Lead Underwriter, subparagraph (5) thereof) not later than the second business day following the execution and delivery of the Terms Agreement.

(b) The Company will advise the Lead Underwriter promptly of any proposal to amend or supplement the Registration Statement or the Prospectus and will afford the Lead Underwriter a reasonable opportunity to comment on any such proposed amendment or supplement; and the Company will also advise the Lead Underwriter promptly of the filing of any such amendment or supplement and of the institution by the Commission of any stop order proceedings in respect of the Registration Statement or of any part thereof and will use its best efforts to prevent the issuance of any such stop order and to obtain as soon as possible its lifting, if issued.

(c) If, at any time when a prospectus relating to the Offered Securities is required to be delivered under the Act in connection with sales by any Underwriter or dealer, any event occurs as a result of which the Prospectus as then amended or supplemented would include an untrue statement of a material fact or omit to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, or if it is necessary at any time to amend the Prospectus to comply with the Act, the Company promptly will notify the Lead Underwriter of such event and will promptly prepare and file with the Commission, at its own expense, an amendment or supplement which will correct such statement or omission or an amendment which will effect such compliance. Neither the Lead Underwriter's consent to, nor the Underwriters' delivery of, any such amendment or supplement shall constitute a waiver of any of the conditions set forth in Section 5 hereof.

(d) As soon as practicable, but not later than 16 months after the date of each Terms Agreement, the Company will make generally available to its securityholders an earnings statement covering a period of at least 12 months beginning after the later of (i) the effective date of the Registration Statement, (ii) the effective date of the most recent post-effective amendment to the Registration Statement to become effective prior to the date of such Terms Agreement and (iii) the date of the Company's most recent Annual Report on Form 10-K filed with the Commission prior to the date of such Terms Agreement, which will satisfy the provisions of Section 11(a) of the Act.

(e) The Company will furnish to the Representatives copies of the Registration Statement, including all exhibits, any related preliminary prospectus, any related preliminary prospectus supplement, the Prospectus and all amendments and supplements to such documents, in each case as soon as available and in such quantities as the Lead Underwriter reasonably requests. The Company will pay the expenses of printing and distributing to the Underwriters all such documents.

(f) The Company will arrange for the qualification of the Offered Securities for sale and (if the Offered Securities are Debt Securities, Stock Purchase Contracts or Units) the determination of their eligibility for investment under the laws of such jurisdictions as the Lead Underwriter designates and will continue such qualifications in effect so long as required for the distribution; provided, however, that the Company shall not be required to qualify as a foreign corporation in any jurisdiction where it is not now so qualified or to take any action which would subject it to general service of process in any jurisdiction where it is not now so subject.

(g) The Company will pay all expenses incident to the performance of its obligations under the Terms Agreement (including the provisions of this Agreement), including (i) any filing fees or other expenses (including fees and disbursements of counsel) in connection with qualification of the Registered Securities for sale, listing on the Stock Exchange (if the Offered Securities are Common Stock, securities convertible into or exercisable for Common Stock or Preferred Stock) and (if the Offered Securities are Debt Securities, Stock Purchase Contracts or Units) any determination of their eligibility for investment under the laws of such jurisdictions as the Lead Underwriter may designate and the printing of memoranda relating thereto, (ii) any fees charged by investment rating agencies for the rating of the Offered Securities (if they are Debt Securities), (iii) any applicable filing fee incident to, the review by the National Association of Securities Dealers, Inc. of the Registered Securities, (iv) any travel expenses of the Company's officers and employees, (v) any other expenses of the Company in connection with attending or hosting meetings with prospective purchasers of Registered Securities and (vi) expenses incurred in distributing the Prospectus, any preliminary prospectuses, any preliminary prospectus supplements or any other amendments or supplements to the Prospectus to the Underwriters.

(h) If the Offered Securities are Debt Securities or Units containing Debt Securities, the Company will not offer, sell, contract to sell, pledge or otherwise dispose of, directly or indirectly, or file with the Commission a registration statement under the Act relating to United States dollar-denominated debt securities issued or guaranteed by the Company and having a maturity of more than one year from the date of issue (if the Offered Securities are Debt Securities or Units containing Debt Securities), or publicly disclose the intention to make any such offer, sale, pledge, disposition or filing, without the prior written consent of the Lead Underwriter for a period beginning at the time of execution of the Terms Agreement and ending the number of days after the Closing Date specified under "Blackout" in the Terms Agreement.

(i) If the Offered Securities are Common Stock, Preferred Stock, Stock Purchase Contracts, convertible into Common Stock or Units containing Common Stock or Stock Purchase Contracts, the Company will not offer, sell, contract to sell, pledge or otherwise dispose of, directly or indirectly, or file with the Commission a registration statement under the Act relating to, any additional shares of its Common Stock, Preferred Stock, Stock Purchase Contracts, Units or securities convertible into or exchangeable or exercisable for any shares of its Common Stock, or publicly disclose the intention to make any such offer, sale, pledge, disposition or filing, without the prior written consent of the Lead Underwriter for a period beginning at the time of execution of the Terms Agreement and ending the number of days after the Closing Date specified under "Blackout" in the Terms Agreement, except issuances of Common Stock pursuant to the conversion or exchange of convertible or exchangeable securities or the exercise of warrants or options, in each case outstanding on the date of the Terms Agreement, grants of employee stock options pursuant to the terms of a plan in effect on the date of the Terms Agreement, issuances of Common Stock pursuant to the exercise of such options or issuances of Common Stock pursuant to the Company's dividend reinvestment plan.

(j) The Company will use its best efforts to effect the listing of (A) Offered Securities that are shares of Common Stock, (B) shares of Common Stock issuable upon the conversion or exercise of the Offered Securities, and (C) shares of Preferred Stock, as the case may be, on the Stock Exchange, and to cause such Offered Securities to be registered under the Securities Exchange Act of 1934, as amended ("1934 Act").

(k) In the case of the issuance of Offered Securities convertible into or exercisable for Common Stock, the Company agrees to reserve and keep available at all times, free of preemptive rights, shares of Common Stock for the purpose of enabling the Company to satisfy any

obligations to issue shares of Common Stock upon conversion or exercise of the Offered Securities, as the case may be.

5. Conditions of the Obligations of the Underwriters. The obligations of the several Underwriters to purchase and pay for the Offered Securities will be subject to the accuracy of the representations and warranties on the part of the Company herein, to the accuracy of the statements of Company officers made pursuant to the provisions hereof, to the performance by the Company of its obligations hereunder and to the following additional conditions precedent:

(a) On the date of the Terms Agreement and the Closing Date, the Representatives shall have requested and caused PricewaterhouseCoopers, LLP to furnish to the Representatives letters, dated respectively the date of the Terms Agreement and the Closing Date, in form and substance satisfactory to the Representatives.

(b) The Prospectus shall have been filed with the Commission in accordance with the Rules and Regulations and Section 4(a) of this Agreement. No stop order suspending the effectiveness of the Registration Statement or of any part thereof shall have been issued and no proceedings for that purpose shall be pending before, or threatened by, the Commission.

(c) Subsequent to the effective date of the Terms Agreement and prior to the Closing Date, there shall have been no material adverse change in the financial condition, business or results of operations of the Company and its subsidiaries, considered as a whole, except as set forth in the Registration Statement and the Prospectus, including the documents incorporated by reference therein.

(d) The Representatives shall have received an opinion, dated the Closing Date, of Ballard Spahr Andrews & Ingersoll, LLP, counsel for the Company, to the effect that:

(i) The Company is a corporation duly incorporated and validly subsisting under the laws of the Commonwealth of Pennsylvania and has all requisite corporate power and authority to own its properties and to conduct its business as described in the Prospectus;

(ii) The Company's authorized capitalization is as set forth or incorporated by reference in the Prospectus and all of the issued and outstanding shares of capital stock of the Company have been duly authorized and validly issued;

(iii) If the Offered Securities are Debt Securities or Units containing Debt Securities: the Indenture has been duly authorized, executed and delivered by the Company and has been qualified under the Trust Indenture Act; the Offered Securities have been duly authorized by the Company; the Offered Securities are in a form contemplated by the Indenture; the Offered Securities have been duly executed, issued and delivered by the Company; the Indenture and the Offered Securities constitute valid and legally binding obligations of the Company, enforceable in accordance with their respective terms, subject to bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and similar laws of general applicability relating to or affecting creditors' rights and to general principles of equity, including without limitation, concepts of materiality, reasonableness, good faith and fair dealing; and the Indenture and the Offered Securities conform to the descriptions thereof contained in the Prospectus;

(iv) If the Offered Securities are Common Stock, Preferred Stock or Units containing Common Stock: the Offered Securities and all outstanding shares of the Common Stock and Preferred Stock of the Company have been duly authorized and validly issued, are fully paid and nonassessable and conform to the description thereof contained in the Prospectus; and the stockholders of the Company have no preemptive rights with respect to the Offered Securities;

(v) If the Offered Securities are convertible into or exercisable for Common Stock: the Offered Securities other than any Contract Securities are, and any Contract Securities, when (if the Offered Securities are Debt Securities) executed, authenticated, issued and delivered in the manner provided in the Indenture and sold pursuant to Delayed Delivery Contracts will be convertible into or exercisable for Common Stock of the Company in accordance with the Indenture or the Purchase Contract Agreement, as the case may be; the shares of Common Stock initially issuable upon conversion or exercise of the Offered Securities have been duly authorized and reserved for issuance upon such conversion or exercise and, when issued upon such conversion or exercise, will be validly issued, fully paid and nonassessable; the outstanding shares of Common Stock have been duly authorized and validly issued, are fully paid and nonassessable and conform to the description thereof contained in the Prospectus; and the stockholders of the Company have no preemptive rights with respect to the Common Stock;

(vi) If the Offered Securities are Common Stock, Preferred Stock, convertible into Common Stock, Stock Purchase Contracts or Units containing Common Stock or Stock Purchase Contracts: there are no contracts, agreements or understandings known to such counsel between the Company and any person granting such person the right to require the Company to file a registration statement under the Act with respect to any securities of the Company owned or to be owned by such person or to require the Company to include such securities in the securities registered pursuant to the Registration Statement or in any securities being registered pursuant to any other registration statement filed by the Company under the Act;

(vii) If the Offered Securities are Stock Purchase Contracts or Units containing Stock Purchase Contracts: the Offered Securities and the Purchase Contract Agreement have been duly authorized by the Company and will conform to the description thereof in the Prospectus; and when the Offered Securities are delivered and paid for pursuant to the Terms Agreement on the Closing Date, the Purchase Contract Agreement will have been duly executed and delivered, such Offered Securities will have been duly executed, authenticated, issued and delivered and the Purchase Contract Agreement and such Offered Securities will constitute valid and legally binding obligations of the Company enforceable in accordance with their terms, subject to bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and similar laws of general applicability relating to or affecting creditors' rights and to general equity principles;

(viii) The Company is not and, after giving effect to the offering and sale of the Offered Securities and the application of the proceeds thereof as described in the Prospectus, will not be an "investment company" as defined in the Investment Company Act of 1940;

(ix) No consent, approval, authorization or order of, or filing with, any state commission or regulatory authority or of any federal commission or regulatory authority, or of any other governmental

agency or body or any court is required for the consummation of the transactions contemplated by the Terms Agreement (including the provisions of this Agreement) in connection with the issuance or sale of the Offered Securities by the Company, except (A) such as have been obtained and made under the Act, (B) the Order of the Commission under PUHCA authorizing the Company to issue and sell the Offered Securities, (C) if the Offered Securities are Debt Securities or Units containing Debt Securities, the Trust Indenture Act, (D) such as may be required under state securities laws, and (E) to the extent, if any, required pursuant to the Undertakings set forth in Part II of the Registration Statement;

(x) The execution, delivery and performance by the Company of the Indenture (if the Offered Securities are Debt Securities or Units containing Debt Securities), the Terms Agreement (including the provisions of this Agreement) and, if the Offered Securities are Debt Securities, any Delayed Delivery Contracts and the issuance and sale of the Offered Securities and, if the Offered Securities are Debt Securities or Units containing Debt Securities, compliance with the terms and provisions thereof will not conflict with or result in a breach or violation of any of the terms and provisions of, or constitute a default under, any statute, rule, regulation or order of any governmental agency or body or any court having jurisdiction over the Company or any of its properties, or, to our knowledge, any agreement or instrument to which the Company is a party or by which the Company is bound or to which any of the properties of the Company is subject, or the Articles of Incorporation or By-Laws of the Company, and the Company has full power and authority to authorize, issue and sell the Offered Securities as contemplated by the Terms Agreement (including the provisions of this Agreement);

(xi) The Registration Statement has become effective under the Act, the Prospectus was filed with the Commission in the manner specified in and within the time period required by Rule 424(b) specified in such opinion on the date specified therein, and, to the knowledge of such counsel, no stop order suspending the effectiveness of the Registration Statement or any part thereof has been issued and no proceedings for that purpose have been instituted or are pending or contemplated under the Act, and the Registration Statement, as of its effective date, the Registration Statement and the Prospectus, as of the date of the Terms Agreement, and any amendment or supplement thereto, as of its date, complied as to form in all material respects with the requirements of the Act, the Trust Indenture Act and the Rules and Regulations; such counsel have no reason to believe that such Registration Statement, as of its effective date, contained any untrue statement of a material fact or omitted to state any material fact required to be stated therein or necessary to make the statements therein not misleading or that such Registration Statement, as of the date of the Terms Agreement or as of the Closing Date, or any amendment thereto, as of its date or as of the Closing Date, or the Prospectus, as of the date of the Terms Agreement or as of such Closing Date, or any amendment or supplement thereto, as of its date or as of the Closing Date, contained any untrue statement of a material fact or omitted to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading; and such counsel do not know of any contracts or documents of a character required to be described in the Registration Statement or Prospectus or to be filed as exhibits to the Registration Statement which are not described and filed as required; it being understood that such counsel need express no opinion as to the financial statements or other financial data contained in the Registration Statement or the Prospectus;

(xii) The Terms Agreement (including the provisions of this Agreement) and, if the Offered Securities are Debt Securities, any Delayed Delivery Contracts have been duly authorized, executed and delivered by the Company; and

(xiii) To the knowledge of such counsel, there are no material pending legal proceedings to which the Company or any subsidiary is a party and which are required to be set forth in the Prospectus other than those referred to in the Prospectus.

(e) The Representatives shall have received from Winston & Strawn, counsel for the Underwriters, such opinion or opinions, dated the Closing Date, with respect to the incorporation of the Company, the validity of the Offered Securities, the Registration Statement, the Prospectus and other related matters as the Representatives may require, and the Company shall have furnished to such counsel such documents as they request for the purpose of enabling them to pass upon such matters. In rendering such opinion, Winston & Strawn may rely as to the incorporation of the Company and all other matters governed by Pennsylvania law upon the opinion of Ballard Spahr Andrews & Ingersoll, LLP referred to above.

(f) The Representatives shall have received a certificate, dated the Closing Date, of the President or any Vice President and a principal financial or accounting officer of the Company in which such officers, to the best of their knowledge after reasonable investigation, shall state that (i) the representations and warranties of the Company in this Agreement are true and correct, (ii) the Company has complied with all agreements and satisfied all conditions on its part to be performed or satisfied hereunder at or prior to the Closing Date, (iii) no stop order suspending the effectiveness of the Registration Statement or of any part thereof has been issued and no proceedings for that purpose have been instituted or are contemplated by the Commission and (iv) subsequent to the date of the most recent financial statements in the Prospectus, there has been no material adverse change in the financial condition, business or results of operations of the Company and its subsidiaries, considered as a whole, except as set forth in the Registration Statement and the Prospectus, including the documents incorporated by reference therein, as of the effective date of this Agreement.

(g) At the Closing, there shall be in full force and effect an Order issued by the Commission under PUHCA permitting the issuance and sale of the Offered Securities and the transactions relating thereto substantially in accordance with the terms and conditions set forth in the Terms Agreement and containing no provision unacceptable to the Representative.

The Company will furnish the Representatives with such conformed copies of such opinions, certificates, letters and documents as the Representatives reasonably request. The Lead Underwriter may in its sole discretion waive on behalf of the Underwriters compliance with any conditions to the obligations of the Underwriters under this Agreement and the Terms Agreement.

6. Indemnification and Contribution. (a) The Company will indemnify and hold harmless each Underwriter, its partners, directors and officers and each person, if any, who controls such Underwriter within the meaning of Section 15 of the Act, against any losses, claims, damages or liabilities, joint or several, to which such Underwriter may become subject, under the Act or otherwise, insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon: (i) any untrue statement or alleged untrue statement of any material fact, or an omission or alleged omission to state a material fact required to be stated or necessary to make the statements therein not misleading, contained in the Registration Statement or the Prospectus at the time that the Registration Statement became effective; or (ii) after the time that the Registration Statement became effective, any untrue statement or alleged untrue statement of any material fact, or an omission or alleged omission to state a material fact required to be stated or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, contained in any post-effective amendment to the Registration Statement or the Prospectus as amended or supplemented after the time that the Registration Statement became effective or any related preliminary prospectus or preliminary prospectus supplement. The Company will reimburse each Underwriter for any legal or other expenses reasonably incurred by such Underwriter in connection with investigating or defending any such loss, claim, damage, liability or action as such expenses are incurred; provided, however, that the Company will not be liable in any such case to the extent that any such loss, claim, damage or liability arises out of or is based upon (i) an untrue statement or alleged untrue statement in or omission or alleged omission from

any of such documents in reliance upon and in conformity with written information furnished to the Company by any Underwriter through the Representatives, if any, specifically for use therein, it being understood and agreed that the only such information furnished by any Underwriter consists of the information described in such Terms Agreement, or (ii) the failure of any Underwriter to send to any purchaser to whom it had sent a preliminary prospectus an amended prospectus together with such summary of material changes, if any, made therein since the date of such preliminary prospectus as shall have been furnished by the Company for such purpose, or (iii) any use of the Prospectus by any Underwriter after the expiration of that period, if any, during which the Underwriter is required by law to deliver a prospectus, unless the Company shall have been advised in writing of such intended use, or (iv) if applicable, any statements or alleged statements in or omissions or alleged omissions from the Statement of Eligibility and Qualification on Form T-1 of the Trustee under the Indenture. The term "preliminary prospectus" as used in this paragraph includes the prospectus first complying with Section 10(a) of the Act.

(b) Each Underwriter will severally and not jointly indemnify and hold harmless the Company, its directors and officers and each person, if any, who controls the Company within the meaning of Section 15 of the Act, against any losses, claims, damages or liabilities to which the Company may become subject, under the Act or otherwise, insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon any untrue statement or alleged untrue statement of any material fact contained in the Registration Statement, the Prospectus, or any amendment or supplement thereto, or any related preliminary prospectus or preliminary prospectus supplement, or arise out of or are based upon the omission or the alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, in each case to the extent, but only to the extent, that such untrue statement or alleged untrue statement or omission or alleged omission was made in reliance upon and in conformity with written information furnished to the Company by such Underwriter through the Representatives, if any, specifically for use therein, and will reimburse any legal or other expenses reasonably incurred by the Company in connection with investigating or defending any such loss, claim, damage, liability or action as such expenses are incurred, it being understood and agreed that the only such information furnished by any Underwriter consists of the information described as such in the Terms Agreement.

(c) Promptly after receipt by an indemnified party under this Section of notice of the commencement of any action, such indemnified party will, if a claim in respect thereof is to be made against the indemnifying party under subsection (a) or (b) above, notify the indemnifying party of the commencement thereof; but the failure to notify the indemnifying party shall not relieve it from any liability that it may have under subsection (a) or (b) above except to the extent that it has been materially prejudiced (through the forfeiture of substantive rights or defenses) by such failure; and provided further that the failure to notify the indemnifying party shall not relieve it from any liability that it may have to an indemnified party otherwise than under subsection (a) or (b) above. In case any such action is brought against any indemnified party and it notifies the indemnifying party of the commencement thereof, the indemnifying party will be entitled to participate therein and, to the extent that it may wish, jointly with any other indemnifying party similarly notified, to assume the defense thereof, with counsel satisfactory to such indemnified party (who shall not, except with the consent of the indemnified party,

be counsel to the indemnifying party), and after notice from the indemnifying party to such indemnified party of its election so to assume the defense thereof, the indemnifying party will not be liable to such indemnified party under this Section for any legal or other expenses subsequently incurred by such indemnified party in connection with the defense thereof other than reasonable costs of investigation. No indemnifying party shall, without the prior written consent of the indemnified party, effect any settlement of any pending or threatened action in respect of which any indemnified party is or could have been a party and indemnity could have been sought hereunder by such indemnified party unless such settlement (i) includes an unconditional release of such indemnified party from all liability on any claims that are the subject matter of such action and (ii) does not include a statement as to, or an admission of, fault, culpability or a failure to act by or behalf of an indemnified party.

(d) If the indemnification provided for in this Section is held to be unenforceable by the indemnified parties although applicable in accordance with its terms (including the requirements of Section 6(c)), then each indemnifying party, in lieu of indemnifying such indemnified party, shall contribute to the amount paid or payable by such indemnified party as a result of the losses, claims, damages or liabilities referred to in subsection (a) or (b) above (i) in such proportion as is equitable and appropriate to reflect both the relative benefits received by the Company on the one hand and the Underwriters on the other from the offering of the Offered Securities and the relative fault of the Company on the one hand and the Underwriters on the other in connection with the statements or omissions which resulted in such losses, claims, damages or liabilities as well as any other relevant equitable considerations. The relative benefits received by the Company on the one hand and the Underwriters on the other shall be deemed to be in the same proportion as the total net proceeds from the offering (before deducting expenses) received by the Company bear to the total underwriting discounts and commissions received by the Underwriters. The relative fault shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by the Company or the Underwriters and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such untrue statement or omission. The amount paid by an indemnified party as a result of the losses, claims, damages or liabilities referred to in the first sentence of this subsection (d) shall be deemed to include any legal or other expenses reasonably incurred by such indemnified party in connection with investigating or defending any action or claim which is the subject of this subsection (d). Notwithstanding the provisions of this subsection (d), no Underwriter shall be required to contribute any amount in excess of the amount by which the total price at which the Offered Securities underwritten by it and distributed to the public were offered to the public exceeds the amount of any damages which such Underwriter has otherwise been required to pay by reason of such untrue or alleged untrue statement or omission or alleged omission. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation. The Underwriters' obligations in this subsection (d) to contribute are several in proportion to their respective underwriting obligations and not joint.

(e) The obligations of the Company under this Section shall be in addition to any liability which the Company may otherwise have and shall extend, upon the same terms and conditions, to each person, if any, who controls any Underwriter within the meaning of the Act; and the obligations of the Underwriters under this Section shall be in addition to any liability which the respective Underwriters may otherwise have and shall extend, upon the same terms and conditions, to each director of the Company, to each officer of the Company who has



signed the Registration Statement and to each person, if any, who controls the Company within the meaning of the Act.

7. Default of Underwriters. If any Underwriter or Underwriters default in their obligations to purchase Offered Securities under the Terms Agreement and the aggregate principal amount (if Debt Securities) or number of shares (if Common Stock or Preferred Stock), number of units (if Units) or number of contracts (if Stock Purchase Contracts) of Offered Securities that such defaulting Underwriter or Underwriters agreed but failed to purchase does not exceed 10% of the total principal amount (if Debt Securities) or number of shares (if Common Stock or Preferred Stock), number of units (if Units) or number of contracts (if Stock Purchase Contracts) of Offered Securities, the Lead Underwriter may make arrangements satisfactory to the Company for the purchase of such Offered Securities by other persons, including any of the Underwriters, but if no such arrangements are made by the Closing Date, the non-defaulting Underwriters shall be obligated severally, in proportion to their respective commitments under the Terms Agreement (including the provisions of this Agreement), to purchase the Offered Securities that such defaulting Underwriters agreed but failed to purchase. If any Underwriter or Underwriters so default and the aggregate principal amount (if Debt Securities) or number of shares (if Common Stock or Preferred Stock), number of units (if Units) or number of contracts (if Stock Purchase Contracts) of Offered Securities with respect to which such default or defaults occur exceeds 10% of the total principal amount (if Debt Securities) or number of shares (if Common Stock or Preferred Stock), number of units (if Units) or number of contracts (if Stock Purchase Contracts) of Offered Securities and arrangements satisfactory to the Lead Underwriter and the Company for the purchase of such Offered Securities by other persons are not made within 36 hours after such default, the Terms Agreement will terminate without liability on the part of any non-defaulting Underwriter or the Company, except as provided in Section 8. As used in this Agreement, the term "Underwriter" includes any person substituted for an Underwriter under this Section. Nothing herein will relieve a defaulting Underwriter from liability for its default. If the Offered Securities are Debt Securities the respective commitments of the several Underwriters for the purposes of this Section shall be determined without regard to reduction in the respective Underwriters' obligations to purchase the principal amounts of the Offered Securities set forth opposite their names in the Terms Agreement as a result of Delayed Delivery Contracts entered into by the Company.

8. Survival of Certain Representations and Obligations. The respective indemnities, agreements, representations, warranties and other statements of the Company or its officers and of the several Underwriters set forth in or made pursuant to the Terms Agreement (including the provisions of this Agreement) will remain in full force and effect, regardless of any investigation, or statement as to the results thereof, made by or on behalf of any Underwriter, the Company or any of their respective representatives, officers or directors or any controlling person, and will survive delivery of and payment for the Offered Securities. If the Terms Agreement is terminated pursuant to Section 7 or if for any reason the purchase of the Offered Securities by the Underwriters is not consummated, the Company shall remain responsible for the expenses to be paid or reimbursed by it pursuant to Section 4 and the respective obligations of the Company and the Underwriters pursuant to Section 6 shall remain in effect. If the purchase of the Offered Securities by the Underwriters is not consummated for any reason other than solely because of the termination of the Terms Agreement pursuant to Section 7, the Company will reimburse the Underwriters for all out-of-pocket expenses (including fees and disbursements of counsel) reasonably incurred by them in connection with the offering of the Offered Securities.

9. Notices. All communications hereunder will be in writing and, if sent to the Underwriters, will be mailed, delivered or telegraphed and confirmed to them at their address furnished to the Company in writing for the purpose of communications hereunder or, if sent to the Company, will be mailed, delivered or telegraphed and confirmed to it at \_\_\_\_\_, Attention: \_\_\_\_\_.

10. Successors. The Terms Agreement (including the provisions of this Agreement) will inure to the benefit of and be binding upon the Company and such Underwriters as are identified in the Terms Agreement and their respective successors and the officers and directors and controlling persons referred to in Section 6, and no other person will have any right or obligation hereunder.

11. Representation of Underwriters. Any Representatives will act for the several Underwriters in connection with the financing described in the Terms Agreement, and any action under such Terms Agreement (including the provisions of this Agreement) taken by the Representatives jointly or by the Lead Underwriter will be binding upon all the Underwriters.

12. Counterparts. The Terms Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all such counterparts shall together constitute one and the same Agreement.

13. Applicable Law. This Agreement and the Terms Agreement shall be governed by, and construed in accordance with, the laws of the State of New York, without regard to principles of conflicts of laws.

The Company hereby submits to the non-exclusive jurisdiction of the Federal and state courts in the Borough of Manhattan in The City of New York in any suit or proceeding arising out of or relating to the Terms Agreement (including the provisions of this Agreement) or the transactions contemplated thereby.

SCHEDULE I  
SUBSIDIARIES

Commonwealth Edison Company  
PECO Energy Company  
Exelon Generation Company, LLC

(Three copies of this Delayed Delivery Contract should be signed and returned to the address shown below so as to arrive not later than 9:00 A.M., New York time, on .....(a))

DELAYED DELIVERY CONTRACT

[Insert date of initial public offering]

Exelon Corporation
c/o [Insert Name of Representative]

Ladies and Gentlemen:

The undersigned hereby agrees to purchase from Exelon Corporation, a Pennsylvania corporation ("Company"), and the Company agrees to sell to the undersigned, [If one delayed closing, insert--as of the date hereof, for delivery on \_\_\_\_\_, ("Delivery Date"),]

[\$].....[shares]

--principal amount--of the Company's [Insert title of securities] ("Securities"), offered by the Company's Prospectus dated \_\_\_\_\_, \_\_\_\_ and a Prospectus Supplement dated \_\_\_\_\_, \_\_\_\_\_ relating thereto, receipt of copies of which is hereby acknowledged, at-- % of the principal amount thereof plus accrued interest, if any,--\$ per share plus accrued dividends, if any,--and on the further terms and conditions set forth in this Delayed Delivery Contract ("Contract").

[If two or more delayed closings, insert the following:

The undersigned will purchase from the Company as of the date hereof, for delivery on the dates set forth below, Securities in the--principal--amounts set forth below:

Table with 2 columns: Delivery Date, Principal Amount (Number of Shares)

Each of such delivery dates is hereinafter referred to as a Delivery Date.]

(a) Insert date which is third full business day prior to Closing Date under the Terms Agreement.

Payment for the Securities that the undersigned has agreed to purchase for delivery on--the--each--Delivery Date shall be made to the Company or its order in Federal (same day) funds by certified or official bank check or wire transfer to an account designated by the Company, at the office of \_\_\_\_\_ at \_\_\_\_\_ A.M. on--the--such--Delivery Date upon delivery to the undersigned of the Securities to be purchased by the undersigned--for delivery on such Delivery Date--in definitive [If debt issue, insert--fully registered] form and in such denominations and registered in such names as the undersigned may designate by written or telegraphic communication addressed to the Company not less than five full business days prior to--the--such--Delivery Date.

It is expressly agreed that the provisions for delayed delivery and payment are for the sole convenience of the undersigned; that the purchase hereunder of Securities is to be regarded in all respects as a purchase as of the date of this Contract; that the obligation of the Company to make delivery of and accept payment for, and the obligation of the undersigned to take delivery of and make payment for, Securities on--the--each--Delivery Date shall be subject only to the conditions that (1) investment in the Securities shall not at--the--such--Delivery Date be prohibited under the laws of any jurisdiction in the United States to which the undersigned is subject and (2) the Company shall have sold to the Underwriters the total--principal amount--number of shares--of the Securities less the--principal amount--number of shares--thereof covered by this and other similar Contracts. The undersigned represents that its investment in the Securities is not, as of the date hereof, prohibited under the laws of any jurisdiction to which the undersigned is subject and which governs such investment.

Promptly after completion of the sale to the Underwriters the Company will mail or deliver to the undersigned at its address set forth below notice to such effect, accompanied by--a copy--copies--of the opinion[s] of counsel for the Company delivered to the Underwriters in connection therewith.

This Contract will inure to the benefit of and be binding upon the parties hereto and their respective successors, but will not be assignable by either party hereto without the written consent of the other.

It is understood that the acceptance of any such Contract is in the Company's sole discretion and, without limiting the foregoing, need not be on a first-come, first-served basis. If this Contract is acceptable to the Company, it is requested that the Company sign the form of acceptance below and mail or deliver one of the counterparts hereof to the undersigned at its address set forth below. This will become a binding contract between the Company and the undersigned when such counterpart is so mailed or delivered.

Yours very truly,

.....  
(Name of Purchaser)

By.....

.....  
(Title of Signatory)

.....

.....  
(Address of Purchaser)

Accepted, as of the above date.

EXELON CORPORATION

By.....  
[Insert Title]

EXELON CORPORATION  
("Company")

FORM OF TERMS AGREEMENT  
-----

To: The Representative[s] of the Underwriters identified herein

Ladies and Gentlemen:

The undersigned agrees to sell to the several Underwriters named in Schedule A hereto for their respective accounts, and the Underwriters agree to purchase from the Company, severally and not jointly, in the respective amounts specified in Schedule A, on and subject to the terms and conditions of the Underwriting Agreement filed as an exhibit to the Company's registration statement on Form S-3 (No. 333-\_\_\_\_\_) ("Underwriting Agreement"), the following securities ("Offered Securities") on the following terms:

Title: .

[Principal Amount] [Number of Shares] [Number of Contracts]

[Number of Units]:

Over-allotment: In addition, upon written notice from the Representative[s] given to the Company from time to time not more than 30 days subsequent to the date hereof, the Underwriters may purchase up to [\$ additional principal amount] [ additional shares] [ additional contracts] [ additional units] of the Offered Securities (the "Optional Securities") at the purchase price. The Company agrees to sell to the Underwriters the Optional Securities, and the Underwriters agree, severally and not jointly, to purchase such Optional Securities. Such Optional Securities shall be purchased for the account of each Underwriter in the same proportion as the Principal Amount of Offered Securities set forth opposite such Underwriter's name on Schedule A hereto (subject to adjustment by the Representative[s] to eliminate fractions) and may be purchased by the Underwriters only for the purpose of covering over-allotments made in connection with the sale of the Offered Securities. No Optional Securities shall be sold or delivered unless the Offered Securities previously have been, or simultaneously are, sold and delivered. The right to purchase the Optional Securities or any portion thereof may be exercised from time to time and to the extent not previously exercised may be surrendered and terminated at any time upon notice by the Representative[s] to the Company.

[Interest: [ % per annum, from \_\_\_\_\_, \_\_\_\_, payable semiannually on \_\_\_\_\_ and \_\_\_\_\_, commencing \_\_\_\_\_, \_\_\_\_, to holders of record on the preceding \_\_\_\_\_ or \_\_\_\_\_, as the case may be.] [Zero coupon.]]

[Maturity: \_\_\_\_\_, \_\_\_\_\_.]

[Optional Redemption: ]

[Sinking Fund: ]

Listing: [None.] [the New York Stock Exchange.]

Delayed Delivery Contracts: [None.] [Delivery Date[s] shall be \_\_\_\_\_, \_\_\_\_\_. Underwriters' fee is [\_\_\_\_\_% of the principal amount] [\$\_\_\_\_\_ per share] [\$\_\_\_\_\_ per contract] [\$\_\_\_\_\_ per unit] of the Contract Securities.]

Purchase Price: [\_\_\_\_\_ % of principal amount, plus accrued interest[, if any,] from \_\_\_\_\_, \_\_\_\_\_.] [\$\_\_\_\_\_ per share.] [\$\_\_\_\_\_ per contract.] [\$\_\_\_\_\_ per unit.]

Expected Reoffering Price: [\_\_\_\_\_ % of principal amount, ] [\$\_\_\_\_\_ per share] [\$\_\_\_\_\_ per contract] [\$\_\_\_\_\_ per unit] subject to change by the [Representative[s] [Underwriters].

Closing: \_\_\_\_\_ A.M. on \_\_\_\_\_, \_\_\_\_\_, at \_\_\_\_\_, in Federal (same day) funds.

[Underwriter[s]'] Compensation: \$ \_\_\_\_\_ payable to the [Representative[s] for the proportionate amounts of the] Underwriter[s] on the Closing Date.

Settlement and Trading: [Physical certificated form.] [Book-Entry Only via DTC.]

Blackout: Until \_\_\_\_\_ days after the Closing Date.

Names and Addresses of the Representatives:

The respective [principal amounts] [numbers of shares] [numbers of contracts] [number of units] of the Offered Securities to be purchased by each of the Underwriters are set forth opposite their names in Schedule A hereto.

The provisions of the Underwriting Agreement are incorporated herein by reference.

The Offered Securities will be made available for checking and packaging \_\_\_\_\_ at the office of at least 24 hours prior to the Closing Date.

For purposes of Section 6 of the Underwriting Agreement, the only information furnished to the Company by any Underwriter for use in the Prospectus consists of [(i)] the following information in the Prospectus furnished on behalf of each Underwriter: the concession and reallowance figures appearing in the \_\_\_\_\_ paragraph under the caption "Underwriting" in the prospectus supplement [If paragraph regarding passive market making is included, insert--and the information contained in the \_\_\_\_\_ paragraph under the caption "Underwriting" in the prospectus supplement] [If applicable, insert--; and (ii) the following information in the prospectus supplement furnished on behalf of [insert name of Underwriter]: [insert description of information, such as material relationship disclosure under the caption "Underwriting" in the prospectus supplement].



If the foregoing is in accordance with your understanding of our agreement, kindly sign and return to the Company one of the counterparts hereof, whereupon it will become a binding agreement between the Company and the several Underwriters in accordance with its terms.

Very truly yours,

EXELON CORPORATION

By: \_\_\_\_\_  
Name:  
Title:

The foregoing Terms Agreement is hereby confirmed and accepted as of the date first above written.

[LEAD MANAGER]  
\_\_\_\_\_  
\_\_\_\_\_

Acting on behalf of themselves and as the Representatives of the several Underwriters.

By: [LEAD MANAGER]

By: \_\_\_\_\_  
Name:  
Title:

SCHEDULE A

Underwriter  
-----

[Principal Amount]  
[Number of Shares]  
[Number of Units]  
[Number of Contracts]  
-----  
\$

Total.....

-----  
[\$]  
=====

## EXELON CAPITAL TRUST \_\_\_

% Trust Preferred Securities (Liquidation Amount  
of \$ per Trust Preferred Security)

## Underwriting Agreement

New York, New York

To the Representatives  
named in Schedule I  
hereto of the Under-  
writers named in  
Schedule II hereto

Ladies and Gentlemen:

Exelon Capital Trust \_\_\_ (the "Trust"), a Delaware statutory trust organized under the Statutory Trust Act (the "Delaware Act") of the State of Delaware (Chapter 38, Title 12, of the Delaware Code, 12 Del. ss.ss. 3801 et seq.), and Exelon Corporation, a corporation organized under the laws of the Commonwealth of Pennsylvania (the "Company" and, together with the Trust, the "Offerors"), propose to sell to the several underwriters named in Schedule II hereto (the "Underwriters"), for whom you (the "Representatives") are acting as representatives, the \_\_\_\_\_% Trust Preferred Securities (liquidation amount of \$\_\_\_\_\_ per security) issued by the Trust, with the terms specified in Schedule I hereto, representing undivided beneficial interests in the assets of the Trust (the "Preferred Securities"). The Preferred Securities will be guaranteed by the Company (the "Guarantee" and, together with the Preferred Securities, the "Offered Securities"), to the extent described in the Final Prospectus, with respect to distributions and payments upon liquidation, redemption and otherwise pursuant to the Guarantee Agreement (the "Preferred Securities Guarantee") to be dated as of the Closing Date (as defined below) between the Company and Wachovia Trust Company, National Association, as Trustee (the "Guarantee Trustee"). The Offerors propose to sell to the Underwriters pursuant to this Agreement \_\_\_\_\_ Offered Securities as set forth in Schedule II hereto.

The entire proceeds from the sale of the Offered Securities will be combined with the entire proceeds from the sale by the Trust to the Company of its common securities (the "Common Securities"), and will be used by the Trust to purchase \$ in aggregate principal amount of the Company's % unsecured subordinated debt securities (the "Debt Securities"). The Preferred Securities and the Common Securities will be issued pursuant to the Amended and Restated Declaration of Trust, to be dated as of the Closing Date (the "Declaration"), among the Company, as sponsor, \_\_\_\_\_, as administrative trustees (the "Administrative Trustees"), Wachovia Trust Company, National Association, as property trustee (the "Property Trustee") and as Delaware trustee (the "Delaware Trustee," and together with the Property Trustee and the Administrative Trustees, the "Trustees"). The Debt Securities will be issued

pursuant to an indenture, dated as of June 24, 2003 (the "Indenture"), between the Company and Wachovia Bank, National Association, as trustee (the "Debenture Trustee"). The Preferred Securities issued in book-entry form will be issued to Cede & Co. as nominee of The Depository Trust Company ("DTC") pursuant to a letter agreement, to be dated as of the Closing Date, among the Trust, the Property Trustee and DTC. The Offered Securities and the Subordinated Notes are hereinafter collectively referred to as the "Securities."

To the extent there are no additional Underwriters listed on Schedule I other than you, the term Representatives as used herein shall mean you, as Underwriters, and the terms Representatives and Underwriters shall mean either the singular or plural as the context requires. Any reference herein to the Registration Statement, the Basic Prospectus, any Preliminary Prospectus or the Final Prospectus shall be deemed to refer to and include the documents incorporated by reference therein pursuant to Item 12 of Form S-3 which were filed under the Exchange Act on or before the Effective Date of the Registration Statement or the issue date of the Basic Prospectus, any Preliminary Prospectus or the Final Prospectus, as the case may be; and any reference herein to the terms "amend," "amendment" or "supplement" with respect to the Registration Statement, the Basic Prospectus, any Preliminary Prospectus or the Final Prospectus shall be deemed to refer to and include the filing of any document under the Exchange Act after the Effective Date of the Registration Statement or the issue date of the Basic Prospectus, any Preliminary Prospectus or the Final Prospectus, as the case may be, deemed to be incorporated therein by reference. Certain terms used herein are defined in Section 17 hereof.

1. Representations and Warranties. The Offerors jointly and severally represent and warrant to, and agree with, each Underwriter as set forth below in this Section 1.

(a) The Offerors meet the requirements for use of Form S-3 under the Act and have prepared and filed with the Commission a registration statement (the file number of which is set forth in Schedule I hereto) on Form S-3, including a related basic prospectus, for registration under the Act of the offering and sale of the Securities. The Offerors may have filed one or more amendments thereto, including a Preliminary Prospectus, each of which has previously been furnished to you. The Offerors will next file with the Commission one of the following: (1) after the Effective Date of such registration statement, a final prospectus supplement relating to the Securities in accordance with Rules 430A and 424(b), (2) prior to the Effective Date of such

registration statement, an amendment to such registration statement (including the form of final prospectus supplement) or (3) after the Effective Date of such registration statement, a final prospectus in accordance with Rules 415 and 424(b). In the case of clause (1), the Offerors have included in such registration statement, as amended at the Effective Date, all information (other than Rule 430A Information) required by the Act and the rules thereunder to be included in such registration statement and the Final Prospectus. As filed, such final prospectus supplement or such amendment and form of final prospectus supplement shall contain all Rule 430A Information, together with all other such required information, and, except to the extent the Representatives shall agree in writing to a modification, shall be in all substantive respects in the form furnished to you prior to the Execution Time or, to the extent not completed at the Execution Time, shall contain only such specific additional information and other changes (beyond that contained in the Basic Prospectus and any Preliminary Prospectus) as the Offerors have advised you, prior to the

Execution Time, will be included or made therein. The Registration Statement, at the Execution Time, meets the requirements set forth in Rule 415(a)(1)(x).

(b) On the Effective Date, the Registration Statement did or will, and when the Final Prospectus is first filed (if required) in accordance with Rule 424(b) and on the Closing Date (as defined herein), the Final Prospectus (and any supplement thereto) will, comply in all material respects with the applicable requirements of the Act, the Exchange Act and the Trust Indenture Act and the respective rules thereunder; on the Effective Date and at the Execution Time, the Registration Statement did not or will not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements therein not misleading; on the Effective Date and on the Closing Date the Indenture did or will comply in all material respects with the applicable requirements of the Trust Indenture Act and the rules thereunder; and, on the Effective Date and at the Execution Time, the Final Prospectus, if not filed pursuant to Rule 424(b), will not, and on the date of any filing pursuant to Rule 424(b) and on the Closing Date, the Final Prospectus (together with any supplement thereto) will not, include any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided, however, that the Company makes no representations or warranties as to (i) that part of the Registration Statement which shall constitute the Statements of Eligibility and Qualification (Forms T-1) under the Trust Indenture Act of the Debenture Trustee, the Guaranty Trustee and the Delaware Trustee and Property Trustee or (ii) the information contained in or omitted from the Registration Statement or the Final Prospectus (or any supplement thereto) in reliance upon and in conformity with information furnished in writing to the Offerors by or on behalf of any Underwriter through the Representatives specifically for inclusion in the Registration Statement or the Final Prospectus (or any supplement thereto).

(c) Neither of the Company or the Trust is, and after giving effect to the offering and sale of the Securities and the application of the proceeds thereof as described in the Final Prospectus will be, an "investment company" or an entity "controlled" by an investment company within the meaning of the Investment Company Act.

(d) Neither of the Company or the Trust has taken, directly or indirectly, any action designed to cause or which has constituted or which might reasonably be expected to cause or result, under the Exchange Act or otherwise, in the stabilization or manipulation of the price of any security of the Company or the Trust to facilitate the sale or resale of the Securities.

(e) The Company has been duly organized and is validly subsisting as a corporation in good standing under the laws of the Commonwealth of Pennsylvania with full power and authority under its articles of incorporation and bylaws to own or lease, as the case may be, and to operate its properties and conduct its business as described in the Final Prospectus, and is duly qualified to do business as a foreign entity and is in good standing under the laws of each jurisdiction which requires such qualification.

(f) The Trust has been duly created and is validly existing in good standing as a statutory trust under the Delaware Act with the power and authority to own property and to conduct its business as described in the Final Prospectus and to enter into and perform its obligations under this Agreement, the Offered Securities, the Common Securities and the Declaration; the Trust is duly qualified to transact business as a foreign company and is in good standing in any other jurisdiction in which such qualification is necessary, except to the extent that the failure to so qualify or be in good standing would not have a material adverse effect on the Trust; the Trust is not a party to or otherwise bound by any agreement other than those described in the Final Prospectus; the Trust is and will be classified for United States federal income tax purposes as a grantor trust and not as an association taxable as a corporation; and the Trust is and will be treated as a consolidated subsidiary of the Company pursuant to generally accepted accounting principles.

(g) Except as disclosed in the Company's Form 10-K for the fiscal year ended December 31, 2002, the Company does not have any significant subsidiaries (as such term is defined in Rule 1.02 of Regulation S-X promulgated under the Act).

(h) The descriptions in the Final Prospectus of the Declaration, the Preferred Securities, the Preferred Securities Guarantee, the Common Securities, the Indenture and the Debt Securities fairly summarize the matters therein described.

(i) This Agreement has been duly authorized, executed and delivered by each of the Offerors; the Indenture has been duly authorized and when executed and delivered by the Company, will constitute a legal, valid, binding instrument enforceable against the Company in accordance with its terms (subject, as to the enforcement of remedies, to applicable bankruptcy, reorganization, insolvency, moratorium or other laws affecting creditors' rights generally from time to time in effect and to general principles of equity).

(j) At the Closing Date, the Preferred Securities will have been duly authorized for issuance and sale by the Trust and, when issued and delivered against payment of the consideration therefor as provided herein, will be validly issued and (subject to the terms of the Declaration) fully paid and non-assessable undivided beneficial interests in the Trust, and will be entitled to the benefits of the Declaration; the issuance of the Preferred Securities is not subject to preemptive or other similar rights of any securityholder of the Company or the Trust; and (subject to the terms of the Declaration) holders of Preferred Securities will be entitled to the same limitation of personal liability under Delaware law as extended to stockholders of private corporations for profit organized under the Delaware General Corporation Law; provided, that the holders of the Preferred Securities may be obligated, pursuant to the Declaration, to (i) provide indemnity and/or security in connection with, and pay taxes or governmental charges arising from, transfers or exchanges of Preferred Securities certificates and the issuance of replacement Preferred Securities certificates and (ii) provide security and indemnity in connection with requests of or directions to the Property Trustee to exercise its rights and remedies under the Declaration.

(k) The Preferred Securities Guarantee, including the Guarantee, has been duly authorized by the Company; at the Closing Date, the Preferred Securities Guarantee will have been duly executed and delivered by the Company and, assuming due authorization, execution and delivery of the Preferred Securities Guarantee by the Guarantee Trustee, will constitute a legal, valid, binding instrument, enforceable against the Company in accordance with its terms (subject, as to the enforcement of remedies, to applicable bankruptcy, reorganization, insolvency, moratorium or other laws affecting creditors' rights generally from time to time in effect and to general principles of equity).

(l) The Common Securities have been duly authorized by the Trust and, when issued and delivered by the Trust to the Company against payment therefor as described in the Final Prospectus, will be validly issued and (subject to the terms of the Declaration) fully paid and non-assessable undivided beneficial interests in the assets of the Trust; the issuance of the Common Securities is not subject to preemptive or other similar rights; and at the Closing Date all of the issued and outstanding Common Securities of the Trust will be directly owned by the Company free and clear of any security interest, mortgage, pledge, lien, encumbrance, claim or equity.

(m) The issuance and sale of the Debt Securities have been duly authorized by the Company and, at the Closing Date, will have been duly executed by the Company and, when authenticated in the manner provided for in the Indenture and delivered against payment therefor as described in the Final Prospectus, will constitute the legal, valid and binding obligations of the Company, enforceable against the Company in accordance with their terms (subject, as to the enforcement of remedies, to applicable bankruptcy, reorganization, insolvency, moratorium or other laws affecting creditors' rights generally from time to time in effect and to general principles of equity); and the Debt Securities will be in the form contemplated by, and entitled to the benefits of, the Indenture.

(n) The Declaration has been duly authorized by the necessary corporate action of the Offerors and, at the Closing Date, will have been duly executed and delivered by the Company and the Trustees, and assuming due authorization, execution and delivery of the Declaration by the Property Trustee and the Delaware Trustee, the Declaration will, at the Closing Date, constitute a legal, valid, binding instrument enforceable against the Company, the Trust and the Trustees in accordance with its terms, (subject, as to the enforcement of remedies, to applicable bankruptcy, reorganization, insolvency, moratorium or other laws affecting creditors' rights generally from time to time in effect and to general principles of equity).

(o) No consent, approval, authorization, filing with or order of any court or state or federal governmental agency or body, including the Commission and any applicable state regulatory authority, is required in connection with the transactions contemplated herein or in the Indenture, except such as will be obtained under the Act and the Trust Indenture Act, and such as may be required under the blue sky laws of any jurisdiction in connection with the purchase and distribution of the Offered Securities by the Underwriters in the manner contemplated herein and in the Final Prospectus.

(p) Neither the execution and delivery of this Agreement, nor the consummation of any of the transactions herein contemplated, nor the fulfillment of the terms hereof will conflict with, result in a breach or violation or imposition of any lien, charge or encumbrance upon any property or assets of the Company or the Trust pursuant to, (i) the charter or bylaws of the Company; (ii) the Certificate of Trust or the Declaration; (iii) the terms of any indenture, contract, lease, mortgage, deed of trust, note agreement, loan agreement or other agreement, obligation, condition, covenant or instrument to which either the Company or the Trust is a party or bound or to which its property is subject; or (iv) any statute, law, rule, regulation, judgment, order or decree applicable to either Offeror or any court, regulatory body, administrative agency, governmental body, arbitrator or other authority having jurisdiction over either the Company or the Trust or any of its respective subsidiaries or any of its or their properties.

(q) The consolidated historical financial statements and schedules of the Company and its consolidated subsidiaries incorporated by reference in the Final Prospectus present fairly in all material respects the financial condition, results of operations and cash flows of the Company, as of the date and for the period indicated, comply as to form with the applicable accounting requirements of the Act and have been prepared in conformity with generally accepted accounting principles, and the presentation of non-GAAP financial measures, if any, complies in all material respects with Regulation G and Item 10 of Regulation S-K promulgated by the Commission.

(r) No action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator involving either the Company or the Trust or any of its subsidiaries or its or their property is pending or, to the best knowledge of the Company, threatened that (i) could reasonably be expected to have a material adverse effect on the performance of this Agreement or the Indenture, or the consummation of any of the transactions contemplated hereby or thereby; or (ii) could reasonably be expected to have a material adverse effect on the financial condition, business or properties of either the Trust or the Company and its subsidiaries, taken as a whole, whether or not arising from transactions in the ordinary course of business, except as set forth in or contemplated in the Final Prospectus (exclusive of any amendment or supplement thereto).

(s) PricewaterhouseCoopers, LLP, are independent public accountants with respect to the Offerors within the meaning of the Act and the applicable published rules and regulations thereunder.

(t) Each of the Administrative Trustees of the Trust is an employee of the Company or an affiliate of the Company and has been duly authorized by the Company to execute and deliver the Declaration; the Declaration has been duly executed and delivered by the Administrative Trustees and is a legal, valid, binding obligation of each Administrative Trustee, enforceable against such Administrative Trustee in accordance with its terms (subject, as to the enforcement of remedies, to applicable bankruptcy, reorganization, insolvency, moratorium or other laws affecting creditors' rights generally from time to time in effect and to general principles of equity).



(u) The Company is a validly subsisting corporation in good standing under the laws of the Commonwealth of Pennsylvania. Each of the Company's subsidiaries which constitutes a "gas utility company" or an "electric utility company," as defined in the Public Utility Holding Company Act of 1935, as amended, is a validly existing corporation or limited liability company under the laws of its jurisdiction of incorporation or organization (each a "Utility Subsidiary"). The Company and each Utility Subsidiary have all requisite corporate or limited liability company power and authority to own and occupy their respective properties and carry on their respective businesses as presently conducted and as described in the Prospectus and are duly qualified as foreign organizations to do business and in good standing in every jurisdiction in which the nature of the business conducted or property owned by them makes such qualification necessary and in which the failure to so qualify would have a materially adverse effect on the Company; and the capital stock or membership interests of each Utility Subsidiary listed in Schedule I that is owned directly or indirectly by the Company, is owned free from liens, encumbrances and defects.

Any certificate signed by any officer or other representative of the Company or the Trust and delivered to the Representatives or counsel for the Underwriters in connection with the offering of the Offered Securities shall be deemed a representation and warranty by the Company, as to matters covered thereby, to each Underwriter.

2. Purchase and Sale. Subject to the terms and conditions and in reliance upon the representations and warranties herein set forth, the Trust agrees to sell to each Underwriter, and each Underwriter agrees, severally and not jointly, to purchase from the Trust, at the purchase price set forth opposite its name in Schedule II hereto, the principal amount of the Offered Securities set forth opposite such Underwriter's name in Schedule II hereto.

3. Delivery and Payment. (a) Delivery of and payment for the Offered Securities shall be made on the date and at the time specified in Schedule I hereto or at such time on such later date not more than three Business Days after the foregoing date as the Representatives shall designate, which date and time may be postponed by agreement between the Representatives and the Company or as provided in Section 9 hereof (such date and time of delivery and payment for the Securities being herein called the "Closing Date"). Delivery of the Securities shall be made to the Representatives for the respective accounts of the several Underwriters against payment by the several Underwriters through the Representatives of the purchase price thereof to or upon the order of the Company by wire transfer payable in same-day funds to an account specified by the Company. Delivery of the Securities shall be made through the facilities of DTC unless the Representatives shall otherwise instruct.

(b) As compensation to the Underwriters for their commitments hereunder and in view of the fact that the proceeds of the sale of the Offered Securities will be used to purchase Debt Securities of the Company, the Company hereby agrees to pay at the Closing Date, or the relevant date of delivery, as the case may be, to the Representatives in immediately available funds, for the accounts of the several Underwriters, \$\_\_\_\_\_ per Offered Security to be delivered by the Trust hereunder at the Closing Date.

(c) In accordance with Rule 15c6-1(d) promulgated under the Exchange Act, the Underwriters agree to the payment of funds and delivery of the Offered Securities in accordance with this Section 3 in lieu of that required by paragraphs (a) and (c) of Rule 15c6-1 under the Exchange Act.

4. Offering by Underwriters. It is understood that the several Underwriters propose to offer the Offered Securities for sale to the public as set forth in the Final Prospectus.

5. Agreements. The Offerors agree with the several Underwriters that:

(a) Each Offeror will use its best efforts to cause the Registration Statement, if not effective at the Execution Time, and any amendment thereof, to become effective. Prior to the termination of the offering of the Offered Securities, the Offerors will not file any amendment of the Registration Statement or supplement (including the Final Prospectus or any Preliminary Prospectus) to the Basic Prospectus or any Rule 462(b) Registration Statement unless the Offerors have furnished you a copy for your review prior to filing and will not file any such proposed amendment or supplement to which you reasonably object. Subject to the foregoing sentence, if the Registration Statement has become or becomes effective pursuant to Rule 430A, or filing of the Final Prospectus is otherwise required under Rule 424(b), the Offerors will cause the Final Prospectus, properly completed, and any supplement thereto to be filed with the Commission pursuant to the applicable paragraph of Rule 424(b) within the time period prescribed and will provide evidence satisfactory to the Representatives of such timely filing. The Offerors will promptly advise the Representatives (1) when the Registration Statement, if not effective at the Execution Time, shall have become effective, (2) when the Final Prospectus, and any supplement thereto, shall have been filed (if required) with the Commission pursuant to Rule 424(b) or when any Rule 462(b) Registration Statement shall have been filed with the Commission, (3) when, prior to termination of the offering of the Offered Securities, any amendment to the Registration Statement shall have been filed or become effective, (4) of any request by the Commission or its staff for any amendment of the Registration Statement, or any Rule 462(b) Registration Statement, or for any supplement to the Final Prospectus or for any additional information, (5) of the issuance by the Commission of any stop order suspending the effectiveness of the Registration Statement or the institution or threatening of any proceeding for that purpose and (6) of the receipt by the Offerors of any notification with respect to the suspension of the qualification of the Offered Securities for sale in any jurisdiction or the institution or threatening of any proceeding for such purpose. Each Offeror will use its best efforts to prevent the issuance of any such stop order or the suspension of any such qualification and, if issued, to obtain as soon as possible the withdrawal thereof.

(b) If, at any time when a prospectus relating to the Offered Securities is required to be delivered under the Act, any event occurs as a result of which the Final Prospectus as then supplemented would include any untrue statement of a material fact or omit to state any material fact necessary to make the statements therein in the light of the circumstances under which they were made not misleading, or if it shall be necessary to amend the Registration Statement or supplement the Final Prospectus to comply with the Act or the Exchange Act or the respective rules thereunder, the Offerors promptly will (1) notify the

Representatives of such event, (2) prepare and file with the Commission, subject to the second sentence of paragraph (a) of this Section 5, an amendment or supplement which will correct such statement or omission or effect such compliance and (3) supply any supplemented Final Prospectus to you in such quantities as you may reasonably request.

(c) As soon as practicable, the Company will make generally available to its security holders and to the Representatives an earnings statement or statements of the Company and its subsidiaries, including the Trust, which will satisfy the provisions of Section 11(a) of the Act and Rule 158 under the Act.

(d) The Offerors will furnish to the Representatives and counsel for the Underwriters, without charge, signed copies of the Registration Statement (including exhibits thereto) and to each other Underwriter a copy of the Registration Statement (without exhibits thereto) and, so long as delivery of a prospectus by an Underwriter or dealer may be required by the Act, as many copies of each Preliminary Prospectus and the Final Prospectus and any supplement thereto as the Representatives may reasonably request. The Company will pay the expenses of printing or other production of all documents relating to the offering.

(e) The Company will arrange, if necessary, for the qualification of the Offered Securities for sale under the laws of such jurisdictions as the Representatives may designate, will maintain such qualifications in effect so long as required for the distribution of the Offered Securities and will pay any fee of the NYSE, in connection with its review of the offering; provided that in no event shall the Company or the Trust be obligated to qualify to do business in any jurisdiction where it is not now so qualified or to take any action that would subject it to service of process in suits, other than those arising out of the offering or sale of the Offered Securities, in any jurisdiction where it is not now so subject.

(f) Neither the Company nor the Trust will, without the prior written consent of the Representatives, offer, sell, contract to sell, pledge, or otherwise dispose of, (or enter into any transaction which is designed to, or might reasonably be expected to, result in the disposition (whether by actual disposition or effective economic disposition due to cash settlement or otherwise) by the Company or the Trust, directly or indirectly, or announce the offering of, capital securities, or the Debt Securities or any debt securities substantially similar (including provisions with respect to the deferral of interest) to the Debt Securities or any equity security substantially similar to the Preferred Securities (except for the Securities issued pursuant to this Agreement) or enter into any swap or any other agreement or any transaction that transfers, in whole or in part, directly or indirectly, the economic consequence of ownership of the Preferred Securities or the Debt Securities; provided, however, that the foregoing restrictions shall not apply to any disposal of the Debt Securities following any liquidation of the Trust; provided, further, that the foregoing period shall only extend until the Business Day set forth on Schedule I hereto.

(g) The Offerors will not take, directly or indirectly, any action designed to or that would constitute or that might reasonably be expected to cause or result in, under the Exchange Act or otherwise, stabilization or manipulation of the price of any security of the Company or the Trust to facilitate the sale or resale of the Offered Securities.

(h) The Company agrees to pay the costs and expenses relating to the following matters: (i) the issuance of the Offered Securities and the fees of the Trustee; (ii) the preparation, printing or reproduction of the Registration Statement, Preliminary Prospectus and Final Prospectus and each amendment or supplement to either of them; (iii) the printing (or reproduction) and delivery (including postage, air freight charges and charges for counting and packaging) of such copies of the Preliminary Prospectus and Final Prospectus, and all amendments or supplements to either of them, as may, in each case, be reasonably requested for use in connection with the offering and sale of the Offered Securities; (iv) the preparation, printing, authentication, issuance and delivery of certificates for the Preferred Securities and the Debt Securities, including any stamp or transfer taxes in connection with the original issuance and sale of the Preferred Securities and the Debt Securities; (v) the printing (or reproduction) and delivery of this Agreement, any blue sky memorandum and all other agreements or documents printed (or reproduced) and delivered in connection with the offering of the Offered Securities; (vi) any registration or qualification of the Offered Securities for offer and sale under the securities or blue sky laws of the several states (including filing fees and the reasonable fees and expenses of counsel for the Underwriters relating to such registration and qualification); (vii) the transportation and other expenses incurred by or on behalf of Company or Trust representatives in connection with presentations to prospective purchasers of the Offered Securities; (viii) the fees and expenses of the Offerors' accountants and counsel (including local and special counsel); (ix) the fees and expenses of any rating agencies rating the Preferred Securities and, if applicable, the Debt Securities; (x) the fees and expenses of the Property Trustee and the Guarantee Trustee; (xi) the fees and expenses of the Debenture Trustee; and (xii) all other costs and expenses incident to the performance by the Company or the Trust of its obligations hereunder.

(i) Each of the Company and the Trust will, if requested by the Representative, use its best efforts to cause the Preferred Securities to be listed on the New York Stock Exchange.

(j) The Offerors will cooperate with the Underwriters and use their reasonable commercial efforts to permit the Preferred Securities to be eligible for clearance and settlement through the facilities of DTC.

(k) The Trust will use the net proceeds received by it from the sale of the Preferred Securities and the Common Securities, and the Company will use the proceeds received by it from the sale of the Debt Securities, in the manner specified in the Final Prospectus under "Use of Proceeds."

6. Conditions to the Obligations of the Underwriters. The obligations of the Underwriters to purchase the Offered Securities shall be subject to the accuracy of the representations and warranties on the part of the Offerors contained herein as of the Execution Time and the Closing Date, to the

accuracy of the statements of the Offerors made in any certificates pursuant to the provisions hereof, to the performance by the Offerors of their obligations hereunder and to the following additional conditions:

(a) If the Registration Statement has not become effective prior to the Execution Time, unless the Representatives agree in writing to a later time, the Registration Statement will become effective not later than (i) 6:00 p.m. New York City time, on the date of determination of the public offering price, if such determination occurred at or prior to 3:00 p.m. New York City time on such date or (ii) 9:30 a.m. on the Business Day following the day on which the public offering price was determined, if such determination occurred after 3:00 p.m. New York City time on such date; if filing of the Final Prospectus, or any supplement thereto, is required pursuant to Rule 424(b), the Final Prospectus, and any such supplement, will be filed in the manner and within the time period required by Rule 424(b); and no stop order suspending the effectiveness of the Registration Statement shall have been issued and no proceedings for that purpose shall have been instituted or threatened.

(b) Ballard Spahr Andrews & Ingersoll, LLP, counsel for the Company and the Trust, shall have furnished to the Representatives its opinion, dated the Closing Date and addressed to the Representatives, in form and substance satisfactory to the Representatives and their counsel.

(c) The Offerors shall have furnished to the Representatives the opinion of Richards, Layton & Finger, P.A., special Delaware counsel to the Offerors, dated the Closing Date and addressed to the Representatives, in form and substance satisfactory to the Representatives and their counsel.

(d) The Offerors shall have furnished to the Representatives the opinion of Richards, Layton & Finger, counsel to the Property Trustee under the Declaration, the Debenture Trustee under the Indenture and the Guarantee Trustee under the Preferred Securities Guarantee, dated the Closing Date and addressed to the Representatives, in form and substance satisfactory to the Representatives and their counsel.

(e) The Representatives shall have received from Winston & Strawn, counsel for the Underwriters, such opinion or opinions, dated the Closing Date and addressed to the Representatives, with respect to the issuance and sale of the Preferred Securities, the Declaration, the Indenture, the Preferred Securities Guaranty, this Agreement, the Registration Statement, the Final Prospectus (together with any supplement thereto) and other related matters as the Representatives may reasonably require, and the Offerors shall have furnished to such counsel such documents as they request for the purpose of enabling them to pass upon such matters.

(f) The Company shall have furnished to the Representatives a certificate of the Company, signed by the Chairman of the Board or the President and the principal financial or accounting officer of the Company, and the Trust shall have furnished to the Representatives a certificate of the Trust, signed by an Administrative Trustee of the Trust, each dated the Closing Date, to the effect that the signers of

such certificates have carefully examined the Registration Statement, the Final Prospectus, any supplements to the Final Prospectus and this Agreement and that:

(i) the representations and warranties of the Company and the Trust, respectively, in this Agreement are true and correct in all material respects on and as of the Closing Date with the same effect as if made on the Closing Date, and the Company and the Trust, respectively, have complied with all the agreements and satisfied all the conditions on their respective parts to be performed or satisfied at or prior to the Closing Date;

(ii) no stop order suspending the effectiveness of the Registration Statement has been issued and no proceedings for that purpose have been instituted or, to the Company's knowledge, threatened; and

(iii) since the date of the most recent financial statements included or incorporated by reference in the Final Prospectus (exclusive of any supplement thereto), there has been no material adverse effect on the financial condition, business or properties of the Company and its subsidiaries, taken as a whole, or the Trust, respectively, whether or not arising from transactions in the ordinary course of business, except as set forth in or contemplated in the Final Prospectus (exclusive of any supplement thereto).

(g) At the Execution Time and at the Closing Date, the Company shall have requested and caused PricewaterhouseCoopers, LLP to furnish to the Representatives letters, dated respectively as of the Execution Time and as of the Closing Date, in form and substance satisfactory to the Representatives.

(h) Subsequent to the Execution Time or, if earlier, the dates as of which information is given in the Registration Statement (exclusive of any amendment thereof) and the Final Prospectus (exclusive of any supplement thereto), there shall not have been (i) any change or decrease specified in the letter or letters referred to in paragraph (e) of this Section 6 or (ii) any change, or any development involving a prospective change, in or affecting the financial condition, business or properties of the Trust or the Company and its subsidiaries, taken as a whole, whether or not arising from transactions in the ordinary course of business, except as set forth in or contemplated in the Final Prospectus (exclusive of any supplement thereto) the effect of which, in any case referred to in clause (i) or (ii) above, is, in the sole judgment of the Representatives, so material and adverse as to make it impractical or inadvisable to proceed with the offering or delivery of the Offered Securities as contemplated by the Registration Statement (exclusive of any amendment thereof) and the Final Prospectus (exclusive of any supplement thereto).

(i) On the Closing Date, (i) the Preferred Securities shall be rated by \_\_\_\_\_ and \_\_\_\_\_ by \_\_\_\_\_, and the Offerors shall have delivered to the Representatives evidence satisfactory to the Representatives confirming that the Preferred Securities have such ratings, and (ii) since the Execution Time, there shall not have occurred a downgrading in the rating assigned to the Preferred Securities or any of the Company's first mortgage bonds or commercial paper by any "nationally recognized statistical rating

agency," as that term is defined by the Commission for purposes of Rule 436(g)(2) under the Act, and no such securities rating agency shall have publicly announced that it has under surveillance or review, with possible negative implications, its rating of the Preferred Securities or any of the Company's debt securities.

(j) Contemporaneously with the purchase of the Offered Securities on the Closing Date (i) the Company shall purchase the Common Securities from the Trust and (ii) the Trust shall purchase the Debt Securities from the Company.

(k) Prior to the Closing Date, the Offerors shall have furnished to the Representatives such further information, certificates and documents as the Representatives may reasonably request.

If any of the conditions specified in this Section 6 shall not have been fulfilled in all material respects when and as provided in this Agreement, or if any of the opinions and certificates mentioned above or elsewhere in this Agreement shall not be in all material respects reasonably satisfactory in form and substance to the Representatives and counsel for the Underwriters, this Agreement and all obligations of the Underwriters hereunder may be canceled at, or at any time prior to, the Closing Date by the Representatives. Notice of such cancellation shall be given to the Company in writing or by telephone or facsimile confirmed in writing.

The documents required to be delivered by this Section 6 will be delivered at the office of counsel for the Company, at Ballard Spahr Andrews & Ingersoll, LLP, 1735 Market Street, 51st Floor, Philadelphia, Pennsylvania 19103, on the Closing Date.

7. Reimbursement of Underwriters' Expenses. If the sale of the Offered Securities provided for herein is not consummated because any condition to the obligations of the Underwriters set forth in Section 6 hereof is not satisfied, because of any termination pursuant to Section 10 hereof or because of any refusal, inability or failure on the part of either of the Offerors to perform any agreement herein or comply with any provision hereof other than by reason of a default by any of the Underwriters, the Company will reimburse the Underwriters severally on demand for all out-of-pocket expenses (including reasonable fees and disbursements of counsel) that shall have been incurred by them in connection with the proposed purchase and sale of the Offered Securities.

8. Indemnification and Contribution. (a) The Offerors jointly and severally agree to indemnify and hold harmless each Underwriter, the directors, officers, employees and agents of each Underwriter and each person who controls any Underwriter within the meaning of either the Act or the Exchange Act against any and all losses, claims, damages or liabilities, joint or several, to which they or any of them may become subject under the Act, the Exchange Act or other Federal or state statutory law or regulation, at common law or otherwise, insofar as such losses, claims, damages or liabilities (or actions in respect thereof) (i) arise out of or are based upon any untrue statement or alleged untrue statement of a material fact contained in the registration statement for the registration of the Offered Securities as originally filed or in any amendment thereof, or arise out of or are based upon an omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, or (ii) arise out of or

are based upon any untrue statement or alleged untrue statement of a material fact, in light of the circumstances in which it was made, or an omission or alleged omission to state a material fact required to be stated or necessary to make the statements therein, in light of the circumstances in which they were made, not misleading, in the Basic Prospectus, any Preliminary Prospectus or the Final Prospectus (as amended or supplemented if the Offerors shall have made any amendments or supplements thereto and if used within any period during which an Underwriter may be required by law to deliver a prospectus), and agrees to reimburse each such indemnified party, as incurred, for any legal or other expenses reasonably incurred by them in connection with investigating or defending any such loss, claim, damage, liability or action; provided, however, that the Offerors will not be liable in any such case to the extent that any such loss, claim, damage or liability arises out of or is based upon any such untrue statement or alleged untrue statement or omission or alleged omission made therein in reliance upon and in conformity with written information furnished to the Offerors by or on behalf of any Underwriter through the Representatives specifically for inclusion therein; provided, further, that the foregoing indemnity with respect to any untrue statement contained in or omission from the Basic Prospectus or the Preliminary Prospectus shall not inure to the benefit of any Underwriter (or any of the directors, officers, employees and agents of such Underwriter or any person controlling such Underwriter) (i) from whom the person asserting any such loss, claim, damage or liability purchased the Offered Securities which are the subject thereof if such person did not receive a copy of the Final Prospectus (or the Final Prospectus as then amended or supplemented if the Offerors shall have furnished any amendments or supplements thereto) at or prior to the confirmation of the sale of such Offered Securities to such person in any case where such delivery is required by the Act and the untrue statement or omission of a material fact contained in such Basic Prospectus or Preliminary Prospectus was corrected in the Final Prospectus (or the Final Prospectus as so amended or supplemented if the Offerors shall have furnished any amendments or supplements thereto), and it is finally judicially determined that such delivery was required to be made under the Act and was not so made, or (ii) that uses the Final Prospectus after the expiration of such period, if any, during which the Underwriter is required by law to deliver a prospectus, unless the Company shall have been advised in writing of such intended use. This indemnity agreement will be in addition to any liability which the Offerors may otherwise have. The Company agrees to indemnify the Trust against all loss, liability claim, damage and expense whatsoever, as due from the Trust under Section 8(a) hereunder.

(b) Each Underwriter severally and not jointly agrees to indemnify and hold harmless the Offerors, each of their respective directors and officers, and each person who controls the Offerors within the meaning of either the Act or the Exchange Act, to the same extent as the foregoing indemnity from the Offerors to each Underwriter, but only with reference to written information relating to such Underwriter furnished to the Offerors by or on behalf of such Underwriter through the Representatives specifically for inclusion in the documents referred to in Section 8(a) above. This indemnity agreement will be in addition to any liability which any Underwriter may otherwise have. The Offerors acknowledge that (i) the statement set forth on the cover page regarding delivery of the Securities and under the heading "Underwriting," (ii) the list of Underwriters and their respective participation in the sale of the Offered Securities, (iii) the sentences related to concessions and reallowances and (iv) the paragraph related to stabilization, syndicate covering transactions and penalty bids in any Preliminary Prospectus and the Final Prospectus



constitute the only information furnished in writing by or on behalf of the several Underwriters for inclusion in any Preliminary Prospectus or the Final Prospectus.

(c) Promptly after receipt by an indemnified party under this Section 8 of notice of the commencement of any action, such indemnified party will, if a claim in respect thereof is to be made against the indemnifying party under this Section 8, notify the indemnifying party in writing of the commencement thereof; but the failure so to notify the indemnifying party (i) will not relieve it from liability under paragraph (a) or (b) above unless and to the extent it did not otherwise learn of such action and such failure results in the forfeiture by the indemnifying party of substantial rights and defenses and (ii) will not, in any event, relieve the indemnifying party from any obligations to any indemnified party other than the indemnification obligation provided in paragraph (a) or (b) above. The indemnifying party shall be entitled to appoint counsel of the indemnifying party's choice at the indemnifying party's expense to represent the indemnified party in any action for which indemnification is sought (in which case the indemnifying party shall not thereafter be responsible for the fees and expenses of any separate counsel retained by the indemnified party or parties except as set forth below); provided, however, that such counsel shall be satisfactory to the indemnified party. Notwithstanding the indemnifying party's election to appoint counsel to represent the indemnified party in an action, the indemnified party shall have the right to employ separate counsel (including local counsel), and the indemnifying party shall bear the reasonable fees, costs and expenses of such separate counsel if (i) the use of counsel chosen by the indemnifying party to represent the indemnified party would present such counsel with a conflict of interest, (ii) the actual or potential defendants in, or targets of, any such action include both the indemnified party and the indemnifying party and the indemnified party shall have reasonably concluded that there may be legal defenses available to it and/or other indemnified parties which are different from or additional to those available to the indemnifying party, (iii) the indemnifying party shall not have employed counsel satisfactory to the indemnified party to represent the indemnified party within a reasonable time after notice of the institution of such action or (iv) the indemnifying party shall authorize the indemnified party to employ separate counsel at the expense of the indemnifying party. An indemnifying party will not, without the prior written consent of the indemnified parties, settle or compromise or consent to the entry of any judgment with respect to any pending or threatened claim, action, suit or proceeding in respect of which indemnification or contribution may be sought hereunder (whether or not the indemnified parties are actual or potential parties to such claim or action) unless such settlement, compromise or consent (i) includes an unconditional release of each indemnified party from all liability arising out of such claim, action, suit or proceeding and (ii) does not include a statement as to or an admission of fault, culpability or a failure to act by or on behalf of any indemnified party.

(d) In the event that the indemnity provided in paragraph (a) or (b) of this Section 8 is for any reason held to be unenforceable by an indemnified party although applicable in accordance with its terms (including the requirements of Section 8(c) above), the Offerors and the Underwriters severally agree to contribute to the aggregate losses, claims, damages and liabilities (including legal or other expenses

reasonably incurred in connection with investigating or defending same) (collectively "Losses") to which the Offerors and one or more of the Underwriters may be subject in such proportion as is appropriate to reflect the relative benefits received by the Company on the one hand and by the Underwriters on the other from the offering of the Offered Securities; provided, however, that in no case shall any Underwriter (except as may be provided in any agreement among underwriters relating to the offering of the Offered Securities) be responsible for any amount in excess of the underwriting discount or commission applicable to the Offered Securities purchased by such Underwriter hereunder; provided, further, that each Underwriter's obligation to contribute to Losses hereunder shall be several and not joint. If the allocation provided by the immediately preceding sentence is unavailable for any reason, the Offerors and the Underwriters severally shall contribute in such proportion as is appropriate to reflect not only such relative benefits but also the relative fault of the Offerors on the one hand and of the Underwriters on the other in connection with the statements or omissions which resulted in such Losses as well as any other relevant equitable considerations. Benefits received by the Offerors shall be deemed to be equal to the total net proceeds from the offering (before deducting expenses) received, and benefits received by the Underwriters shall be deemed to be equal to the total underwriting discounts and commissions, in each case as set forth on the cover page of the Final Prospectus. Relative fault shall be determined by reference to, among other things, whether any untrue or any alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information provided by the Offerors on the one hand or the Underwriters on the other, the intent of the parties and their relative knowledge, access to information and opportunity to correct or prevent such untrue statement or omission. The Offerors and the Underwriters agree that it would not be just and equitable if contribution were determined by pro rata allocation or any other method of allocation which does not take account of the equitable considerations referred to above. Notwithstanding the provisions of this paragraph (d), no person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation. For purposes of this Section 8, each person who controls an Underwriter within the meaning of either the Act or the Exchange Act and each director, officer, employee and agent of an Underwriter shall have the same rights to contribution as such Underwriter, and each person who controls the Offerors within the meaning of either the Act or the Exchange Act, each officer and director of the Company and each Trustee of the Trust shall have the same rights to contribution as the Offerors, subject in each case to the applicable terms and conditions of this paragraph (d).

9. Default by an Underwriter. If any one or more Underwriters shall fail to purchase and pay for any of the Offered Securities agreed to be purchased by such Underwriter or Underwriters hereunder and such failure to purchase shall constitute a default in the performance of its or their obligations under this Agreement, the remaining Underwriters shall be obligated severally to take up and pay for (in the respective proportions which the principal amount of Offered Securities set forth opposite their names in Schedule II hereto bears to the aggregate principal amount of Offered Securities set forth opposite the names of all the remaining Underwriters) the Offered Securities which the defaulting Underwriter or Underwriters agreed but failed to purchase; provided, however, that in the event that the aggregate principal

amount of Offered Securities which the defaulting Underwriter or Underwriters agreed but failed to purchase shall exceed 10% of the aggregate principal amount of Offered Securities set forth in Schedule II hereto, the remaining Underwriters shall have the right to purchase all, but shall not be under any obligation to purchase any, of the Offered Securities, and if such nondefaulting Underwriters do not purchase all the Offered Securities, this Agreement will terminate without liability to any nondefaulting Underwriter or the Offerors. In the event of a default by any Underwriter as set forth in this Section 9, the Closing Date shall be postponed for such period, not exceeding five Business Days, as the Representatives shall determine in order that the required changes in the Registration Statement and the Final Prospectus or in any other documents or arrangements may be effected. Nothing contained in this Agreement shall relieve any defaulting Underwriter of its liability, if any, to either of the Offerors and any nondefaulting Underwriter for damages occasioned by its default hereunder.

10. Termination. This Agreement shall be subject to termination in the absolute discretion of the Representatives, by notice given to the Offerors prior to delivery of and payment for the Offered Securities, if at any time prior to such time (i) trading in the common stock of Exelon Corporation shall have been suspended by the Commission or the New York Stock Exchange, or trading in securities generally on the New York Stock Exchange shall have been suspended or limited or minimum prices shall have been established on such Exchange, (ii) a banking moratorium shall have been declared either by Federal or New York State authorities, (iii) a major disruption of settlements of securities or clearance services in the United States shall have occurred, or (iv) there shall have occurred any outbreak or escalation of hostilities, declaration by the United States of a national emergency or war, or other calamity or crisis the effect of which on financial markets is such as to make it, in the sole judgment of the Representatives, impractical or inadvisable to proceed with the offering or delivery of the Offered Securities as contemplated by the Final Prospectus (exclusive of any supplement thereto).

11. Representations and Indemnities to Survive. The respective agreements, representations, warranties, indemnities and other statements of the Offerors or their officers and of the Underwriters set forth in or made pursuant to this Agreement will remain in full force and effect, regardless of any investigation made by or on behalf of any Underwriter or the Offerors or any of the officers, directors, employees, agents or controlling persons referred to in Section 8 hereof, and will survive delivery of and payment for the Offered Securities. The provisions of Sections 7 and 8 hereof shall survive the termination or cancelation of this Agreement.

12. Notices. All communications hereunder will be in writing and effective only on receipt, and, if sent to the Representatives, will be mailed, delivered or telefaxed to them at the address provided on Schedule I hereto; or, if sent to the Company or the Trust, will be mailed, delivered or telefaxed to Exelon Corporation, 10 South Dearborn Street, 37th Floor, P.O. Box 805379, Chicago, Illinois 60680-5379, Attention: Vice President and Treasurer (fax no.: (312) 394-5440) and confirmed to the General Counsel (fax no.: (215) 568-3389).

13. Successors. This Agreement will inure to the benefit of and be binding upon the parties hereto and their respective successors and the officers, directors, employees, agents and controlling persons referred to in Section 8 hereof, and no other person will have any right or obligation hereunder.

14. Applicable Law. This Agreement will be governed by and construed in accordance with the laws of the State of New York applicable to contracts made and to be performed within the State of New York.

15. Counterparts. This Agreement may be signed in one or more counterparts, each of which shall constitute an original and all of which together shall constitute one and the same agreement.

16. Headings. The section headings used herein are for convenience only and shall not affect the construction hereof.

17. Definitions. The terms which follow, when used in this Agreement, shall have the meanings indicated.

"Act" shall mean the Securities Act of 1933, as amended, and the rules and regulations of the Commission promulgated thereunder.

"Agreement" shall mean this Underwriting Agreement including all schedules attached hereto and made a part hereof.

"Basic Prospectus" shall mean the prospectus referred to in paragraph 1(a) above contained in the Registration Statement at the Effective Date including any Preliminary Prospectus.

"Business Day" shall mean any day other than a Saturday, a Sunday or a legal holiday or a day on which banking institutions or trust companies are authorized or obligated by law to close in New York City.

"Certificate of Trust" shall mean the certificate of trust filed with the State of Delaware on May 9, 2003.

"Commission" shall mean the Securities and Exchange Commission.

"Effective Date" shall mean each date and time that the Registration Statement, any post-effective amendment or amendments thereto and any Rule 462(b) Registration Statement became or become effective.

"Exchange Act" shall mean the Securities Exchange Act of 1934, as amended, and the rules and regulations of the Commission promulgated thereunder.

"Execution Time" shall mean the date and time that this Agreement is executed and delivered by the parties hereto.

"Final Prospectus" shall mean the prospectus supplement relating to the Securities that was first filed pursuant to Rule 424(b) after the Execution Time, together with the Basic Prospectus.

"Investment Company Act" shall mean the Investment Company Act of 1940, as amended, and the rules and regulations of the Commission promulgated thereunder.

"NYSE" shall mean the New York Stock Exchange.

"Preliminary Prospectus" shall mean any preliminary prospectus supplement to the Basic Prospectus which describes the Securities and the offering thereof and is used prior to filing of the Final Prospectus, together with the Basic Prospectus.

"Registration Statement" shall mean the registration statement referred to in paragraph 1(a) above, including exhibits and financial statements, as amended at the Execution Time (or, if not effective at the Execution Time, in the form in which it shall become effective) and, in the event any post-effective amendment thereto or any Rule 462(b) Registration Statement becomes effective prior to the Closing Date, shall also mean such registration statement as so amended or such Rule 462(b) Registration Statement, as the case may be. Such term shall include any Rule 430A Information deemed to be included therein at the Effective Date as provided by Rule 430A.

"Rule 415," "Rule 424," "Rule 430A" and "Rule 462" refer to such rules under the Act.

"Rule 430A Information" shall mean information with respect to the Securities and the offering thereof permitted to be omitted from the Registration Statement when it becomes effective pursuant to Rule 430A.

"Rule 462(b) Registration Statement" shall mean a registration statement and any amendments thereto filed pursuant to Rule 462(b) relating to the offering covered by the registration statement referred to in Section 1(a) hereof.

"Trust Indenture Act" shall mean the Trust Indenture Act of 1939, as amended and the rules and regulations of the Commission promulgated thereunder.

[signature page follows]

If the foregoing is in accordance with your understanding of our agreement, please sign and return to us the enclosed duplicate hereof, whereupon this letter and your acceptance shall represent a binding agreement among the Company, the Trust and the several Underwriters.

Very truly yours,

EXELON CORPORATION

By: \_\_\_\_\_  
Name:  
Title:

EXELON CAPITAL TRUST \_\_\_

By: \_\_\_\_\_  
Name:  
Title:

The foregoing Agreement is hereby confirmed and accepted as of the date specified in Schedule I hereto.

[INSERT UNDERWRITER]

By: \_\_\_\_\_  
Name:  
Title:

[INSERT UNDERWRITER]

By: \_\_\_\_\_  
Name:  
Title:

For themselves and the other  
several Underwriters named  
in Schedule II to the  
foregoing Agreement.

SCHEDULE I

Underwriting Agreement, dated \_\_\_\_\_, 2003

Registration Statement No. 333-

Representatives: \_\_[Insert Underwriters]

Number and Description of Offered Securities:

Number:

Purchase Price:

Interest Rate: %

Initial Public Offering  
Price: \$

Dealer Discount: \$ per security

Reallowance to Dealers: \$ per security

Sinking Fund Provisions: None

Other Provisions:

Time and Date of Delivery and Payment:

Time and Date --- :00AM EST  
, 2003

Place of Delivery:

Delivery --- Ballard Spahr Andrews & Ingersoll, LLP  
1735 Market Street, 51st Floor  
Philadelphia, PA 19103-7599

Date referred to in Section 5(f) after which the Company may offer or sell securities issued or guaranteed by the Company without the consent of the Representative(s): \_\_\_\_\_, 2003

Address for Notices to Representatives pursuant to Section 12 of Underwriting Agreement:

c/o [Underwriter name & address]  
Attention:

SCHEDULE II

Underwriters	Number of Preferred Securities to be Purchased
-----	-----
.....	
.....	
.....	
.....	
Total.....	



INDENTURE

by and between

EXELON CORPORATION

and

Chase Manhattan Trust Company, National Association

Dated as of May 1, 2001

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THIS INDENTURE, dated as of May 1, 2001, by and between EXELON CORPORATION, a Pennsylvania corporation (the "Issuer"), and CHASE MANHATTAN TRUST COMPANY, NATIONAL ASSOCIATION, a national banking association, as trustee (the "Trustee"),

W I T N E S S E T H:

WHEREAS, the Issuer has duly authorized the issue from time to time of its unsecured debentures, notes or other evidences of indebtedness to be issued in one or more series (the "Securities") up to such principal amount or amounts as may from time to time be authorized in accordance with the terms of this Indenture;

WHEREAS, the Issuer has duly authorized the execution and delivery of this Indenture to provide, among other things, for the authentication, delivery and administration of the Securities; and

WHEREAS, all things necessary to make this Indenture a valid indenture and agreement according to its terms have been done;

NOW, THEREFORE, in consideration of the premises and the purchases of the Securities by the holders thereof, and intending to be legally bound hereby, the Issuer and the Trustee mutually covenant and agree for the equal and proportionate benefit of the respective holders from time to time of the Securities and of the coupons, if any, appertaining thereto as follows:

ARTICLE I

DEFINITIONS

SECTION 1.1 Certain Terms Defined. The following terms (except as otherwise expressly provided or unless the context otherwise clearly requires) for all purposes of this Indenture and of any indenture supplemental hereto shall have the respective meanings specified in this Section. All other terms used in this Indenture that are defined in the Trust Indenture Act of 1939, as amended (the "Trust Indenture Act"), or the definitions of which in the Securities Act of 1933, as amended (the "Securities Act"), are referred to in the Trust Indenture Act, including terms defined therein by reference to the Securities Act (except as herein otherwise expressly provided or unless the context otherwise requires), shall have the meaning assigned to such terms in the Trust Indenture Act and in the Securities Act as in effect from time to time. All accounting terms used herein and not expressly defined shall have the meanings assigned to such terms in accordance with generally accepted accounting principles, and the term "generally accepted accounting principles" means such accounting principles as are generally accepted at the time of any computation unless a different time shall be specified with respect to such series of Securities as provided for in Section 2.3. The words "herein," "hereof" and "hereunder" and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or other subdivision. The terms defined in this Article have the meanings assigned to them in this Article and include the plural as well as the singular.

"Affiliate" has the same meaning as given to that term in Rule 405 of the Securities Act or any successor provision.

"Authenticating Agent" shall have the meaning set forth in Section 6.15.

"Board of Directors" means either the Board of Directors of the Issuer or any committee of such Board duly authorized to act on its behalf.

"Board Resolution" means a copy of one or more resolutions, certified by the secretary or an assistant secretary of the Issuer to have been duly adopted or consented to by the Board of Directors and to be in full force and effect, and delivered to the Trustee.

"Business Day" means, with respect to any Security, a day that is not a day on which banking institutions in the city (or in any of the cities, if more than one) in which amounts are payable, as specified in the form of such

Security, or in which the Corporate Trust Office of the Trustee is located, are authorized or required by any applicable law or regulation to be closed.

"Commission" means the Securities and Exchange Commission, as from time to time constituted, created under the Exchange Act, or if at any time after the execution and delivery of this Indenture such Commission is not existing and performing the duties now assigned to it under the Trust Indenture Act, then the body performing such duties on such date.

"Corporate Trust Office" means the office of the Trustee at which the corporate trust business of the Trustee shall, at any particular time, be principally administered, which office is, as of the date of this Indenture, located at 250 W. Huron Road, Suite 220, Cleveland, Ohio 44113.

"Covenant Defeasance" shall have the meaning set forth in Section 9.1(d).

"Depository" means, with respect to the Securities of any series issuable or issued in the form of one or more Registered Global Securities, the Person designated as Depository by the Issuer pursuant to Section 2.3 until a successor Depository shall have become such pursuant to the applicable provisions of this Indenture, and thereafter "Depository" shall mean or include each Person who is then a Depository hereunder, and if at any time there is more than one such Person, "Depository" as used with respect to the Securities of any such series shall mean the Depository with respect to the Registered Global Securities of that series.

"Dollar" or "\$" means the coin or currency of the United States of America as at the time of payment is legal tender for the payment of public and private debts.

"Event of Default" means any event or condition specified as such in Section 5.1.

"Exchange Act" means the Securities Exchange Act of 1934, as amended.

"Holder," "Holder of Securities," "Securityholder" or any other similar term means the person in whose name such Security is registered in the security register kept by the Issuer for that purpose in accordance with the terms hereof.

"Indenture" means this instrument as originally executed and delivered or, if amended or supplemented as herein provided, as so amended or supplemented or both, and shall include the forms and terms of particular series of Securities established as contemplated hereunder.

"IRS" means the Internal Revenue Service of the United States Department of the Treasury, or any successor entity.

"Issuer" means Exelon Corporation, a Pennsylvania corporation, and its successors and assigns.

"Issuer Order" means a written statement, request or order of the Issuer signed in its name by the chairman of the Board of Directors, the president, any vice president or the treasurer of the Issuer.

"Non-U.S. Person" means any person that is not a "U.S. person" as such term is defined in Rule 902 of the Securities Act.

"Officer's Certificate" means a certificate signed by the chairman of the Board of Directors, the president or any vice president or the treasurer of the Issuer and delivered to the Trustee. Each such certificate shall comply with Section 314 of the Trust Indenture Act and include the statements provided for in Section 10.5.

"Opinion of Counsel" means an opinion in writing signed by legal counsel who may be an employee of the Issuer or other counsel satisfactory to the Trustee. Each such opinion shall comply with Section 314 of the Trust Indenture Act and include the statements provided for in Section 10.5.

"Original Issue Date" of any Security (or portion thereof) means the earlier of (a) the date of such Security or (b) the date of any Security (or portion thereof) for which such Security was issued (directly or indirectly) on registration of transfer, exchange or substitution.

"Original Issue Discount Security" means any Security that provides for an amount less than the principal amount thereof to be due and payable upon a declaration of acceleration of the maturity thereof pursuant to Section 5.1.

"Outstanding" (except as otherwise provided in Section 7.4), when used with reference to Securities, means, subject to the provisions of Section 7.4, as of any particular time, all Securities authenticated and delivered by the Trustee under this Indenture, except:

- (a) Securities theretofore canceled by the Trustee or delivered to the Trustee for cancellation;
- (b) Securities, or portions thereof, for the payment or redemption of which moneys or U.S. Government Obligations (as provided for in Section 9.1) in the necessary amount shall have been deposited in trust with the Trustee or with any paying agent (other than the Issuer) or shall have been set aside, segregated and held in trust by the Issuer for the Holders of such Securities (if the Issuer shall act as its own paying agent), PROVIDED, that if such Securities, or portions thereof, are to be redeemed prior to the maturity thereof, notice of such redemption shall have been given as herein provided, or provisions satisfactory to the Trustee shall have been made for giving such notice; and
- (c) Securities which shall have been paid or in substitution for which other Securities shall have been authenticated and delivered pursuant to the terms of Section 2.9 (except with respect to any such Security as to which proof satisfactory to the Trustee is presented that such Security is held by a person in whose hands such Security is a legal, valid and binding obligation of the Issuer). In determining whether the Holders of the requisite principal amount of Outstanding Securities of any or all series have given any request, demand, authorization, direction, notice, consent or waiver hereunder, the principal amount of an Original Issue Discount Security that shall be deemed to be Outstanding for such purposes shall be the amount of the principal thereof that would be due and payable as of the date of such determination upon a declaration of acceleration of the maturity thereof pursuant to Section 5.1.

"Periodic Offering" means an offering of Securities of a series from time to time, the specific terms of which Securities, including, without limitation, the rate or rates of interest, if any, thereon, the stated maturity or maturities thereof and the redemption provisions, if any, with respect thereto, are to be determined by the Issuer or its agents upon the issuance of such Securities.

"Person" means any individual, corporation, partnership, limited liability company, joint venture, association, joint stock company, trust, unincorporated organization or government or any agency or political subdivision thereof.

"Principal" whenever used with reference to the Securities or any Security or any portion thereof, shall be deemed to include "and premium, if any," PROVIDED, HOWEVER, that such inclusion of premium, if any, shall under no circumstances result in the double counting of such premium for the purpose of any calculation required hereunder.

"Record date" shall have the meaning set forth in Section 2.7.

"Registered Global Security" means a Security evidencing all or a part of a series of Registered Securities, issued to the Depository for such series in accordance with Section 2.4, and bearing the legend prescribed in Section 2.4 and any other legend required by the Depository for such series.

"Registered Security" means any Security registered on the Security register of the Issuer.

"Responsible Officer" when used with respect to the Trustee means any officer of the Trustee assigned to administer corporate trust matters to whom any corporate trust matter is referred because of his or her knowledge of and familiarity with the particular subject.

"Security" or "Securities" (except as otherwise provided in Section 7.4) has the meaning stated in the first recital of this Indenture, or, as the case may be, Securities that have been authenticated and delivered under this Indenture.

"Securities Act" means the Securities Act of 1933, as amended.

"Subsidiary" means any corporation or other entity of which at least a majority of the outstanding stock having the voting power to elect a majority of the Board of Directors of such corporation (irrespective of whether or not at the time stock of any other class or classes of such corporation shall have or might have voting power by reason of the happening of any contingency) is at the time of determination directly or indirectly owned by the Issuer, or by one or more of its Subsidiaries, or by the Issuer and one or more of its Subsidiaries.

"Trustee" means the Person identified as "Trustee" in the first paragraph hereof and, subject to the provisions of Article VI, shall also include any successor trustee. "Trustee" shall also mean or include each Person who is then a trustee hereunder, and, if at any time there is more than one such Person, "Trustee" as used with respect to the Securities of any series shall mean the trustee with respect to the Securities of such series.

"U.S. Government Obligations" shall have the meaning set forth in Section 9.1(A).

"Yield to Maturity" means the yield to maturity on a series of securities, calculated at the time of issuance of such series, or, if applicable, at the most recent redetermination of interest on such series, and calculated in accordance with accepted financial practice.

## ARTICLE II

### SECURITIES

SECTION 2.1. Forms Generally. The Securities of each series shall be substantially in such form (not inconsistent with this Indenture) as shall be established by or pursuant to one or more Board Resolutions (as set forth in a Board Resolution or, to the extent established pursuant to but not set forth in a Board Resolution, an Officer's Certificate detailing such establishment), in each case with such appropriate insertions, omissions, substitutions and other variations as are required or permitted by this Indenture and may have imprinted or otherwise reproduced thereon such legend or legends or endorsements, not inconsistent with the provisions of this Indenture, as may be required to comply with any law or with any rules or regulations pursuant thereto, or with any rules of any securities exchange or to conform to general usage, all as may be determined by the officers executing such Securities, as evidenced by their execution of such Securities. The definitive Securities shall be printed, lithographed or engraved on steel engraved borders or may be produced in any other manner, all as determined by the officers executing such Securities as evidenced by their execution of such Securities.

SECTION 2.2. Form Of Trustee's Certificate Of Authentication. The Trustee's certificate of authentication on all Securities shall be in substantially the following form:

"This is one of the Securities referred to in the within-mentioned Indenture.

By  
-----  
Authorized Signatory"

If at any time there shall be an Authenticating Agent appointed with respect to any series of Securities, then the Trustee's Certificate of Authentication to be borne by the Securities of each such series shall be substantially as follows:

"This is one of the Securities referred to in the within-mentioned Indenture.

-----  
as Authenticating Agent

By  
-----  
Authorized Signatory"

SECTION 2.3. Amount Unlimited; Issuable In Series. The aggregate principal amount of Securities which may be authenticated and delivered under this Indenture is unlimited.

The Securities may be issued in one or more series. There shall be established in or pursuant to one or more Board Resolutions (and to the extent established pursuant to but not set forth in a Board Resolution, in an Officer's Certificate detailing such establishment), prior to the initial issuance of Securities of any series,

- (1) the designation of the Securities of the series, which shall distinguish the Securities of the series from the Securities of all other series, and which may be part of a series of Securities previously issued;
- (2) any limit upon the aggregate principal amount of the Securities of the series that may be authenticated and delivered under this Indenture (except for Securities authenticated and delivered upon registration of transfer of, or in exchange for, or in lieu of, other Securities of the series pursuant to Section 2.8, 2.9, 2.11, 8.5 or 11.3);
- (3) the date or dates on which the principal of the Securities of the series is payable which may range from nine months to 30 years for medium term debt securities and 30 years or more for long term debt securities;
- (4) the rate or rates at which the Securities of the series shall bear interest, if any, the date or dates from which such interest shall accrue, on which such interest shall be payable, the terms and conditions of any deferral of interest and the additional interest, if any, thereon, the right, if any, of the Issuer to extend the interest payment periods and the duration of the extensions and (in the case of Registered Securities) the date or dates on which a record shall be taken for the determination of Holders to whom interest is payable and/or the method by which such rate or rates or date or dates shall be determined;
- (5) the place or places where and the manner in which, the principal of and any interest on Securities of the series shall be payable, if other than as provided in Section 3.2;
- (6) the right, if any, of the Issuer to redeem Securities, in whole or in part, at its option and the period or periods within which, or the date or dates on which, the price or prices at which and any terms and conditions upon which Securities of the series may be so redeemed, pursuant to any sinking fund or otherwise;
- (7) the obligation, if any, of the Issuer to redeem, purchase or repay Securities of the series pursuant to any mandatory redemption, sinking fund or analogous provisions or at the option of a Holder thereof, and the price or prices at which and the period or periods within which or the date or dates on which and any terms and conditions upon which Securities of the series shall be redeemed, purchased or repaid, in whole or in part, pursuant to such obligation;
- (8) if other than denominations of \$1,000 and any integral multiple thereof;
- (9) the percentage of the principal amount at which the Securities will be issued, and, if other than the principal amount thereof, the portion of the principal amount of Securities of the series which shall be payable upon declaration of acceleration of the maturity thereof;

- (10) whether the Securities of the series will be issuable as unregistered securities (with or without coupons), any restrictions applicable to the offer, sale or delivery of unregistered securities or the payment of interest thereon and, the terms upon which unregistered securities of any series may be exchanged for Registered Securities of such series and vice versa;
- (11) whether and under what circumstances the Issuer will pay additional amounts on the Securities of the series held by a person who is not a U.S. person in respect of any tax, assessment or governmental charge withheld or deducted and, if so, whether the Issuer will have the option to redeem the Securities of the series rather than pay such additional amounts;
- (12) if the Securities of the series are to be issuable in definitive form (whether upon original issue or upon exchange of a temporary Security of such series) only upon receipt of certain certificates or other documents or satisfaction of other conditions, the form and terms of such certificates, documents or conditions;
- (13) any trustees, depositories, authenticating or paying agents, transfer agents or registrars of any other agents with respect to the Securities of such series;
- (14) any deletion from modification of or addition to the Events of Default or covenants with respect to the Securities of such series; and
- (15) any other terms of the series (which terms shall not be inconsistent with the provisions of this Indenture).

All Securities of any one series shall be substantially identical, except in the case of Registered Securities as to denomination and except as may otherwise be provided by or pursuant to the Board Resolution or Officer's Certificate referred to above. All Securities of any one series need not be issued at the same time and may be issued from time to time, consistent with the terms of this Indenture, if so provided by or pursuant to such Board Resolution or such Officer's Certificate.

SECTION 2.4. Authentication And Delivery Of Securities. The Issuer may deliver Securities of any series executed by the Issuer to the Trustee for authentication together with the applicable documents referred to below in this Section 2.4, and the Trustee shall thereupon authenticate and deliver such Securities to or upon the order of the Issuer (contained in the Issuer Order referred to below in this Section) or pursuant to such procedures acceptable to the Trustee and to such recipients as may be specified from time to time by an Issuer Order. The maturity date, original issue date, interest rate and any other terms of the Securities of such series shall be determined by or pursuant to such Issuer Order and procedures. If provided for in such procedures, such Issuer Order may authorize authentication and delivery pursuant to oral or electronic instructions from the Issuer or its duly authorized agent or agents, which instructions, if oral, shall be promptly confirmed in writing. In authenticating such Securities and accepting the additional responsibilities under this Indenture in relation to such Securities, the Trustee shall be entitled to receive (in the case of subparagraphs (2), (3) and (4) below only at or before the time of the first request of the Issuer to the Trustee to authenticate Securities of such series) and (subject to Section 6.1) shall be fully protected in relying upon, the following enumerated documents unless and until such documents have been superseded or revoked:

- (1) an Issuer Order requesting such authentication and setting forth delivery instructions if the Securities are not to be delivered to the Issuer, PROVIDED that, with respect to Securities of a series subject to a Periodic Offering, (a) such Issuer Order may be delivered by the Issuer to the Trustee prior to the delivery to the Trustee of such Securities for authentication and delivery, (b) the Trustee shall authenticate and deliver Securities of such series for original issue from time to time, in an aggregate principal amount not exceeding the aggregate principal amount established for such series, pursuant to an Issuer Order or pursuant to procedures acceptable to the Trustee as may be specified from time to time by an Issuer Order, (c) the maturity date or dates, original issue date or dates, interest rate or rates and any other terms of Securities of such series shall be determined by an Issuer Order or pursuant to such procedures and (d) if provided for in such procedures, such Issuer Order may authorize authentication and delivery



pursuant to oral or electronic instructions from the Issuer or its duly authorized agent or agents, which instructions, if oral, shall be promptly confirmed in writing;

- (2) any Board Resolution and/or Officer's Certificate referred to in Section 2.1 and 2.3 by or pursuant to which the forms and terms of the Securities were established;
- (3) an Officer's Certificate setting forth the form or forms and terms of the Securities stating that the form or forms and terms of the Securities have been established pursuant to Sections 2.1 and 2.3 and comply with this Indenture, and covering such other matters as the Trustee may reasonably request; and
- (4) At the option of the Issuer, either one or more Opinions of Counsel, or a letter addressed to the Trustee permitting it to rely on one or more Opinions of Counsel, substantially to the effect that:
  - (a) the form or forms of the Securities have been duly authorized and established in conformity with the provisions of this Indenture;
  - (b) in the case of an underwritten offering, the terms of the Securities have been duly authorized and established in conformity with the provisions of this Indenture, and, in the case of an offering that is not underwritten, certain terms of the Securities have been established pursuant to a Board Resolution or an Officer's Certificate in accordance with this Indenture, and when such other terms as are to be established pursuant to procedures set forth in an Issuer Order shall have been established, all such terms will have been duly authorized by the Issuer and will have been established in conformity with the provisions of this Indenture; and
  - (c) such Securities when executed by the Issuer and authenticated by the Trustee in accordance with the provisions of this Indenture and delivered to and duly paid for by the purchasers thereof, and subject to any conditions specified in such Opinion of Counsel, will have been duly issued under this Indenture, will be entitled to the benefits of this Indenture, and will be valid and binding obligations of the Issuer, enforceable in accordance with their respective terms except as the enforceability thereof may be limited by (i) bankruptcy, insolvency, reorganization, liquidation, moratorium, fraudulent transfer or similar laws affecting creditors' rights generally, (ii) rights of acceleration, if any, and (iii) the availability of equitable remedies may be limited by equitable principles of general applicability and such counsel need express no opinion with regard to the enforceability of Section 6.6.

In rendering such opinions, any counsel may qualify any opinions as to enforceability by stating that such enforceability may be limited by bankruptcy, insolvency, reorganization, liquidation, moratorium, fraudulent transfer and other similar laws affecting the rights and remedies of creditors and is subject to general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law). Such counsel may rely upon opinions of other counsel (copies of which shall be delivered to the Trustee) reasonably satisfactory to the Trustee, in which case the opinion shall state that such counsel believes he and the Trustee are entitled so to rely. Such counsel may also state that, insofar as such opinion involves factual matters, he has relied, to the extent he deems proper, upon certificates of officers of the Issuer and its Subsidiaries and certificates of public officials.

The Trustee shall have the right to decline to authenticate and deliver any Securities under this Section 2.4 if the Trustee, being advised by counsel, determines that such action may not lawfully be taken by the Issuer or if the Trustee in good faith by its board of directors or board of trustees, executive committee or a trust committee of directors or trustees shall determine that such action would expose the Trustee to personal liability to existing Holders or would affect the Trustee's own rights, duties or immunities under the Securities, this Indenture or otherwise.

If the Issuer shall establish pursuant to Section 2.3 that the Securities of a series are to be issued in the form of one or more Registered Global Securities, then the Issuer shall execute and the Trustee shall, in accordance with this Section and the Issuer Order with respect to such series, authenticate and deliver one or more Registered Global Securities that (i) shall represent and shall be denominated in an amount equal to the aggregate principal amount

of all of the Securities of such series issued and not yet canceled, (ii) shall be registered in the name of the Depository for such Registered Global Security or Securities or the nominee of such Depository, (iii) shall be delivered by the Trustee to such Depository or delivered or held pursuant to such Depository's instructions and (iv) shall bear a legend substantially to the following effect: "Unless and until it is exchanged in whole or in part for Securities in definitive registered form, this Security may not be transferred except as a whole by the Depository to the nominee of the Depository or by a nominee of the Depository to the Depository or another nominee of the Depository or by the Depository or any such nominee to a successor Depository or a nominee of such successor Depository."

Each Depository designated pursuant to Section 2.3 must, at the time of its designation and at all times while it serves as Depository, be a clearing agency registered under the Exchange Act and any other applicable statute or regulation.

SECTION 2.5. Execution Of Securities. The Securities shall be signed on behalf of the Issuer by the chairman or vice chairman of its Board of Directors or its president, or any executive (senior or other), a vice president or its treasurer, under its corporate seal which may, but need not, be attested. Such signatures may be the manual or facsimile signatures of the present or any future such officers. The seal of the Issuer may be in the form of a facsimile thereof and may be impressed, affixed, imprinted or otherwise reproduced on the Securities. Typographical and other minor errors or defects in any such reproduction of the seal or any such signature shall not affect the validity or enforceability of any Security that has been duly authenticated and delivered by the Trustee.

In case any officer of the Issuer who shall have signed any of the Securities shall cease to be such officer before the Security so signed shall be authenticated and delivered by the Trustee or disposed of by the Issuer, such Security nevertheless may be authenticated and delivered or disposed of as though the person who signed such Security had not ceased to be such officer of the Issuer; and any Security may be signed on behalf of the Issuer by such persons as, at the actual date of the execution of such Security shall be the proper officers of the Issuer, although at the date of the execution and delivery of this Indenture any such person was not such an officer.

SECTION 2.6. Certificate Of Authentication. Only such Securities as shall bear thereon a certificate of authentication substantially in the form hereinbefore recited, executed by the Trustee by the manual signature of one of its authorized officers, shall be entitled to the benefits of this Indenture or be valid or obligatory for any purpose. The execution of such certificate by the Trustee upon any Security executed by the Issuer shall be conclusive evidence that the Security so authenticated has been duly authenticated and delivered hereunder and that the Holder is entitled to the benefits of this Indenture.

SECTION 2.7. Denomination And Date Of Securities; Payment Of Interest. Unless otherwise provided in Section 2.3, the Securities of each series shall be issuable as Registered Securities in denominations of \$1,000 and any integral multiple thereof. The Securities of each series shall be numbered, lettered or otherwise distinguished in such manner or in accordance with such plan as the officers of the Issuer executing the same may determine with the approval of the Trustee, as evidenced by the execution and authentication thereof.

Each Registered Security shall be dated the date of its authentication. The Securities of each series shall bear interest, if any, from the date, and such interest shall be payable on the dates, established as contemplated by Section 2.3.

The person in whose name any Registered Security of any series is registered at the close of business on any record date applicable to a particular series with respect to any interest payment date for such series shall be entitled to receive the interest, if any, payable on such interest payment date notwithstanding any transfer or exchange of such Registered Security subsequent to the record date and prior to such interest payment date, except if and to the extent the Issuer shall default in the payment of the interest due on such interest payment date for such series, in which case such defaulted interest shall be paid to the persons in whose names Outstanding Registered Securities for such series are registered at the close of business on a subsequent record date (which shall be not less than five Business Days prior to the date of payment of such defaulted interest) established by notice given by mail by or on behalf of the Issuer to the Holders of Registered Securities not less than 15 days preceding such subsequent record date. The term "record date" as used with respect to any interest payment date (except a date for payment of defaulted interest) for the Securities of any series shall mean the date specified as such in the terms of the Registered

Securities of such series established as contemplated by Section 2.3, or, if no such date is so established, if such interest payment date is the first day of a calendar month, the fifteenth day of the preceding calendar month or, if such interest payment date is the fifteenth day of a calendar month, the first day of such calendar month, whether or not such record date is a Business Day.

SECTION 2.8. Registration, Transfer And Exchange. The Issuer will keep at each office or agency to be maintained for the purpose as provided in Section 3.2 for each series of Securities a register or registers in which, subject to such reasonable regulations as the Issuer may prescribe, it will provide for the registration of Registered Securities of such series and the registration of transfer of Registered Securities of such series. Such register shall be in written form in the English language or in any other form capable of being converted into such form within a reasonable time. At all reasonable times such register or registers shall be open for inspection by the Trustee.

Upon due presentation for registration of transfer of any Registered Security of any series at any such office or agency to be maintained for the purpose as provided in Section 3.2, the Issuer shall execute and the Trustee shall authenticate and deliver in the name of the transferee or transferees a new Registered Security or Registered Securities of the same series, maturity date, interest rate and original issue date in authorized denominations for a like aggregate principal amount.

At the option of the Holder thereof, Registered Securities of any series (other than a Registered Global Security, except as set forth below) may be exchanged for a Registered Security or Registered Securities of such series having authorized denominations and an equal aggregate principal amount, upon surrender of such Registered Securities to be exchanged at the agency of the Issuer that shall be maintained for such purpose in accordance with Section 3.2 and upon payment, if the Issuer shall so require, of the charges hereinafter provided. Whenever any Securities are so surrendered for exchange, the Issuer shall execute, and the Trustee shall authenticate and deliver, the Securities which the Holder making the exchange is entitled to receive. All Securities surrendered upon any exchange or transfer provided for in this Indenture shall be promptly cancelled and disposed of by the Trustee, and the Trustee shall deliver a certificate of disposition thereof to the Issuer.

All Registered Securities presented for registration of transfer, exchange, redemption or payment shall (if so required by the Issuer or the Trustee) be duly endorsed, or be accompanied by a written instrument or instruments of transfer in form satisfactory to the Issuer and the Trustee duly executed, by the Holder or his attorney duly authorized in writing.

The Issuer may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with any exchange or registration of transfer of Securities. No service charge shall be made for any such transaction.

The Issuer shall not be required to exchange or register a transfer of (a) any Securities of any series for a period of 15 days preceding the first mailing of notice of redemption of Securities of such series to be redeemed or (b) any Securities selected, called or being called for redemption, in whole or in part, except, in the case of any Security to be redeemed in part, the portion thereof not so to be redeemed.

Notwithstanding any other provision of this Section 2.8, unless and until it is exchanged in whole or in part for Securities in definitive registered form, a Registered Global Security representing all or a portion of the Securities of a series may not be transferred except as a whole by the Depository for such series to a nominee of such Depository or by a nominee of such Depository to such Depository or another nominee of such Depository or by such Depository or any such nominee to a successor Depository for such series or a nominee of such successor Depository.

If at any time the Depository for any Registered Securities of a series represented by one or more Registered Global Securities notifies the Issuer that it is unwilling or unable to continue as Depository for such Registered Securities or if at any time the Depository for such Registered Securities shall no longer be eligible under Section 2.4, the Issuer shall appoint a successor Depository eligible under Section 2.4 with respect to such Registered Securities. If a successor Depository eligible under Section 2.4 for such Registered Securities is not appointed by the Issuer within 90 days after the Issuer receives such notice or becomes aware of such ineligibility,

the Issuer's election pursuant to Section 2.3 that such Registered Securities be represented by one or more Registered Global Securities shall no longer be effective and the Issuer will execute, and the Trustee, upon receipt of an Officer's Certificate for the authentication and delivery of definitive Securities of such series, will authenticate and deliver, Securities of such series in definitive registered form in any authorized denominations, in an aggregate principal amount equal to the principal amount of the Registered Global Security or Securities representing such Registered Securities in exchange for such Registered Global Security or Securities.

The Issuer may at any time and in its sole discretion determine that the Registered Securities of any series issued in the form of one or more Registered Global Securities shall no longer be represented by a Registered Global Security or Securities. In such event the Issuer, will execute, and the Trustee, upon receipt of any Officer's Certificate for the authentication and delivery of definitive Securities of such series, will authenticate and deliver, Securities of such series in definitive registered form in any authorized denominations, in an aggregate principal amount equal to the principal amount of the Registered Global Security or Securities representing such Registered Securities, in exchange for such Registered Global Security or Securities.

If specified by the Issuer pursuant to Section 2.3 with respect to Securities represented by a Registered Global Security, the Depositary for such Registered Global Security may surrender such Registered Global Security in exchange in whole or in part for Securities of the same series in definitive registered form on such terms as are acceptable to the Issuer and such Depositary. Thereupon, the Issuer shall execute, and the Trustee shall authenticate and deliver, without service charge:

- (i) to the Person specified by such Depositary a new Registered Security or Securities of the same series, of any authorized denominations as requested by such Person, in an aggregate principal amount equal to and in exchange for such Person's beneficial interest in the Registered Global Security; and
- (ii) to such Depositary a new Registered Global Security in a denomination equal to the difference, if any, between the principal amount of the surrendered Registered Global Security and the aggregate principal amount of Registered Securities authenticated and delivered pursuant to clause (i) above.

Upon the exchange of a Registered Global Security for Securities in definitive registered form in authorized denominations, such Registered Global Security shall be cancelled by the Trustee or an agent of the Issuer or the Trustee. Securities in definitive registered form issued in exchange for a Registered Global Security pursuant to this Section 2.8 shall be registered in such names and in such authorized denominations as the Depositary for such Registered Global Security, pursuant to instructions from its direct or indirect participants or otherwise, shall instruct the Trustee or an agent of the Issuer or the Trustee. The Trustee or such agent shall deliver such Securities to or as directed by the Persons in whose names such Securities are so registered.

All Securities issued upon any transfer or exchange of Securities shall be valid obligations of the Issuer, evidencing the same debt, and entitled to the same benefits under this Indenture, as the Securities surrendered upon such transfer or exchange.

SECTION 2.9. Mutilated, Defaced, Destroyed, Lost And Stolen Securities. In case any temporary or definitive Security shall be mutilated, defaced, destroyed, lost or stolen, the Issuer in its discretion may execute and, upon the written request of any officer of the Issuer, the Trustee shall authenticate and deliver, a new Security of the same series, maturity date, interest rate and original issue date, bearing a number or other distinguishing symbol not contemporaneously outstanding, in exchange and substitution for the mutilated or defaced Security, or in lieu of and in substitution for the Security so destroyed, lost or stolen. In every case, the applicant for a substitute Security shall furnish to the Issuer and to the Trustee and any agent of the Issuer or the Trustee such security or indemnity as may be required by them to indemnify and defend and to save each of them harmless and, in every case of destruction, loss or theft, evidence to their satisfaction of the destruction, loss or theft of such Security and of the ownership thereof, and in the case of mutilation or defacement shall surrender the Security to the Trustee or such agent.

Upon the issuance of any substitute Security, the Issuer may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the fees and expenses of the Trustee) or its agent connected therewith. In case any Security which has matured or is about to mature or has been called for redemption in full shall become mutilated or defaced or be destroyed, lost or stolen, the Issuer may, instead of issuing a substitute Security, pay or authorize the payment of the same (without surrender thereof except in the case of a mutilated or defaced Security), if the applicant for such payment shall furnish to the Issuer and to the Trustee and any agent of the Issuer or the Trustee such security or indemnity as any of them may require to save each of them harmless, and, in every case of destruction, loss or theft, the applicant shall also furnish to the Issuer and the Trustee and any agent of the Issuer or the Trustee evidence to their satisfaction of the destruction, loss or theft of such Security and of the ownership thereof.

Every substitute Security of any series issued pursuant to the provisions of this Section by virtue of the fact that any such Security is destroyed, lost or stolen shall constitute an additional contractual obligation of the Issuer, whether or not the destroyed, lost or stolen Security shall be at any time enforceable by anyone and shall be entitled to all the benefits of (but shall be subject to all the limitations of rights set forth in) this Indenture equally and proportionately with any and all other Securities of such series duly authenticated and delivered hereunder. All Securities shall be held and owned upon the express condition that, to the extent permitted by law, the foregoing provisions are exclusive with respect to the replacement or payment of mutilated, defaced or destroyed, lost or stolen Securities and shall preclude any and all other rights or remedies notwithstanding any law or statute existing or hereafter enacted to the contrary with respect to the replacement or payment of negotiable instruments or other securities without their surrender.

SECTION 2.10. Cancellation Of Securities; Destruction Thereof. All Securities surrendered for payment, redemption, registration of transfer or exchange, or for credit against any payment in respect of a sinking or analogous fund, if any, if surrendered to the Issuer or any agent of the Issuer or the Trustee or any agent of the Trustee, shall be delivered to the Trustee or its agent for cancellation or, if surrendered to the Trustee, shall be canceled by it; and no Securities shall be issued in lieu thereof except as expressly permitted by any of the provisions of this Indenture. The Trustee or its agent shall dispose of canceled Securities held by it and, upon written request therefore, shall deliver a certificate of disposition to the Issuer. If the Issuer or its agent shall acquire any of the Securities, such acquisition shall not operate as a redemption or satisfaction of the indebtedness represented by such Securities unless and until the same are delivered to the Trustee or its agent for cancellation.

SECTION 2.11. Temporary Securities. Pending the preparation of definitive Securities for any series, the Issuer may execute and the Trustee shall authenticate and deliver temporary Securities for such series (printed, lithographed, typewritten or otherwise reproduced, in each case in form satisfactory to the Trustee). Temporary Securities of any series shall be issuable as Registered Securities without coupons of any authorized denomination, and substantially in the form of the definitive Securities of such series but with such omissions, insertions and variations as may be appropriate for temporary Securities, all as may be determined by the Issuer with the concurrence of the Trustee as evidenced by the execution and authentication thereof. Temporary Securities may contain such references to any provisions of this Indenture as may be appropriate. Every temporary Security shall be executed by the Issuer and be authenticated by the Trustee upon the same conditions and in substantially the same manner, and with like effect, as the definitive Securities. Without unreasonable delay, the Issuer shall execute and shall furnish definitive Securities of such series and thereupon temporary Registered Securities of such series may be surrendered in exchange therefor without charge at each office or agency to be maintained by the Issuer for that purpose pursuant to Section 3.2 and the Trustee shall authenticate and deliver in exchange for such temporary Securities of such series an equal aggregate principal amount of definitive Securities of the same series having authorized denominations. Until so exchanged, the temporary Securities of any series shall be entitled to the same benefits under this Indenture as definitive Securities of such series, unless otherwise established pursuant to Section 2.3.

ARTICLE III

COVENANTS OF THE ISSUER

SECTION 3.1. Payment Of Principal And Interest. The Issuer covenants and agrees for the benefit of each series of Securities that it will duly and punctually pay or cause to be paid the principal of (and premium, if any), and interest on, each of the Securities of such series (together with any additional amounts payable pursuant to the terms of such Securities) at the place or places, at the respective time or times and in the manner provided in such Securities in this Indenture. The interest, if any, on Registered Securities (together with any additional amounts payable pursuant to the terms of such Securities) shall be payable only to or upon the written order of the Holders thereof and, at the option of the Issuer, may be paid by wire transfer or by mailing checks for such interest payable to or upon the written order of such Holders at their last addresses as they appear on the Securities register of the Issuer.

SECTION 3.2. Offices For Payments, Etc. So long as any Registered Securities (other than Global Registered Securities) are authorized for issuance pursuant to this Indenture or are outstanding hereunder, the Issuer will maintain in New York, an office or agency where the Registered Securities of each series may be presented for payment, where the Securities of each series may be presented for exchange as is provided in this Indenture and, if applicable, pursuant to Section 2.3 and where the Registered Securities of each series may be presented for registration of transfer as in this Indenture provided.

Notices and demands to or upon the Issuer in respect of the Securities of any series or this Indenture may be served on the Issuer at the corporate trust office of the Trustee.

The Issuer will give to the Trustee written notice of the location of each such office or agency and of any change of location thereof. In case the Issuer shall fail to maintain any agency required by this Section to be located in New York, or shall fail to give such notice of the location or for any change in the location of any of the above agencies, presentations and demands may be made and notices may be served at the Corporate Trust Office of the Trustee.

The Issuer may from time to time designate one or more additional offices or agencies where the Securities of a series may be presented for payment, where the Securities of that series may be presented for exchange as provided in this Indenture and pursuant to Section 2.3 and where the Registered Securities of that series may be presented for registration of transfer as in this Indenture provided, and the Issuer may from time to time rescind any such designation, as the Issuer may deem desirable or expedient; PROVIDED, that no such designation or rescission shall in any manner relieve the Issuer of its obligations to maintain the agencies provided for in this Section. The Issuer shall give to the Trustee prompt written notice of any such designation or rescission thereof.

SECTION 3.3. Appointment To Fill A Vacancy In Office Of Trustee. The Issuer, whenever necessary to avoid or fill a vacancy in the office of Trustee, will appoint, in the manner provided in Section 6.10, a Trustee, so that there shall at all times be a Trustee with respect to each series of Securities hereunder.

SECTION 3.4. Paying Agents. Whenever the Issuer shall appoint a paying agent other than the Trustee with respect to the Securities of any series, it will cause such paying agent to execute and deliver to the Trustee an instrument in which such agent shall agree with the Trustee, subject to the provisions of this Section:

- (a) that it will hold all sums received by it as such agent for the payment of the principal of (and premium, if any) or interest on the Securities of such series (whether such sums have been paid to it by the Issuer or by any other obligor on the Securities of such series) in trust for the benefit of the Holders of the Securities of such series or of the Trustee;
- (b) that it will give the Trustee notice of any failure by the Issuer (or by any other obligor on the Securities of such series) to make any payment of the principal of (and premium, if any) or interest on the Securities of such series when the same shall be due and payable; and

- (c) that it will pay any such sums so held in trust by it to the Trustee upon the Trustee's written request at any time during the continuance of the failure referred to in the foregoing clause (b).

The Issuer will, on or prior to each due date of the principal of (and premium, if any) or interest on the Securities of such series, deposit with the paying agent a sum sufficient to pay such principal or interest so becoming due, and (unless such paying agent is the Trustee) the Issuer will promptly notify the Trustee of any failure to take such action.

If the Issuer shall act as its own paying agent with respect to the Securities of any series, it will, on or before each due date of the principal of (and premium, if any) or interest on the Securities of such series, set aside, segregate and hold in trust for the benefit of the Holders of the Securities of such series a sum sufficient to pay such principal (and premium, if any) or interest so becoming due. The Issuer will promptly notify the Trustee of any failure to take such action.

Anything in this Section to the contrary notwithstanding, but subject to Section 9.1, the Issuer may at any time, for the purpose of obtaining a satisfaction and discharge with respect to one or more or all series of Securities hereunder, or for any other reason, pay or cause to be paid to the Trustee all sums held in trust for any such series by the Issuer or any paying agent hereunder, as required by this Section, such sums to be held by the Trustee upon the trusts herein contained.

Anything in this Section to the contrary notwithstanding, the agreement to hold sums in trust as provided in this Section is subject to the provisions of Sections 9.3 and 9.4.

SECTION 3.5. Compliance Certificates. The Issuer will furnish to the Trustee on or before January 31 in each year (beginning with January 31, 2002) a brief certificate (which need not comply with Section 10.5) from the principal executive, financial or accounting officer of the Issuer stating that in the course of the performance by the signer of his or her duties as an officer of the Issuer he or she would normally have knowledge of any default or non-compliance by the Issuer in the performance of any covenants or conditions contained in this Indenture, stating whether or not he or she has knowledge of any such default or non-compliance and, if so, describing each such default or non-compliance of which the signer has knowledge and the nature of such default or non-compliance.

SECTION 3.6. Corporate Existence. Except as provided in Section 3.8, the Issuer will do or cause to be done all things necessary to preserve and keep in full force and effect its corporate existence.

SECTION 3.7. Payment Of Taxes And Other Claims. The Issuer will pay or discharge or cause to be paid or discharged, before the same shall become delinquent: (a) all taxes, assessments and governmental charges levied or imposed upon the Issuer or any Subsidiary or upon the income, profits or property of the Issuer or any Subsidiary; and (b) all lawful claims for labor, materials and supplies, which, if unpaid, might by law become a lien upon the property of the Issuer or any Subsidiary; PROVIDED, that the Issuer shall not be required to pay or discharge or cause to be paid or discharged any such tax, assessment, charge or claim whose amount, applicability or validity is being contested in good faith by appropriate proceedings.

SECTION 3.8. The Issuer May Not Merge. The Issuer may not consolidate with or merge with or into, or sell, convey, transfer or lease all or substantially all of its assets (either in one transaction or a series of transactions) to any Person unless:

- (a) the Person formed by or surviving such consolidation or merger or to which such sale, conveyance, transfer or lease shall have been made (the "Successor") if other than the Issuer, (a) is organized and existing under the laws of the United States of America or any State thereof or the District of Columbia, and (b) shall expressly assume by a supplemental indenture, executed and delivered to the Trustee, in form satisfactory to the Trustee, all the obligations of the Issuer under the Securities and this Indenture;

- (b) immediately prior to and after giving effect to such transaction (and treating any indebtedness which becomes an obligation of the Successor or any Subsidiary as a result of such transaction as having been incurred by such Successor or such Subsidiary at the time of such transaction), no Event of Default shall have occurred and be continuing; and
- (c) the Issuer, delivers to the Trustee an Officer's Certificate and an Opinion of Counsel, each stating that such consolidation, merger, sale, conveyance, transfer or lease and such supplemental indenture comply with this Indenture.

The Successor will be the successor to the Issuer, and will be substituted for, and may exercise every right and power and become the obligor on the Securities with the same effect as if the Successor had been named, as the Issuer herein but, in the case of a sale, conveyance, transfer or lease of all or substantially all of the assets of the Issuer, the predecessor Issuer will not be released from its obligation to pay the principal of, premium, if any, and interest on the Securities.

#### ARTICLE IV

##### SECURITYHOLDER LISTS AND REPORTS BY THE ISSUER AND THE TRUSTEE

SECTION 4.1. Issuer To Furnish Trustee Information As To Names And Addresses Of Securityholders. If and so long as the Trustee shall not be the Security registrar for the Securities of any series, the Issuer and any other obligor on the Securities will furnish or cause to be furnished to the Trustee a list in such form as the Trustee may reasonably require of the names and addresses of the Holders of the Registered Securities of such series pursuant to Section 312 of the Trust Indenture Act:

- (a) semi-annually not more than 5 days after each record date for the payment of interest on such Registered Securities, as hereinabove specified, as of such record date and on dates to be determined pursuant to Section 2.3 for non-interest bearing Registered Securities in each year; and
- (b) at such other times as the Trustee may reasonably request in writing, within thirty days after receipt by the Issuer of any such request as of a date not more than 15 days prior to the time such information is furnished.

SECTION 4.2. Reports By The Issuer. The Issuer covenants to file with the Trustee, within 15 days after the Issuer is required to file the same with the Commission, copies of the annual reports and of the information, documents, and other reports that the Issuer may be required to file with the Commission pursuant to Section 13 or Section 15(d) of the Exchange Act or pursuant to Section 314 of the Trust Indenture Act.

Upon the written request and at the expense of and payable in advance by any Securityholder, the Trustee shall provide such reports, information or documents as have been provided to it under this Section 4.2. The Trustee shall not have any obligation to review any report, information or documents provided to the Trustee by the Issuer pursuant to this Section 4.2, nor shall the Trustee be deemed to have notice of any item contained therein or Event of Default which may be disclosed therein in any manner. The Trustee's sole responsibility with respect to such reports shall be to act as the depository for such report for the Securityholders and to make such reports available to the Securityholders in accordance with this Section 4.2. The Trustee shall have no duty to request copies of any such reports, information or documents which are required to be furnished to it hereunder.

SECTION 4.3. Reports By The Trustee.

- (a) On or before the first July 15 which occurs not less than 60 days after the earliest date of issuance of any Securities and on or before July 15 in each year thereafter, so long as any Securities are Outstanding hereunder, the Trustee shall transmit by mail as provided below to the Securityholders of each series of outstanding Securities, as hereinafter in this Section provided, a brief report dated as of the preceding May 15 with respect to:



- (i) its eligibility under Section 6.10 and its qualification under Section 6.9, or in lieu thereof, if to the best of its knowledge it has continued to be eligible and qualified under such Sections, a written statement to such effect;
  - (ii) the character and amount of any advances (and if the Trustee elects to so state, the circumstances surrounding the making thereof) made by the Trustee (as such) which remain unpaid on the date of such report and for the reimbursement of which it claims or may claim a lien or charge, prior to that of the Securities of such series, on any property or funds held or collected by it as Trustee, except that the Trustee shall not be required (but may elect) to report such advances if such advances so remaining unpaid aggregate not more than 0.5% of the principal of the Securities of such series outstanding on the date of such report;
  - (iii) the amount, interest rate and maturity date of all other indebtedness owing by the Issuer (or any other obligor on the Securities of such series) to the Trustee in its individual capacity on the date of such report, with a brief description of any property held as collateral security therefor, except any indebtedness based upon a creditor relationship;
  - (iv) the property and funds, if any, physically in the possession of the Trustee (as such) in respect of the Securities of such series on the date of such report;
  - (v) any additional issue of Securities of such series which the Trustee has not previously reported; and
  - (vi) any action taken by the Trustee in the performance of its duties under this Indenture which the Trustee has not previously reported and which in the Trustee's opinion materially affects the Securities of such series, except action in respect of a default, notice of which has been or is to be withheld by it in accordance with the provisions of Section 5.11.
- (b) The Trustee shall transmit to the Securityholders of each series, as provided in subsection (c) of this Section, a brief report with respect to the character and amount of any advances (and if the Trustee elects so to state, the circumstances surrounding the making thereof) made by the Trustee (as such) in respect of the Securities of such series since the date of the last report transmitted pursuant to the provisions of subsection (a) of this Section (or if no such report has yet been so transmitted, since the date of this Indenture) for the reimbursement of which it claims or may claim a lien or charge prior to that of the Securities of such series on property or funds held or collected by it as Trustee and which it has not previously reported pursuant to this subsection (b), except that the Trustee shall not be required (but may elect) to report such advances if such advances remaining unpaid at any time aggregate 10% or less of the principal amount of Securities of such series outstanding at such time, such report to be transmitted within 90 days after such time.
  - (c) Reports pursuant to this Section shall be transmitted by mail to all Holders of Securities of such series, as the names and addresses of such Holders appear upon the Securities register as of a date not more than 15 days prior to the mailing thereof.
  - (d) A copy of each such report shall, at the time of such transmission to Securityholders, be furnished to the Issuer and be filed by the Trustee with each stock exchange upon which the Securities of such series are listed and also with the Commission. The Issuer agrees to notify the Trustee when and as Securities of any series become listed on any national securities exchange.

#### ARTICLE V

##### REMEDIES OF THE TRUSTEE AND SECURITYHOLDERS ON EVENT OF DEFAULT

SECTION 5.1. Event Of Default Defined, Acceleration Of Maturity; Waiver Of Default. "Event of Default" with respect to Securities of any series, wherever used herein, means any one of the following events which shall have occurred and be continuing (whatever the reason for such Event of Default and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

- (a) default in the payment of any installment of interest upon any of the Securities of such series as and when the same shall become due and payable, and continuance of such default for a period of 30 days; provided that, a valid extension of an interest payment period by the Issuer in accordance with the terms of such Securities shall not constitute a failure to pay interest; or
- (b) default in the payment of all or any part of the principal or premium (if any) on any of the Securities of such series as and when the same shall become due and payable either at maturity, upon any redemption, by declaration or otherwise; or
- (c) default in the payment of any sinking fund installment as and when the same shall become due and payable by the terms of the Securities of such series; or
- (d) failure on the part of the Issuer duly to observe or perform any other of the covenants or agreements on the part of the Issuer in the Securities of such series or contained in this Indenture (other than a covenant or agreement included in this Indenture solely for the benefit of a series of Securities other than such series) for a period of 60 days after the date on which written notice specifying such failure, stating that such notice is a "Notice of Default" hereunder and demanding that the Issuer remedy the same, shall have been given by registered or certified mail, return receipt requested, to the Issuer by the Trustee, or to the Issuer and the Trustee by the holders of at least 25% in aggregate principal amount of the Outstanding Securities of the series to which such covenant or agreement relates; or
- (e) a court having jurisdiction in the premises shall enter a decree or order for relief in respect of the Issuer in an involuntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or appointing a receiver, liquidator, assignee, custodian, trustee, sequestrator (or similar official) of the Issuer for any substantial part of its or their property or ordering the winding up or liquidation of its or their affairs, and such decree or order shall remain unstayed and in effect for a period of 60 consecutive days; or
- (f) the Issuer shall commence a voluntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or consent to the entry of an order for relief in an involuntary case under any such law, or consent to the appointment or taking possession by a receiver, liquidator, assignee, custodian, trustee, sequestrator (or similar official) of the Issuer or for any substantial part of its or their property, or make any general assignment for the benefit of creditors; or
- (g) any other Event of Default provided in the Board Resolution under which such series of Securities is issued or in the form of Security for such series.

If an Event of Default described in clause (a), (b) or (c) occurs and is continuing, then, and in each and every such case, except for any series of Securities the principal of which shall have already become due and payable, either the Trustee or the Holders of not less than 25% in aggregate principal amount of the Securities of each such affected series then Outstanding hereunder (each such series voting as a separate class) by notice in writing to the Issuer (and to the Trustee if given by Securityholders), may declare the entire principal (or, if the Securities of such series are Original Issue Discount Securities, such portion of the principal amount as may be specified in the terms of such series) of all Securities of such series, and the interest accrued thereon, if any, to be due and payable immediately, and upon any such declaration, the same shall become immediately due and payable.

Except as otherwise provided in the terms of any series of Securities pursuant to Section 2.3, if an Event of Default described in clause (d) or (g) above with respect to all series of the Securities then Outstanding, occurs and is continuing, then, and in each and every such case, unless the Principal of all of the Securities shall have already

become due and payable, either the Trustee or the Holders of not less than 25% in aggregate principal amount of all of the Securities then Outstanding hereunder (treated as one class) by notice in writing to the Issuer (and to the Trustee if given by Securityholders), may declare the entire principal (or, if the Securities of any series are Original Issue Discount Securities, such portion of the principal amount as may be specified in the terms of such series) of all of the Securities then Outstanding, and the interest accrued thereon, if any, to be due and payable immediately, and upon such declaration, the same shall become immediately due and payable.

If an Event of Default described in clause (e) or (f) above occurs and is continuing, then the principal amount of all the Securities then Outstanding, and the interest accrued thereon, if any, shall become and be immediately due and payable without any declaration or other act on the part of the Trustee or any Holder.

If an Event of Default described in clause (d) or (g) occurs and is continuing, which Event of Default is with respect to less than all series of Securities then Outstanding, then, and in each and every such case, except for any series of Securities the principal of which shall have already become due and payable, either the Trustee or the Holders of not less than 25% in aggregate principal amount of the Securities of each such affected series then Outstanding hereunder (each such series voting as a separate class) by notice in writing to the Issuer (and to the Trustee if given by Securityholders), may declare the entire principal (or, if the Securities of such series are Original Issue Discount Securities, such portion of the principal amount as may be specified in the terms of such series) of all Securities of such series, and the interest accrued thereon, if any, to be due and payable immediately, and upon any such declaration, the same shall become immediately due and payable.

The foregoing provisions are subject to the condition that if, at any time after the principal (or, if the Securities are Original Issue Discount Securities, such portion of the principal as may be specified in the terms thereof) of the Securities of any series (or of all the Securities, as the case may be) shall have been so declared due and payable, and before any judgment or decree for the payment of the moneys due shall have been obtained or entered as hereinafter provided, the Issuer shall pay or shall deposit with the Trustee a sum sufficient to pay

- (a) all matured installments of interest upon all the Securities of such series (or all the Securities, as the case may be); and
  - (i) the principal of any and all Securities of such series (or of all the Securities, as the case may be) which shall have become due otherwise than by acceleration; and
  - (ii) interest upon such principal and, to the extent that payment of such interest is enforceable under applicable law, on overdue installments of interest, at the same rate as the rate of interest or Yield to Maturity (in the case of Original Issue Discount Securities) specified in the Securities of such series (or at the respective rates of interest or Yields to Maturity of all the Securities, as the case may be) to the date of such payment or deposit; and
  - (iii) all amounts payable to the Trustee pursuant to Section 6.6; and
- (b) all Events of Default under the Indenture, other than the non-payment of the principal of Securities which shall have become due by acceleration, shall have been cured, waived or otherwise remedied as provided herein,

then and in every such case the Holders of a majority, or any applicable supermajority, in aggregate principal amount of all the Securities of such series voting as a separate class (or all the Securities, as the case may be, voting as a single class), then Outstanding, by written notice to the Issuer and to the Trustee, may waive all defaults with respect to such series (or with respect to all the Securities, as the case may be) and rescind and annul such declaration and its consequences, but no such waiver or rescission and annulment shall extend to or shall affect any subsequent default or shall impair any right consequent thereon.

For all purposes under this Indenture, if a portion of the principal of any Original Issue Discount Securities shall have been accelerated and declared due and payable pursuant to the provisions hereof, then, from and after such declaration, unless such declaration has been rescinded and annulled, the principal amount of such Original

Issue Discount Securities shall be deemed, for all purposes hereunder, to be such portion of the principal thereof as shall be due and payable as a result of such acceleration, and payment of such portion of the principal thereof as shall be due and payable as a result of such acceleration, together with interest, if any, thereon and all other amounts owing thereunder, shall constitute payment in full of such Original Issue Discount Securities.

SECTION 5.2. Collection Of Indebtedness By Trustee; Trustee May Prove Debt. The Issuer covenants that (a) in case default shall be made in the payment of any installment of interest on any of the Securities of any series when such interest shall have become due and payable, and such default shall have continued for a period of 30 days, or (b) in case default shall be made in the payment of all or any part of the principal of any of the Securities of any series when the same shall have become due and payable, whether upon maturity of the Securities of such series or upon any redemption or by declaration or otherwise, then upon demand of the Trustee, the Issuer will pay to the Trustee for the benefit of the Holders of the Securities of such series the whole amount that then shall have become due and payable on all Securities of such series, for principal and interest, as the case may be (with interest to the date of such payment upon the overdue principal and, to the extent that payment of such interest is enforceable under applicable law, on overdue installments of interest at the same rate as the rate of interest or Yield to Maturity (in the case of Original Issue Discount Securities) specified in the Securities of such series); and in addition thereto, such further amount as shall be sufficient to cover the costs and expenses of collection, and such other amount due the Trustee under Section 6.6 in respect of Securities of such series.

Until such demand is made by the Trustee, the Issuer may pay the principal of and interest on the Securities of any series to the registered Holders, whether or not the Securities of such series be overdue.

In case the Issuer shall fail forthwith to pay such amounts upon such demand, the Trustee, in its own name as trustee of an express trust, shall be entitled and empowered to institute any action or proceedings at law or in equity for the collection of the sums so due and unpaid, and may prosecute any such action or proceedings to judgment or final decree, and may enforce any such judgment or final decree against the Issuer or other obligor upon the Securities and collect in the manner provided by law out of the property of the Issuer or other obligor upon the Securities, wherever situated, all the moneys adjudged or decreed to be payable.

In case there shall be pending proceedings relative to the Issuer or any other obligor upon the Securities under Title 11 of the United States Code or any other applicable federal or state bankruptcy, insolvency or other similar law, or in case a receiver, assignee or trustee in bankruptcy or reorganization, liquidator, sequestrator or similar official shall have been appointed for or taken possession of the Issuer or its property or such other obligor, or in case of any other comparable judicial proceedings relative to the Issuer or other obligor upon the Securities, or to the creditors or property of the Issuer or such other obligor, the Trustee, irrespective of whether the principal of the Securities shall then be due and payable as therein expressed or by declaration or otherwise and irrespective of whether the Trustee shall have made any demand pursuant to the provisions of this Section, shall be entitled and empowered, by intervention in such proceedings or otherwise:

- (a) to file and prove a claim or claims for the whole amount of principal and interest (or, if the Securities of any series are Original Issue Discount Securities, such portion of the principal amount as may be specified in the terms of such series) owing and unpaid in respect of the Securities of any series, and to file such other papers or documents as may be necessary or advisable in order to have the claims of the Trustee (including any claim for amounts payable to the Trustee under Section 6.6) and of the Securityholders allowed in any judicial proceedings relative to the Issuer or other obligor upon the Securities, or to the creditors or property of the Issuer or such other obligor; and
- (b) unless prohibited by applicable law and regulations, to vote on behalf of the holders of the Securities of any series in any election of a receiver, assignee, trustee or a standby trustee in arrangement, reorganization, liquidation or other bankruptcy or insolvency proceedings, custodian or other person performing similar functions in respect of any such proceedings; and
- (c) to collect and receive any moneys or other property payable or deliverable on any such claims, and to distribute all amounts received with respect to the claims of the Securityholders and of the Trustee on their behalf; and any trustee, receiver, or liquidator, custodian or other similar official performing

similar functions in respect of any such proceedings is hereby authorized by each of the Securityholders to make payments to the Trustee, and, in the event that the Trustee shall consent to the making of payments directly to the Securityholders, to pay to the Trustee its costs and expenses of collection and all other amounts due to it pursuant to Section 6.6.

Nothing herein contained shall be deemed to authorize the Trustee to authorize or consent to or vote for or accept or adopt on behalf of any Securityholder any plan of reorganization, arrangement, adjustment or composition affecting the Securities of any series or the rights of any Holder thereof, or to authorize the Trustee to vote in respect of the claim of any Securityholder in any such proceeding, except as aforesaid in clause (b).

All rights of action and of asserting claims under this Indenture, or under any of the Securities of any series may be enforced by the Trustee without the possession of any of the Securities of such series or the production thereof in any trial or other proceedings relative thereto, and any such action or proceedings instituted by the Trustee shall be brought in its own name as trustee of an express trust, and any recovery of judgment shall be awarded to the Trustee for ratable distribution to the Holders of the Securities in respect of which such action was taken, after payment of all sums due to the Trustee under Section 6.6 in respect of such Securities.

In any proceedings brought by the Trustee (and also any proceedings involving the interpretation of any provision of this Indenture to which the Trustee shall be a party) the Trustee shall be held to represent all the Holders of the Securities in respect to which such action was taken, and it shall not be necessary to make any Holders of such Securities parties to any such proceedings.

SECTION 5.3. Application Of Proceeds. Any moneys collected by the Trustee pursuant to this Article in respect of any series shall be applied in the following order at the date or dates fixed by the Trustee and, in case of the distribution of such moneys on account of principal or interest, upon presentation of the several Securities in respect of which monies have been collected and stamping (or otherwise noting) thereon the payment, or issuing Securities of such series in reduced principal amounts in exchange for the presented Securities of like series if only partially paid, or upon surrender thereof if fully paid:

FIRST: To the payment of costs and expenses applicable to such series of Securities in respect of which monies have been collected, including all amounts due to the Trustee and each predecessor Trustee pursuant to Section 6.6 in respect to such series of Securities;

SECOND: In case the principal of the Securities of such series in respect of which moneys have been collected shall not have become and be then due and payable, to the payment of interest on the Securities of such series in default in the order of the maturity of the installments on such interest, with interest (to the extent that such interest has been collected by the Trustee and is permitted by applicable law) upon the overdue installments of interest at the same rate as the rate of interest or Yield to Maturity (in the case of Original Issue Discount Securities) specified in such Securities, such payments to be made ratably to the persons entitled thereto, without discrimination or preference;

THIRD: In case the principal of the Securities of such series in respect of which moneys have been collected shall have become and shall be then due and payable, to the payment of the whole amount then owing and unpaid upon all the Securities of such series for principal and interest, with interest upon the overdue principal, and (to the extent that such interest has been collected by the Trustee and is permitted by applicable law) upon the overdue installments of interest at the same rate as the rate of interest or Yield to Maturity (in the case of Original Issue Discount Securities) specified in the Securities of such series; and in case such moneys shall be insufficient to pay in full the whole amount so due and unpaid upon the Securities of such series, then to the payment of such principal and interest or Yield to Maturity, without preference or priority of principal over interest or Yield to Maturity, or of interest or Yield to Maturity over principal, or of any installment of interest over any other installment of interest or of any Security of such series over any other Security of such series, ratably to the aggregate of such principal and accrued and unpaid interest or Yield to Maturity; and

FOURTH: To the payment of the remainder, if any, to the Issuer or any other person lawfully entitled thereto.

SECTION 5.4. Suits For Enforcement. In case an Event of Default has occurred, has not been waived and is continuing, the Trustee may in its discretion proceed to protect and enforce the rights vested in it by this Indenture by such appropriate judicial proceedings as the Trustee shall deem most effectual to protect and enforce any of such rights, either at law or in equity or in bankruptcy or otherwise, whether for the specific enforcement of any covenant or agreement contained in this Indenture or in aid of the exercise of any power granted in this Indenture or to enforce any other legal or equitable right vested in the Trustee by this Indenture or by law.

SECTION 5.5. Restoration Of Rights On Abandonment Of Proceedings. In case the Trustee or any Holder of any Security shall have proceeded to enforce any right under this Indenture and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely to the Trustee or to such Holder, then and in every such case the Issuer, the Trustee and the Holders of Securities shall be restored severally and respectively to their former positions and rights hereunder, and all rights, remedies and powers of the Issuer, the Trustee and the Securityholders shall continue as though no such proceedings had been taken.

SECTION 5.6. Limitations On Suits By Securityholders. No Holder of any Security of any series shall have any right by virtue or by availing of any provision of this Indenture to institute any action or proceeding at law or in equity or in bankruptcy or otherwise upon or under or with respect to this Indenture or such Security, or for the appointment of a trustee, receiver, liquidator, custodian or other similar official or for any other remedy hereunder or thereunder, unless (a) such Holder previously shall have given to the Trustee written notice of an Event of Default with respect to Securities of such series and of the continuance thereof, as hereinbefore provided, and (b) the Holders of not less than 25% in aggregate principal amount of the Securities of such series then Outstanding (treated as a single class) shall have made written request upon the Trustee to institute such action or proceedings in its own name as Trustee hereunder and shall have offered to the Trustee such reasonable indemnity as it may require against the costs, expenses and liabilities to be incurred therein or thereby, and (c) the Trustee for 60 days after its receipt of such notice, request and offer of indemnity shall have failed to institute any such action or proceeding, and (d) no direction inconsistent with such written request shall have been given to the Trustee pursuant to Section 5.9; it being understood and intended, and being expressly covenanted by the taker and Holder of every Security with every other taker and Holder and the Trustee, that no one or more Holders of Securities of any series shall have any right in any manner whatever by virtue or by availing of any provision of this Indenture or any Security to affect, disturb or prejudice the rights of any other such taker or Holder of Securities or to obtain or seek to obtain priority over or preference to any other such taker or Holder or to enforce any right under this Indenture or any Security, except in the manner herein provided and for the equal, ratable and common benefit of all Holders of Securities of the applicable series. For the protection and enforcement of the provisions of this Section, each and every Securityholder and the Trustee shall be entitled to such relief as can be given either at law or in equity.

SECTION 5.7. Unconditional Right Of Securityholders To Institute Certain Suits. Notwithstanding any other provision in this Indenture and any provision of any Security, the right of any Holder of any Security to receive payment of the principal of and interest on such Security on or after the respective due dates expressed in such Security or the applicable redemption dates provided for in such Security, or to institute suit for the enforcement of any such payment on or after such respective dates, shall not be impaired or affected without the consent of such Holder.

SECTION 5.8. Powers And Remedies Cumulative; Delay Or Omission Not Waiver Of Default. Except as provided in Section 5.6, no right or remedy herein conferred upon or reserved to the Trustee or to the Holders of Securities is intended to be exclusive of any other right or remedy and every right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

No delay or omission of the Trustee or of any Holder of Securities to exercise any right or power accruing upon any Event of Default occurring and continuing as aforesaid shall impair any such right or power or shall be construed to be a waiver of any such Event of Default or an acquiescence therein. Every power and remedy given by this Indenture, any Security or law to the Trustee or to the Holders of Securities may be exercised from time to time, and as often as shall be deemed expedient, by the Trustee or, subject to Section 5.6, by the Holders of Securities.

SECTION 5.9. Control By Holders Of Securities. The Holders of a majority in aggregate principal amount of the Securities of each series affected (with each such series voting as a separate class) at the time Outstanding shall have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred on the Trustee with respect to the Securities of such series by this Indenture; PROVIDED, that such Holders shall have offered to the Trustee such reasonable indemnity as it may require against costs, expenses and liabilities to be incurred therein or thereby, and PROVIDED FURTHER, that such direction shall not be otherwise than in accordance with law and the provisions of this Indenture; and PROVIDED, FURTHER, that (subject to the provisions of Section 6.1) the Trustee shall have the right to decline to follow any such direction if (a) the Trustee, being advised by counsel, shall determine that the action or proceeding so directed may not lawfully be taken; or (b) if the Trustee by its board of directors, the executive committee or a trust committee of directors or Responsible Officers of the Trustee shall determine in good faith that the action or proceedings so directed would involve the Trustee in personal liability; or (c) if the Trustee in good faith shall so determine that the actions or forbearances specified in or pursuant to such direction would be unduly prejudicial to the interests of Holders of the Securities of all affected series not joining in the giving of said direction, it being understood that (subject to Section 6.1) the Trustee shall have no duty to ascertain whether or not such actions or forbearances are unduly prejudicial to such Holders.

Nothing in this Indenture shall impair the right of the Trustee in its discretion to take any action deemed proper by the Trustee and which is not inconsistent with such direction or directions by Securityholders.

SECTION 5.10. Waiver Of Past Defaults. Prior to the declaration of acceleration of the maturity of the Securities of any series as provided in Section 5.1, the Holders of a majority in aggregate principal amount of the Securities of such series at the time Outstanding (voting as a single class) may on behalf of the Holders of all such Securities waive any past default or Event of Default described in Section 5.1 and its consequences, except (i) in the payment of the principal of or premium, if any, or interest if any, on or any additional amounts payable in respect of any security of that Series or (ii) a default in respect of a covenant or provision hereof which cannot be modified or amended without the consent of the Holder of each Security affected. In the case of any such waiver, the Issuer, the Trustee and the Holders of all such Securities shall be restored to their former positions and rights hereunder, respectively, and such default shall cease to exist and be deemed to have been cured and not to have occurred for purposes of this Indenture; but no such waiver shall extend to any subsequent or other default or impair any right consequent thereon.

SECTION 5.11. Trustee To Give Notice Of Default, But May Withhold In Certain Circumstances. The Trustee shall, within 90 days after the occurrence of a default with respect to the Securities of any series, give notice of all defaults with respect to that series known to the Trustee to all Holders of Securities of such series in the manner and to the extent provided in Section 313(c) of the Trust Indenture Act, unless in each case such defaults shall have been cured before the mailing or publication of such notice (the term "default" for the purpose of this Section being hereby defined to mean any event or condition which is, or with notice or lapse of time or both would become, an Event of Default); PROVIDED, that, except in the case of default in the payment of the principal of or interest on any of the Securities of such series, or in the payment of any sinking fund installment on such series, the Trustee shall be protected in withholding such notice if and so long as the board of directors, the executive committee, or a trust committee of directors or trustees and/or Responsible Officers of the Trustee in good faith determines that the withholding of such notice is in the interests of the Securityholders of such series.

The Trustee shall not be required to take notice, and shall not be deemed to have notice, of any default or Event of Default hereunder, except Events of Default described in paragraphs (a), (b) and (c) of Section 5.1 hereof, unless the Trustee shall be notified specifically of the default or Event of Default in a written instrument or document delivered to it by the Issuer or by the Holders of at least 10% of the aggregate principal amount of Securities (or the applicable series of Securities) then outstanding. In the absence of delivery of notice satisfying those requirements, the Trustee may assume conclusively that there is no default or Event of Default, except as noted above.

SECTION 5.12. Waiver of Stay or Extension Laws. The Issuer covenants (to the extent that it may lawfully do so) that it will not at any time insist upon, or plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay or extension law wherever enacted, now or at any time hereafter in force which

may affect the covenants or the performance of this Indenture; and the Issuer (to the extent that it may lawfully do so) hereby expressly waives all benefit or advantage of any such law and covenants that it will not hinder, delay or impede the execution of any power herein granted to the Trustee, but will suffer and permit the execution of every such power as though no such law had been enacted.

SECTION 5.13. Right Of Court To Require Filing Of Undertaking To Pay Costs. All parties to this Indenture agree, and each Holder of any Security by his or her acceptance thereof shall be deemed to have agreed, that any court may in its discretion require, in any suit for the enforcement of any right or remedy under this Indenture or in any suit against the Trustee for any action taken, suffered or omitted by it as Trustee, the filing by any party litigant in such suit of an undertaking to pay the costs of such suit, and that such court may in its discretion assess reasonable costs, including reasonable attorneys' fees, against any party litigant in such suit, having due regard to the merits and good faith of the claims or defenses made by such party litigant; but the provisions of this Section shall not apply to any suit instituted by the Trustee, to any suit instituted by any Securityholder or group of Securityholders of any series holding in the aggregate more than 10% in aggregate principal amount of the Securities of such series, or, in the case of any suit relating to or arising under clause (d) or (g) of Section 5.1 (if the suit relates to Securities of more than one but less than all series), 10% in aggregate principal amount of Securities then Outstanding and affected thereby, or in the case of any suit relating to or arising under clause (d) or (g) (if the suit under clause (d) or (g) relates to all the Securities then Outstanding) or (e) or (f) of Section 5.1, 10% in aggregate principal amount of all Securities then Outstanding, or to any suit instituted by any Securityholder for the enforcement of the payment of the principal of or interest on any Security on or after the due date expressed in such Security or any date fixed for redemption.

## ARTICLE VI

### CONCERNING THE TRUSTEE

SECTION 6.1. Duties And Responsibilities Of The Trustee; During Default; Prior To Default. Prior to the occurrence of an Event of Default with respect to the Securities of a particular series and after the curing or waiving of all Events of Default which may have occurred with respect to such series, the Trustee undertakes to perform such duties and only such duties as are specifically set forth in this Indenture with respect to such series of Securities. In case an Event of Default with respect to the Securities of a series has occurred and has not been cured or waived, the Trustee shall exercise with respect to such series of Securities such of the rights and powers vested in it by this Indenture with respect to such series of Securities, and use the same degree of care and skill in their exercise, as a prudent person would exercise or use under the circumstances in the conduct of his or her own affairs.

No provision of this Indenture shall be construed to relieve the Trustee from liability for its own negligent action, its own negligent failure to act or its own willful misconduct, except that:

- (a) prior to the occurrence of an Event of Default with respect to the Securities of any series and after the curing or waiving of all such Events of Default with respect to such series which may have occurred:
  - (i) the duties and obligations of the Trustee with respect to the Securities of any series shall be determined solely by the express provisions of this Indenture, and the Trustee shall not be liable except for the performance of such duties and obligations as are specifically set forth in this Indenture, and no implied covenants or obligations shall be read into this Indenture against the Trustee; and
  - (ii) in the absence of bad faith on the part of the Trustee, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon any statements, certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture; but in the case of any such statements, certificates or opinions which by any provision hereof are specifically required to be furnished to the Trustee, the Trustee shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Indenture;



- (b) the Trustee shall not be liable for any error of judgment made in good faith by a Responsible Officer or Responsible Officers of the Trustee, unless it shall be proved that the Trustee was negligent in ascertaining the pertinent facts; and
- (c) the Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Holders pursuant to Section 5.9 relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee, under this Indenture.

None of the provisions contained in this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur personal financial liability in the performance of any of its duties or in the exercise of any of its rights or powers, if there shall be reasonable ground for believing that the repayment of such funds or adequate indemnity against such liability is not reasonably assured to it.

The provisions of this Section 6.1 are in furtherance of and subject to Section 315 of the Trust Indenture Act.

SECTION 6.2. Certain Rights Of The Trustee. In furtherance of and subject to the Trust Indenture Act, and subject to Section 6.1:

- (a) the Trustee may rely and shall be protected in acting or refraining from acting upon any resolution, Officer's Certificate or any other certificate, statement, instrument, opinion, report, notice, request, consent, order, bond, debenture, note, coupon, security or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties;
- (b) any request, direction, order or demand of the Issuer mentioned herein shall be sufficiently evidenced by an Officer's Certificate (unless other evidence in respect thereof is specifically prescribed herein or in the terms established in respect of any series); and any resolution of the Board of Directors shall be evidenced to the Trustee by a copy thereof certified by the secretary or an assistant secretary of the Issuer;
- (c) the Trustee may consult with counsel and any written advice or any Opinion of Counsel shall be full and complete authorization and protection in respect of any action taken, suffered or omitted to be taken by it hereunder in good faith and in reliance thereon in accordance with such advice or Opinion of Counsel;
- (d) the Trustee shall be under no obligation to exercise any of the trusts or powers vested in it by this Indenture at the request, order or direction of any of the Securityholders pursuant to the provisions of this Indenture, unless such Securityholders shall have offered to the Trustee reasonable security or indemnity against the costs, expenses and liabilities which might be incurred therein or thereby;
- (e) the Trustee shall not be liable for any action taken or omitted by it in good faith and believed by it to be authorized or within the discretion, rights or powers conferred upon it by this Indenture;
- (f) prior to the occurrence of an Event of Default hereunder and after the curing or waiving of all Events of Default, the Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, approval, appraisal, bond, debenture, note, coupon, security or other paper or document unless (i) requested in writing so to do by the Holders of not less than a majority in aggregate principal amount of the Securities of all series affected then Outstanding (treated as one class) or (ii) otherwise provided in the terms of any series of Securities pursuant to Section 2.3; PROVIDED, that, if the payment within a reasonable time to the Trustee of the costs, expenses or liabilities likely to be incurred by it in the making of such investigation is, in the opinion of the Trustee, not reasonably assured to the Trustee by the security afforded to it by the terms of this Indenture, the Trustee may require reasonable indemnity against such expenses or liabilities as a condition to proceeding;

the reasonable expenses of every such investigation shall be paid by the Issuer or, if paid by the Trustee or any predecessor trustee, shall be repaid by the Issuer upon demand; and

- (g) the Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents or attorneys not regularly in its employ and the Trustee shall not be responsible for any misconduct or negligence on the part of any such agent or attorney appointed with due care by it hereunder.

SECTION 6.3. Trustee Not Responsible For Recitals, Disposition Of Securities Or Application Of Proceeds Thereof. The recitals contained herein and in the Securities, except the Trustee's certificates of authentication, shall be taken as the statements of the Issuer, and the Trustee assumes no responsibility for the correctness of the same. The Trustee makes no representation as to the validity or sufficiency of this Indenture or of the Securities. The Trustee shall not be accountable for the use or application by the Issuer of any of the Securities or of the proceeds thereof.

SECTION 6.4. Trustee And Agents May Hold Securities; Collections, Etc. The Trustee or any agent of the Issuer or of the Trustee, in its individual or any other capacity, may become the owner or pledgee of Securities with the same rights it would have if it were not the Trustee or such agent and may otherwise deal with the Issuer and receive, collect, hold and retain collections from the Issuer with the same rights it would have if it were not the Trustee or such agent.

SECTION 6.5. Held By Trustee. Subject to the provisions of Section 9.4 hereof, all moneys received by the Trustee shall, until used or applied as herein provided, be held in trust for the purposes for which they were received, but need not be segregated from other funds except to the extent required by mandatory provisions of law. Neither the Trustee nor any agent of the Issuer or the Trustee shall be under any liability for interest on any moneys received by it hereunder.

SECTION 6.6. Compensation And Indemnification Of Trustee And Its Prior Claim. The Issuer covenants and agrees to pay to the Trustee from time to time, and the Trustee shall be entitled to reasonable compensation (which shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust) and the Issuer covenants and agrees to pay or reimburse the Trustee and each predecessor trustee upon its request for all reasonable expenses, disbursements and advances incurred or made by or on behalf of it in accordance with any of the provisions of this Indenture (including the reasonable compensation and the expenses and disbursements of its counsel and of all agents and other persons not regularly in its employ) except any such expense, disbursement or advance as may arise from its negligence or bad faith. The Issuer also covenants to indemnify the Trustee and each predecessor trustee (and their respective directors, officers, agents and employees) for, and to hold them harmless against, any loss, liability, fine, penalty or expense (including out-of-pocket and incidental expenses and legal fees) incurred without negligence or bad faith on their part, arising out of or in connection with the acceptance or administration of this Indenture or the trusts hereunder and its duties hereunder, including, in each case, the costs and expenses of defending itself against or investigating any claim of liability in the premises. The obligations of the Issuer under this Section to compensate and indemnify the Trustee and each predecessor trustee (and their respective directors, officers, agents and employees) and to pay or reimburse the Trustee and each predecessor trustee for expenses, disbursements and advances shall constitute additional indebtedness hereunder and shall survive the satisfaction and discharge of this Indenture and the resignation or removal of the Trustee. Such additional indebtedness shall be a senior claim to that of the Securities upon all property and funds held or collected by the Trustee as such, except funds held in trust for the benefit of the Holders of particular Securities and the Securities are hereby subordinated to such senior claim.

SECTION 6.7. Right Of Trustee To Rely On Officer's Certificate, Etc. Subject to Sections 6.1 and 6.2, whenever in the administration of the trusts of this Indenture the Trustee shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering or omitting any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may, in the absence of negligence or wilfull misconduct

on the part of the Trustee, be deemed to be conclusively proved and established by an Officer's Certificate delivered to the Trustee, and such certificate, in the absence of negligence or wilfull misconduct on the part of the Trustee, shall be full warrant to the Trustee for any action taken, suffered or omitted by it under the provisions of this Indenture upon the faith thereof.

SECTION 6.8. Indentures Not Creating Potential Conflicting Interests For The Trustee. This Indenture is hereby specifically described for the purposes of Section 310(b)(1)(i) of the Trust Indenture Act with respect to series of Securities that are of an equal priority.

SECTION 6.9. Qualification Of Trustee; Conflicting Interests. The Trustee shall comply with Section 310(b) of the Trust Indenture Act.

SECTION 6.10. Persons Eligible For Appointment As Trustee. The Trustee for each series of Securities hereunder shall at all times be a corporation or banking association organized and doing business under the laws of the United States of America, any State thereof or the District of Columbia, having a combined capital and surplus of at least \$50,000,000, and which is authorized under such laws to exercise corporate trust powers and is subject to supervision or examination by Federal, state or District of Columbia authority. If such corporation publishes reports of condition at least annually, pursuant to law or to the requirements of the aforesaid supervising or examining authority, then for the purposes of this Section, the combined capital and surplus of such corporation shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. In case at any time the Trustee shall cease to be eligible in accordance with the provisions of this Section, the Trustee shall resign immediately in the manner and with the effect specified in Section 6.11.

The provisions of this Section 6.10 are in furtherance of and subject to Section 310(a) of the Trust Indenture Act.

SECTION 6.11. Resignation And Removal; Appointment Of Successor Trustee.

- (a) The Trustee, or any trustee or trustees hereafter appointed, may at any time resign with respect to one or more or all series of Securities by giving written notice of resignation to the Issuer and by mailing notice of such resignation to the Holders of then Outstanding Registered Securities of each series affected at their addresses as they shall appear on the registry books. Upon receiving such notice of resignation, the Issuer shall promptly appoint a successor trustee or trustees with respect to the applicable series by written instrument in duplicate, executed by authority of the Board of Directors, one copy of which instrument shall be delivered to the resigning Trustee and one copy to the successor trustee or trustees. If no successor trustee shall have been so appointed with respect to any series and have accepted appointment within 30 days after the mailing of such notice of resignation, the resigning trustee may petition any court of competent jurisdiction for the appointment of a successor trustee, or any Securityholder who has been a bona fide Holder of a Security or Securities of the applicable series for at least six months may, subject to the provisions of Section 5.12, on behalf of himself and all others similarly situated, petition any such court for the appointment of a successor trustee. Such court may thereupon, after such notice, if any, as it may deem proper and prescribe, appoint a successor trustee.
- (b) In case at any time any of the following shall occur:
- (i) the Trustee shall fail to comply with the provisions of Section 310(b) of the Trust Indenture Act with respect to any series of Securities after written request therefor by the Issuer or by any Securityholder who has been a bona fide Holder of a Security or Securities of such series for at least six months; or
  - (ii) the Trustee shall cease to be eligible in accordance with the provisions of Section 6.10 hereof and Section 310(a) of the Trust Indenture Act and shall fail to resign after written request therefor by the Issuer or by any Securityholder; or
  - (iii) the Trustee shall become incapable of acting with respect to any series of Securities, or shall be adjudged bankrupt or insolvent, or a receiver or liquidator of the Trustee or of

its property shall be appointed, or any public officer shall take charge or control of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation;

then, in any such case, the Issuer may remove the Trustee with respect to the applicable series of Securities and appoint a successor trustee for such series by written instrument, in duplicate, executed by order of the Board of Directors of the Issuer, one copy of which instrument shall be delivered to the Trustee so removed and one copy to the successor trustee, or, subject to the provisions of Section 315(e) of the Trust Indenture Act, any Securityholder who has been a bona fide Holder of a Security or Securities of such series for at least six months may on behalf of himself and all others similarly situated, petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor trustee with respect to such series. Such court may thereupon, after such notice, if any, as it may deem proper and so prescribe, remove the Trustee and appoint a successor trustee.

- (c) The Holders of a majority in aggregate principal amount of the Securities of each series at the time outstanding may at any time remove the Trustee with respect to Securities of such series and appoint a successor trustee with respect to the Securities of such series by delivering to the Trustee so removed, to the successor trustee so appointed and to the Issuer the evidence as of the action in that regard taken by the Securityholders as provided for in Section 7.1.
- (d) Any resignation or removal of the Trustee with respect to any series and any appointment of a successor trustee with respect to such series pursuant to any of the provisions of this Section 6.11 shall become effective upon acceptance of appointment by the successor trustee as provided in Section 6.12.

SECTION 6.12. Acceptance Of Appointment By Successor Trustee. Any successor trustee appointed as provided in Section 6.11 shall execute and deliver to the Issuer and to its predecessor trustee an instrument accepting such appointment hereunder, and thereupon the resignation or removal of the predecessor trustee with respect to all or any applicable series shall become effective and such successor trustee, without any further act, deed or conveyance, shall become vested with all rights, powers, duties and obligations with respect to such series of its predecessor hereunder, with like effect as if originally named as trustee for such series hereunder; but, nevertheless, on the written request of the Issuer or of the successor trustee, upon payment of its charges then unpaid, the trustee ceasing to act shall, subject to Section 9.4, pay over to the successor trustee all moneys at the time held by it hereunder and shall execute and deliver an instrument transferring to such successor trustee all such rights, powers, duties and obligations. Upon request of any such successor trustee, the Issuer shall execute any and all instruments in writing for more fully and certainly vesting in and confirming to such successor trustee all such rights and powers. Any trustee ceasing to act shall, nevertheless, retain a prior claim upon all property or funds held or collected by such trustee to secure any amounts then due it pursuant to the provisions of Section 6.6.

If a successor trustee is appointed with respect to the Securities of one or more (but not all) series, the Issuer, the predecessor trustee and each successor trustee with respect to the Securities of any applicable series shall execute and deliver an indenture supplemental hereto which shall contain such provisions as shall be deemed necessary or desirable to confirm that all the rights, powers, trusts and duties of the predecessor trustee with respect to the Securities of any series as to which the predecessor trustee is not retiring shall continue to be vested in the predecessor trustee, and shall add to or change any of the provisions of this Indenture as shall be necessary to provide for or facilitate the administration of the trusts hereunder by more than one trustee, it being understood that nothing herein or in such supplemental indenture shall constitute such trustees as co-trustees of the same trust and that each such trustee shall be trustee of a trust or trusts under separate indentures.

No successor trustee with respect to any series of Securities shall accept appointment as provided in this Section 6.12 unless at the time of such acceptance such successor trustee shall be qualified under Section 310(b) of the Trust Indenture Act and eligible under the provisions of Section 6.10.

Upon acceptance of appointment by any successor trustee as provided in this Section 6.12, the Issuer shall give notice thereof to the Holders of Registered Securities of each series affected by mailing such notice to such Holders at their addresses as they shall appear on the registry books. If the acceptance of appointment is substantially contemporaneous with the resignation, then the notice called for by the preceding sentence may be combined with the notice called for by Section 6.11. If the Issuer fails to give such notice within ten days after

acceptance of appointment by the successor trustee, the successor trustee shall cause such notice to be given at the expense of the Issuer.

SECTION 6.13. Merger, Conversion, Consolidation Or Succession To Business Of Trustee. Any corporation, association or other entity into which the Trustee may be merged or converted or with which it may be consolidated, or any corporation, association or other entity resulting from any merger, conversion or consolidation to which the Trustee shall be a party, or any corporation, association or other entity succeeding to the corporate trust business of the Trustee, (including by sale or transfer of all or substantially all of its corporate trust assets) shall be the successor of the Trustee hereunder without the execution or filing of any paper or any further act on the part of any of the parties hereto, anything herein to the contrary notwithstanding; PROVIDED, that such corporation, association or other entity shall be qualified under Section 310(b) of the Trust Indenture Act and eligible under the provisions of Section 6.10.

In case at the time such successor to the Trustee shall succeed to the trusts created by this Indenture, any of the Securities of any series shall have been authenticated but not delivered, any such successor to the Trustee may adopt the certificate of authentication of any predecessor trustee and deliver such Securities so authenticated; and, in case at that time any of the Securities of any series shall not have been authenticated, any such successor to the Trustee may authenticate such Securities either in the name of any predecessor hereunder or in the name of the successor Trustee; and in all such cases such certificate of authentication shall have the full force which under this Indenture or the Securities of such series it is provided that the certificate of authentication of the Trustee shall have; PROVIDED, that the right to adopt the certificate of authentication of any predecessor trustee or to authenticate Securities of any series in the name of any predecessor trustee shall apply only to its successor or successors by merger, conversion or consolidation.

SECTION 6.14. Preferential Collection Of Claims Against The Issuer. The Trustee shall comply with Section 311(a) of the Trust Indenture Act, excluding any creditor relationship as provided in Section 311(b) of the Trust Indenture Act. A Trustee who has resigned or been removed shall be subject to Section 311(a) of the Trust Indenture Act to the extent indicated therein.

SECTION 6.15. Appointment Of Authenticating Agent. As long as any Securities of a series remain Outstanding, the Trustee may, by an instrument in writing, appoint with the approval of the Issuer an authenticating agent (the "Authenticating Agent") which shall be authorized to act on behalf of the Trustee to authenticate Securities, including Securities issued upon exchange, registration of transfer, partial redemption or pursuant to Section 2.9. Securities of each such series authenticated by such Authenticating Agent shall be entitled to the benefits of this Indenture and shall be valid and obligatory for all purposes as if authenticated by the Trustee. Whenever reference is made in this Indenture to the authentication and delivery of Securities of any series by the Trustee or to the Trustee's Certificate of Authentication, such reference shall be deemed to include authentication and delivery on behalf of the Trustee by an Authenticating Agent for such series and a Certificate of Authentication executed on behalf of the Trustee by such Authenticating Agent. Such Authenticating Agent shall at all times be a corporation organized and doing business under the laws of the United States of America or of any State, authorized under such laws to exercise corporate trust powers, having a combined capital and surplus of at least \$45,000,000 (determined as provided in Section 6.10 with respect to the Trustee) and subject to supervision or examination by federal or state authority.

Any corporation into which any Authenticating Agent may be merged or converted, or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which any Authenticating Agent shall be a party, or any corporation succeeding to the corporate agency business of any Authenticating Agent, shall continue to be the Authenticating Agent with respect to all series of Securities for which it served as Authenticating Agent without the execution or filing of any paper or any further act on the part of the Trustee or such Authenticating Agent. Any Authenticating Agent may at any time, and if it shall cease to be eligible shall, resign by giving written notice of resignation to the Trustee and to the Issuer.

Upon receiving such a notice of resignation or upon such a termination, or in case at any time any Authenticating Agent shall cease to be eligible in accordance with the provisions of this Section 6.15 with respect to one or more series of Securities, the Trustee shall, upon receipt of an Issuer Order, appoint a successor

Authenticating Agent and the Issuer shall provide notice of such appointment to all Holders of Securities of such series in the manner and to the extent provided in Section 11.2. Any successor Authenticating Agent upon acceptance of its appointment hereunder shall become vested with all rights, powers, duties and responsibilities of its predecessor hereunder, with like effect as if originally named as Authenticating Agent. The Issuer agrees to pay to the Authenticating Agent for such series from time to time reasonable compensation. The Authenticating Agent for the Securities of any series shall have no responsibility or liability for any action taken by it as such at the direction of the Trustee.

Sections 6.2, 6.3, 6.4, 6.6 and 7.3 shall be applicable to any Authenticating Agent.

## ARTICLE VII

### CONCERNING THE SECURITYHOLDERS

SECTION 7.1. Evidence Of Action Taken By Securityholders. Any request, demand, authorization, direction, notice, consent, waiver or other action provided by this Indenture to be given or taken by a specified percentage in principal amount of the Securityholders of any or all series may be embodied in and evidenced by one or more instruments of substantially similar tenor signed by such specified percentage of Securityholders in person or by agent duly appointed in writing; and, except as herein otherwise expressly provided, such action shall become effective when such instrument or instruments are delivered to the Trustee. Proof of execution of any instrument or of a writing appointing any such agent shall be sufficient for any purpose of this Indenture, and subject to the provisions of Sections 6.1 and 6.2, conclusive in favor of the Trustee and the Issuer, if made in the manner provided in this Article.

Notwithstanding the foregoing, with respect to any Registered Global Security, nothing herein shall prevent the Issuer, the Trustee, or any agent of the Issuer or the Trustee, from giving effect to any request, demand, authorization, direction, notice, consent, waiver or other action provided in this Indenture to be given or taken by a Depositary or impair, as between a Depositary and such holders of beneficial interest, the operation of customary practices governing the exercise of the rights of the Depositary (or its nominee) as Holder of any Security.

Without limiting the generality of this Section 7.1, unless otherwise provided in or pursuant to this Indenture, a Holder, including a Depositary that is a Holder of a Registered Global Security, may make, give or take, by a proxy or proxies duly appointed in writing, any request, demand, authorization, direction, notice, consent, waiver or other action provided in or pursuant to this Indenture to be made, given or taken by Holders, and a Depositary that is a Holder of a Registered Global Security may give its proxy or proxies to the Depositary's participants or the beneficial owners of interests in any such Registered Global Security, as the case may be, through such Depositary's standing instructions and customary practices.

The Trustee shall fix a record date for the purpose of determining the Persons who are beneficial owners of interests in any permanent Registered Global Security held by a Depositary and who are entitled under the procedures of such Depositary to make, give or take, by a proxy or proxies duly appointed in writing, any request, demand, authorization, direction, notice, consent, waiver or other action provided in or pursuant to this Indenture to be made, given or taken by Holders. If such a record date is fixed, the Holders on such record date or their duly appointed proxy or proxies, and only such persons, shall be entitled to make, give or take such request, demand, authorization, direction, notice consent, waiver or other action, whether or not such Holders remain Holders after such record date. No such request, demand, authorization, direction notice, consent, waiver or other action shall be valid or effective if made, given or taken more than 90 days after such record date.

SECTION 7.2. Proof Of Execution Of Instruments And Of Holding Of Securities. Subject to the provisions of Sections 6.1 and 6.2, the execution of any instrument by a Securityholder or his or her agent or proxy may be proved in accordance with such reasonable rules and regulations as may be prescribed by the Trustee or in such manner as shall be satisfactory to the Trustee. The holding of Registered Securities shall be proved by the Security register or by a certificate of the registrar thereof.

SECTION 7.3. Holders To Be Treated As Owners. The Issuer, the Trustee and any agent of the Issuer or the Trustee may deem and treat the person in whose name any Security shall be registered upon the Security register for such series as the absolute owner of such Security (whether or not such Security shall be overdue and notwithstanding any notation of ownership or other writing thereon) for the purpose of receiving payment of or on account of the principal of and, subject to the provisions of this Indenture, interest on such Security and for all other purposes; and neither the Issuer nor the Trustee nor any agent of the Issuer or the Trustee shall be affected by any notice to the contrary.

No holder of any beneficial interest in any Registered Global Security held on its behalf by a Depository (or its nominee) shall have any rights under this Indenture with respect to such Registered Global Security or any Security represented thereby, and such Depository may be treated by the Issuer, the Trustee, and any agent of the Issuer or the Trustee as the owner of such Registered Global Security or any Security represented thereby for all purposes whatsoever. None of the Issuer, the Trustee, any Paying Agent or the Security Registrar will have any responsibility or liability for any aspect of the records relating to or payments made on account of beneficial ownership interests of a Registered Global Security or for maintaining, supervising or reviewing any records relating to such beneficial ownership interests.

SECTION 7.4. Securities Owned By Issuer Deemed Not Outstanding. In determining whether the Holders of the requisite aggregate principal amount of Outstanding Securities of any or all series have concurred in any request, demand, authorization, direction, notice, consent, waiver or other action by Securityholders under this Indenture, Securities which are owned by the Issuer or any other obligor on the Securities with respect to which such determination is being made or by any person directly or indirectly controlling or controlled by or under direct or indirect common control with the Issuer or any other obligor on the Securities with respect to which such determination is being made shall be disregarded and deemed not to be Outstanding for the purpose of any such determination, except that for the purpose of determining whether the Trustee shall be protected in relying on any such action only Securities which the Trustee knows are so owned shall be so disregarded. Securities so owned which have been pledged in good faith may be regarded as Outstanding if the pledgee establishes to the satisfaction of the Trustee the pledgee's right so to act with respect to such Securities and that the pledgee is not the Issuer or any other obligor upon the Securities or any person directly or indirectly controlling or controlled by or under direct or indirect common control with the Issuer or any other obligor on the Securities. In case of a dispute as to such right, the advice of counsel shall be full protection in respect of any decision made by the Trustee in accordance with such advice. Upon request of the Trustee, the Issuer shall furnish to the Trustee promptly an Officer's Certificate listing and identifying all Securities, if any, known by the Issuer to be owned or held by or for the account of any of the above-described persons; and, subject to the provisions of Sections 6.1 and 6.2, the Trustee shall be entitled to accept such Officer's Certificate as conclusive evidence of the facts therein set forth and of the fact that all Securities not listed therein are Outstanding for the purpose of any such determination.

SECTION 7.5. Right Of Revocation Of Action Taken. At any time prior to (but not after) the evidencing to the Trustee, as provided in Section 7.1, of the taking of any action by the Holders of the percentage in aggregate principal amount of the Securities of any or all series, as the case may be, specified in this Indenture in connection with such action, any Holder of a Security the serial number of which is shown by the evidence to be included among the serial numbers of the Securities the Holders of which have consented to such action may, by filing written notice at the Corporate Trust Office and upon proof of holding as provided in this Article, revoke such action so far as concerns such Security. Except as aforesaid, any such action taken by the Holder of any Security shall be conclusive and binding upon such Holder and upon all future Holders and owners of such Security and of any Securities issued in exchange or substitution therefor or on registration of transfer thereof, irrespective of whether or not any notation in regard thereto is made upon any such Security. Any action taken by the Holders of the percentage in aggregate principal amount of the Securities of any or all series, as the case may be, specified in this Indenture in connection with such action shall be conclusively binding upon the Issuer, the Trustee and the Holders of all the Securities affected by such action.

ARTICLE VIII

SUPPLEMENTAL INDENTURES

SECTION 8.1. Supplemental Indentures Without Consent Of Securityholders. The Issuer, when authorized by a resolution of its Board of Directors (which resolution may provide general terms or parameters for such action and may provide that the specific terms of such action may be determined in accordance with or pursuant to an Issuer Order), and the Trustee may from time to time and at any time enter into an indenture or indentures supplemental hereto for one or more of the following purposes:

- (a) to evidence the succession of another corporation to the Issuer, or successive successions, and the assumption by the successor corporation of the covenants, agreements and obligations of the Issuer pursuant to any applicable covenants herein and pursuant to the terms of the Securities as set forth in Section 2.3;
- (b) to add to the covenants of the Issuer such further covenants, restrictions, conditions or provisions as the Issuer and the Trustee shall consider to be for the protection of the Holders of Securities and to make the occurrence, or the occurrence and continuance, of a default in any such additional covenants, restrictions, conditions or provisions an Event of Default permitting the enforcement of all or any of the several remedies provided in this Indenture as herein set forth; PROVIDED, that in respect of any such additional covenant, restriction, condition or provision such supplemental indenture may provide for a particular period of grace after default (which period may be shorter or longer than that allowed in the case of other defaults) or may provide for an immediate enforcement upon such an Event of Default or may limit the remedies available to the Trustee upon such an Event of Default or may limit the right of the Holders of a majority in aggregate principal amount of the Securities of such series to waive such an Event of Default; PROVIDED FURTHER, that any such addition, change or elimination (i) shall neither (A) apply to any Security of any series created prior to the execution of such supplemental indenture and entitled to the benefit of such provision and (ii) shall become effective only when there is no such Security Outstanding.
- (c) to cure any ambiguity or to correct or supplement any provision contained herein or in any supplemental indenture which may be defective or inconsistent with any other provision contained herein or in any supplemental indenture, or to make any other provisions as the Issuer may deem necessary or desirable, PROVIDED, that no such action shall adversely affect the interests of the Holders of the Securities in any material respect as determined by the Trustee (which determination may be based on an Opinion of Counsel); and
- (d) to evidence and provide for the acceptance of appointment hereunder by a successor trustee with respect to the Securities of one or more series and to add to or change any of the provisions of this Indenture as shall be necessary to provide for or facilitate the administration of the trusts hereunder by more than one trustee, pursuant to the requirements of Section 6.12.

The Trustee is hereby authorized to join with the Issuer in the execution of any such supplemental indenture, to make any further appropriate agreements and stipulations which may be therein contained and to accept the conveyance, transfer, assignment, mortgage or pledge of any property thereunder, but the Trustee shall not be obligated to enter into any such supplemental indenture which affects the Trustee's own rights, duties or immunities under this Indenture or otherwise.

Any supplemental indenture authorized by the provisions of this Section may be executed without the consent of the Holders of any of the Securities at the time outstanding, notwithstanding any of the provisions of Section 8.2.

SECTION 8.2. Supplemental Indentures With Consent Of Securityholders.



- (a) Except as set forth in paragraph (b) below, with the consent (evidenced as provided in Article VII) of the Holders of not less than a majority in aggregate principal amount of the Securities at the time Outstanding of all series of Securities affected by such supplemental indenture (voting as one class), the Issuer, when authorized by a resolution of its Board of Directors (which resolution may provide general terms or parameters for such action and may provide that the specific terms of such action may be determined in accordance with or pursuant to an Issuer Order), and the Trustee may, from time to time and at any time, enter into an indenture or indentures supplemental hereto (which shall conform to the provisions of the Trust Indenture Act as in force and effect at the date of execution thereof) for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Indenture or of any supplemental indenture or of modifying in any manner the rights of the Holders of the Securities of each such series.
- (b) No such supplemental indenture shall (i) extend the final maturity of any Security, or reduce the principal amount thereof, or reduce the rate or extend the time of payment of interest thereon, or reduce any amount payable on redemption thereof, or make the principal thereof (including any amount in respect of original issue discount), or interest thereon payable in any coin or currency other than that provided in the Securities or in accordance with the terms thereof, or reduce the amount of the principal of an Original Issue Discount Security that would be due and payable upon an acceleration of the maturity thereof pursuant to Section 5.1 or the amount thereof provable in bankruptcy pursuant to Section 5.2, or impair or affect the right of any Securityholder to institute suit for the payment thereof when due or, if the Securities provide therefor, any right of repayment at the option of the Securityholder, in each case without the consent of the Holder of each Security so affected, or (ii) reduce the aforesaid percentage of Securities of any series, the consent of the Holders of which is required for any such supplemental indenture, without the consent of the Holders of each Security so affected.
- (c) A supplemental indenture which changes or eliminates any covenant or other provision of this Indenture which has expressly been included solely for the benefit of one or more particular series of Securities, or which modifies the rights of Holders of Securities of such series, with respect to such covenant or provision, shall be deemed not to affect the rights under this Indenture of the Holders of Securities of any other series.
- (d) Upon the request of the Issuer, accompanied by a copy of a resolution of the Board of Directors (which resolution may provide general terms or parameters for such action and may provide that the specific terms of such action may be determined in accordance with or pursuant to an Issuer Order) certified by the secretary or an assistant secretary of the Issuer authorizing the execution of any such supplemental indenture, and upon the filing with the Trustee of evidence of the consent of the Holders of the Securities as aforesaid and other documents, if any, required by Section 7.1, the Trustee shall join with the Issuer in the execution of such supplemental indenture unless such supplemental indenture affects the Trustee's own rights, duties or immunities under this Indenture or otherwise, in which case the Trustee may in its discretion, but shall not be obligated to, enter into such supplemental indenture.

It shall not be necessary for the consent of the Securityholders under this Section to approve the particular form of any proposed supplemental indenture, but it shall be sufficient if such consent shall approve the substance thereof.

Promptly after the execution by the Issuer and the Trustee of any supplemental indenture pursuant to the provisions of this Section 8.2, the Trustee shall give notice thereof to the Holders of then Outstanding Registered Securities of each series affected thereby, by mailing a notice thereof by first-class mail to such Holders at their addresses as they shall appear on the Security register, and such notice shall set forth in general terms the substance of such supplemental indenture. Any failure of the Issuer to give such notice, or any defect therein, shall not, however, in any way impair or affect the validity of any such supplemental indenture.

SECTION 8.3. Effect Of Supplemental Indenture. Upon the execution of any supplemental indenture pursuant to the provisions hereof, this Indenture shall be and be deemed to be modified and amended in accordance therewith and the respective rights, limitations of rights, obligations, duties and immunities under this Indenture of

the Trustee, the Issuer and the Holders of Securities of each series affected thereby shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modifications and amendments, and all the terms and conditions of any such supplemental indenture shall be and be deemed to be part of the terms and conditions of this Indenture for any and all purposes.

SECTION 8.4. Documents To Be Given To Trustee. The Trustee, subject to the provisions of Sections 6.1 and 6.2, shall be entitled to receive, and shall be fully protected in relying upon, an Officer's Certificate and an Opinion of Counsel as conclusive evidence that any supplemental indenture executed pursuant to this Article VIII complies with the applicable provisions of this Indenture.

SECTION 8.5. Notation On Securities In Respect Of Supplemental Indentures. Securities of any series authenticated and delivered after the execution of any supplemental indenture pursuant to the provisions of this Article may bear a notation in form approved by the Trustee for such series as to any matter provided for by such supplemental indenture or as to any action taken by Securityholders. If the Issuer or the Trustee shall so determine, new Securities of any series so modified as to conform, in the opinion of the Trustee and the Board of Directors, to any modification of this Indenture contained in any such supplemental indenture may be prepared by the Issuer, authenticated by the Trustee and delivered in exchange for the Securities of such series then Outstanding.

## ARTICLE IX

### SATISFACTION AND DISCHARGE OF INDENTURE; UNCLAIMED MONEYS

#### SECTION 9.1. Satisfaction And Discharge Of Indenture.

- (a) The following provisions shall apply to the Securities of each series unless specifically otherwise provided in a Board Resolution, Officer's Certificate or supplemental indenture provided pursuant to Section 2.3. If at any time (i) the Issuer shall have paid or caused to be paid the principal of and interest on all the Securities of any series Outstanding hereunder and (other than Securities of such series which have been destroyed, lost or stolen and which have been replaced or paid as provided in Section 2.9) as and when the same shall have become due and payable, or (ii) the Issuer shall have delivered to the Trustee for cancellation all Securities of any series theretofore authenticated (other than any Securities of such series which shall have been destroyed, lost or stolen and which shall have been replaced or paid as provided in Section 2.9) or (iii) in the case of any series of Securities where the exact amount of principal of and interest due on which can be determined at the time of making the deposit referred to in clause (b) below, (a) all the Securities of such series not theretofore delivered to the Trustee for cancellation shall have become due and payable, or are by their terms to become due and payable within one year or are to be called for redemption within one year under arrangements satisfactory to the Trustee for the giving of notice of redemption, and (b) the Issuer shall have irrevocably deposited or caused to be deposited with the Trustee funds in trust the entire amount in (i) cash (other than moneys repaid by the Trustee or any paying agent to the Issuer in accordance with Section 9.4), (ii) direct obligations of the United States of America or obligations of a Person controlled or supervised by and acting as an agency or instrumentality of the United States, the payment of which is unconditionally guaranteed as a full faith and credit obligation of the United States, which are not callable or redeemable at the option of the issuer thereof ("U.S. Government Obligations"), maturing as to principal and interest at such times and in such amounts as will insure the availability of cash sufficient to pay at such maturity or upon such redemption, as the case may be, or (iii) a combination thereof, sufficient, in the opinion of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee, to pay (x) the principal and interest on all Securities of such series on each date that such principal or interest is due and payable and (y) any mandatory sinking fund payments on the dates on which such payments are due and payable in accordance with the terms of the Indenture and the Securities of such series; and if, in any such case, the Issuer shall also pay or cause to be paid all other sums payable hereunder by the Issuer, then this Indenture shall cease to be of further effect (except as to (i) rights of registration of transfer and exchange of Securities of such Series pursuant to Section 2.8 and the Issuer's right of optional redemption, if any, (ii) substitution of mutilated, defaced, destroyed, lost or stolen Securities (iii) rights of holders of Securities

pursuant to Section 2.8 to receive payments of principal thereof and interest thereon, upon the original stated due dates therefor (but not upon acceleration), and remaining rights of the Holders to receive mandatory sinking fund payments, if any, (iv) the rights, obligations, duties and immunities of the Trustee hereunder, including those under Section 6.6, (v) the rights of the Holders of Securities of such series as beneficiaries hereof with respect to the property so deposited with the Trustee payable to all or any of them, and (vi) the obligations of the Issuer under Section 3.2) and the Trustee, on demand of the Issuer accompanied by an Officer's Certificate and an Opinion of Counsel and at the cost and expense of the Issuer, shall execute proper instruments acknowledging such satisfaction of and discharging this Indenture; PROVIDED, that the rights of Holders of the Securities to receive amounts in respect of principal of and interest on the Securities held by them shall not be delayed longer than required by then-applicable mandatory rules or policies of any securities exchange upon which the Securities are listed. The Issuer agrees to reimburse the Trustee for any costs or expenses thereafter reasonably and properly incurred and to compensate the Trustee for any services thereafter reasonably and properly rendered by the Trustee in connection with this Indenture or the Securities of such series.

- (b) The following provisions shall apply to the Securities of each series unless specifically otherwise provided in a Board Resolution, Officer's Certificate or supplemental indenture provided pursuant to Section 2.3. In addition to discharge of the Indenture pursuant to the next preceding paragraph, in the case of any series of Securities the exact amounts of principal of and interest due on which can be determined at the time of making the deposit referred to in clause (a) below, the Issuer shall be deemed to have paid and discharged the entire indebtedness on all the Securities of such a series on the date of the deposit referred to in subparagraph (a) below, and the provisions of this Indenture with respect to the Securities of such series shall no longer be in effect (except as to (i) rights of registration of transfer and exchange of Securities of such series pursuant to Section 2.8 and the Issuer's right of optional redemption, if any, (ii) substitution of mutilated, defaced, destroyed, lost or stolen Securities, (iii) rights of Holders of Securities to receive payments of principal thereof and interest thereon, upon the original stated due dates therefor (but not upon acceleration), and remaining rights of the Holders to receive mandatory sinking fund payments, if any, (iv) the rights, obligations, duties and immunities of the Trustee hereunder, (v) the rights of the Holders of Securities of such series as beneficiaries hereof with respect to the property so deposited with the Trustee payable to all or any of them and (vi) the obligations of the Issuer under Section 3.2) and the Trustee, at the expense of the Issuer, shall at the Issuer's request, execute proper instruments acknowledging the same, if:
- (i) with reference to this provision the Issuer has irrevocably deposited or caused to be irrevocably deposited with the Trustee as funds in trust, specifically pledged as security for, and dedicated solely to, the benefit of the Holders of the Securities of such series: (x) cash in an amount, or (y) U.S. Government Obligations, maturing as to principal and interest at such times and in such amounts as will insure the availability of cash or (z) a combination thereof, sufficient, in the opinion of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee, to pay (A) the principal and interest on all Securities of such series on each date that such principal or interest is due and payable and (B) any mandatory sinking fund payments on the dates on which such payments are due and payable in accordance with the terms of the Indenture and the Securities of such series;
  - (ii) such deposit will not result in a breach or violation of, or constitute a default under, any agreement or instrument to which the Issuer is a party or by which it is bound;
  - (iii) the Issuer has delivered to the Trustee an opinion of counsel from a nationally recognized law firm based on the fact that (x) the Issuer has received from, or there has been published by, the IRS a ruling or (y) since the date hereof, there has been a change in the applicable United States federal income tax law, in either case to the effect that, and such opinion shall confirm that, the Holders of the Securities of such series will not recognize income, gain or loss for United States federal income tax purposes as a result of such deposit, defeasance and discharge and will be subject to United States federal income tax on the same amount and in the same manner and at the same times, as would have been the case if such deposit, defeasance and discharge had not occurred;

- (iv) the Issuer has delivered to the Trustee an Opinion of Counsel to the effect that after the 91st day following the deposit, the trust funds will not be subject to avoidance as a preferential transfer under Section 547(b) of the United States Bankruptcy Code (except with respect to any Holder that is an "insider" of the Issuer within the meaning of the United States Bankruptcy Code); and
  - (v) the Issuer has delivered to the Trustee an Officer's Certificate and an Opinion of Counsel, each stating that all conditions precedent provided for relating to the defeasance contemplated by this provision have been complied with.
- (c) If the trustee or any paying agent is unable to apply any money in accordance with this Indenture by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting that application, then the Issuer's obligations under this Indenture and the Securities shall be revived and reinstated as though no deposit had occurred pursuant to this Indenture, until such time as the Trustee or paying agent is permitted to apply all money in accordance with this Indenture; provided, however, that if the Issuer makes any payment of principal of (or premium, if any) or interest, if any, on any Security following the reinstatement of such obligations, the Issuer will be subrogated to the rights of the Holders to receive such payment from the money held by the Trustee or paying agent.
- (d) The Issuer shall be released from its obligations under Sections 3.6 and 3.7 and unless otherwise provided for in the Board Resolution and/or Officer's Certificate establishing such series of Securities, from all covenants and other obligations referred to in Section 2.3(14) or 2.3(15) with respect to such series of Securities, outstanding on and after the date the conditions set forth below are satisfied (hereinafter, "covenant defeasance"). For this purpose, such covenant defeasance means that, with respect to the Outstanding Securities of any series, the Issuer may omit to comply with and shall have no liability in respect of any term, condition or limitation set forth in such Section, whether directly or indirectly by reason of any reference elsewhere herein to such Section or by reason of any reference in such Section to any other provision herein or in any other document and such omission to comply shall not constitute an Event of Default under Section 5.1, but the remainder of this Indenture and such Securities shall be unaffected thereby. The following shall be the conditions to application of this subsection (d) of this Section 9.1, unless otherwise provided for in the Board Resolution and/or Officer's Certificate establishing such series of Securities:
- (i) The Issuer has irrevocably deposited or caused to be deposited with the Trustee as trust funds in trust for the purpose of making the following payments, specifically pledged as security for, and dedicated solely to, the benefit of the holders of the Securities of such series, (i) cash in an amount, or (ii) U.S. Government Obligations maturing as to principal and interest at such times and in such amounts as will insure the availability of cash or (iii) a combination thereof, sufficient, in the opinion of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee, to pay (A) the principal and interest on all Securities of such series and (B) any mandatory sinking fund payments on the day on which such payments are due and payable in accordance with the terms of the Indenture and the Securities of such series;
  - (ii) No Event of Default or event which with notice or lapse of time or both would become an Event of Default with respect to the Securities shall have occurred and be continuing on the date of such deposit;
  - (iii) Such covenant defeasance shall not cause the Trustee to have a conflicting interest as defined in Section 6.9 or for purposes of the Trust Indenture Act with respect to any securities of the Issuer;
  - (iv) Such covenant defeasance shall not result in a breach or violation of, or constitute a default under any agreement or instrument to which the Issuer is a party or by which it is bound;

- (v) Such covenant defeasance shall not cause any Securities then listed on any registered national securities exchange under the Exchange Act to be delisted;
- (vi) The Issuer shall have delivered to the Trustee an Officer's Certificate and an opinion of counsel from a nationally recognized law firm to the effect that the Holders of the Securities of such series will not recognize income, gain or loss for United States federal income tax purposes as a result of such covenant defeasance and will be subject to United States federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such covenant defeasance had not occurred;
- (vii) The Issuer has delivered to the Trustee an Opinion of Counsel to the effect that after the 91st day following the deposit, the trust funds will not be subject to avoidance as a preferential transfer under Section 547(b) of the United States Bankruptcy Code (except with respect to any Holder that is an "insider" of the Issuer within the meaning of the United States Bankruptcy Code); and
- (viii) The Issuer shall have delivered to the Trustee an Officer's Certificate and an Opinion of Counsel, each stating that all conditions precedent provided for relating to the covenant defeasance contemplated by this provision have been complied with.

SECTION 9.2. Application By Trustee Of Funds Deposited For Payment Of Securities. Subject to Section 9.4, all moneys deposited with the Trustee (or other trustee) pursuant to Section 9.1 shall be held in trust and applied by it to the payment, either directly or through any paying agent (including the Issuer acting as its own paying agent), to the Holders of the particular Securities of such series for the payment or redemption of which such moneys have been deposited with the Trustee, of all sums due and to become due thereon for principal and interest; but such money need not be segregated from other funds except to the extent required by law.

SECTION 9.3. Repayment Of Moneys Held By Paying Agent. In connection with the satisfaction and discharge of this Indenture with respect to Securities of any series, all moneys then held by any paying agent under the provisions of this Indenture with respect to such series of Securities shall, upon demand of the Issuer, be repaid to it or paid to the Trustee and thereupon such paying agent shall be released from all further liability with respect to such moneys.

SECTION 9.4. Return Of Moneys Held By Trustee And Paying Agent Unclaimed For Two Years. Any moneys deposited with or paid to the Trustee or any paying agent for the payment of the principal of or interest on any Security of any series and not applied but remaining unclaimed for two years after the date upon which such principal or interest shall have become due and payable, shall, upon the written request of the Issuer and unless otherwise required by mandatory provisions of applicable escheat or abandoned or unclaimed property law, be repaid to the Issuer by the Trustee for such series or such paying agent, and the Holder of the Securities of such series shall, unless otherwise required by mandatory provisions of applicable escheat or abandoned or unclaimed property laws, thereafter look only to the Issuer for any payment which such Holder may be entitled to collect, and all liability of the Trustee or any paying agent with respect to such moneys shall thereupon cease; PROVIDED, that the Trustee or such paying agent, before being required to make any such repayment with respect to moneys deposited with it for any payment shall at the expense of the Issuer, mail by first-class mail to Holders of such Securities at their addresses as they shall appear on the Security register, notice that such moneys remain and that, after a date specified therein, which shall not be less than 30 days from the date of such mailing or publication, any unclaimed balance of such money then remaining will be repaid to the Issuer.

SECTION 9.5. Indemnity For U.S. Government Of Obligations. The Issuer shall pay and indemnify the Trustee against any tax, fee or other charge imposed on or assessed against the U.S. Government Obligations deposited pursuant to Section 9.1 or the principal or interest received in respect of such obligations.

ARTICLE X

MISCELLANEOUS PROVISIONS

SECTION 10.1. Incorporators, Shareholders, Officers And Directors Of Issuer Exempt From Individual Liability. No recourse under or upon any obligation, covenant or agreement contained in this Indenture, or in any Security, or because of any indebtedness evidenced thereby, shall be had against any incorporator, as such, or against any past, present or future shareholder, officer or director, as such, of the Issuer or of any successor, either directly or through the Issuer or any successor, under any rule of law, statute or constitutional provision or by the enforcement of any assessment or by any legal or equitable proceeding or otherwise, all such liability being expressly waived and released by the acceptance of the Securities by the Holders thereof and as part of the consideration for the issue of the Securities.

SECTION 10.2. Provisions Of Indenture For The Sole Benefit Of Parties And Holders Of Securities. Nothing in this Indenture, in the Securities, expressed or implied, shall give or be construed to give to any person, firm or corporation, other than the parties thereto and their successors and the Holders of the Securities any legal or equitable right, remedy or claim under this Indenture or under any covenant or provision herein contained, all such covenants and provisions being for the sole benefit of the parties hereto and their successors and of the Holders of the Securities.

SECTION 10.3. Successors And Assigns Of Issuer Bound By Indenture. All the covenants, stipulations, promises and agreements in this Indenture contained by or in behalf of the Issuer shall bind its successors and assigns, whether so expressed or not.

SECTION 10.4. Notices And Demands On Issuer, Trustee And Holders Of Securities. Any notice or demand which by any provision of this Indenture is required or permitted to be given or served by the Trustee or by the Holders of Securities to or on the Issuer may be given or served by being deposited postage prepaid, first-class mail (except as otherwise specifically provided herein) addressed (until another address of the Issuer is filed by the Issuer with the Trustee) to Exelon Corporation, 10 South Dearborn Street, 37th Floor, Post Office Box A-3005, Chicago, Illinois 60690-3005, Attention: Secretary. Any notice, direction, request or demand by the Issuer or any Holder of Securities to or upon the Trustee shall be deemed to have been sufficiently given or served by being deposited postage prepaid, first-class mail (except as otherwise specifically provided herein) addressed (until another address of the Trustee is filed by the Trustee with the Issuer) to, 250 W. Huron Road, Suite 220, Cleveland, Ohio 44113 Attention: Corporate Trust Department.

Where this Indenture provides for notice to Holders of Registered Securities, such notice shall be sufficiently given (unless otherwise herein expressly provided) if in writing and mailed, first-class mail, postage prepaid, to each Holder entitled thereto, at his or her last address as it appears in the Security register.

In any case where notice to such Holders is given by mail, neither the failure to mail such notice, nor any defect in any notice so mailed, to any particular Holder shall affect the sufficiency of such notice with respect to other Holders. Where this Indenture provides for notice in any manner, such notice may be waived in writing by the person entitled to receive such notice, either before or after the event, and such waiver shall be the equivalent of such notice. Waivers of notice by Holders shall be filed with the Trustee, but such filing shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

In case, by reason of the suspension of or irregularities in regular mail service, it shall be impracticable to mail notice to the Issuer when such notice is required to be given pursuant to any provision of this Indenture, then any manner of giving such notice as shall be reasonably satisfactory to the Trustee shall be deemed to be a sufficient giving of such notice.

SECTION 10.5. Officer's Certificates And Opinions Of Counsel; Statements To Be Contained Therein. Upon any application or demand by the Issuer to the Trustee to take any action under any of the provisions of this Indenture, the Issuer shall furnish to the Trustee an Officer's Certificate stating that all conditions precedent provided for in this Indenture relating to the proposed action have been complied with and an Opinion of Counsel

stating that in the opinion of such counsel all such conditions precedent have been complied with, except that in the case of any such application or demand as to which the furnishing of such documents is specifically required by any provision of this Indenture relating to such particular application or demand, no additional certificate or opinion need be furnished.

Each certificate or opinion provided for in this Indenture and delivered to the Trustee with respect to compliance with a condition or covenant provided for in this Indenture shall include (a) a statement that the person making such certificate or opinion has read such covenant or condition, (b) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based, (c) a statement that, in the opinion of such person, he or she has made such examination or investigation as is necessary to enable him or her to express an informed opinion as to whether or not such covenant or condition has been complied with and (d) a statement as to whether or not, in the opinion of such person, such condition or covenant has been complied with.

Any certificate, statement or opinion of an officer of the Issuer may be based, insofar as it relates to legal matters, upon a certificate or opinion of or representations by counsel, unless such officer knows that the certificate or opinion or representations with respect to the matters upon which his or her certificate, statement or opinion may be based as aforesaid are erroneous, or in the exercise of reasonable care should know that the same are erroneous. Any certificate, statement or opinion of counsel may be based, insofar as it relates to factual matters or information in the possession of the Issuer, upon the certificate, statement or opinion of or representations by an officer or officers of the Issuer, unless such counsel knows that the certificate, statement or opinion or representations with respect to the matters upon which his or her certificate, statement or opinion may be based as aforesaid are erroneous, or in the exercise of reasonable care should know that the same are erroneous.

Any certificate, statement or opinion of an officer of the Issuer or of counsel may be based, insofar as it relates to accounting matters, upon a certificate or opinion of or representations by an accountant or firm of accountants in the employ of the Issuer, unless such officer or counsel, as the case may be, knows that the certificate or opinion of or representations with respect to the accounting matters upon which his or her certificate, statement or opinion may be based as aforesaid are erroneous, or in the exercise of reasonable care should know that the same are erroneous.

Any certificate or opinion of any independent firm of public accountants filed with and directed to the Trustee shall contain a statement that such firm is independent.

SECTION 10.6. Payments Due On Saturdays, Sundays And Holidays. If the date of maturity of interest on or principal of the Securities of any series or the date fixed for redemption or repayment of any such Security shall not be a Business Day, then payment of interest or principal need not be made on such date, but may be made on the next succeeding Business Day with the same force and effect as if made on the date of maturity or the date fixed for redemption, and no interest shall accrue for the period after such date.

SECTION 10.7. Conflict Of Any Provision Of Indenture With Trust Indenture Act. If and to the extent that any provision of this Indenture limits, qualifies or conflicts with duties imposed by, or with another provision (an "incorporated provision") included in this Indenture by operation of Sections 310 to 318, inclusive, of the Trust Indenture Act, such imposed duties or incorporated provision shall control.

SECTION 10.8. PENNSYLVANIA LAW TO GOVERN. THIS INDENTURE AND EACH SECURITY SHALL BE DEEMED TO BE A CONTRACT UNDER THE LAWS OF THE COMMONWEALTH OF PENNSYLVANIA, AND FOR ALL PURPOSES SHALL BE CONSTRUED IN ACCORDANCE WITH THE LAWS OF SUCH COMMONWEALTH.

SECTION 10.9. Counterparts. This Indenture may be executed in any number of counterparts, each of which shall be an original; but such counterparts shall together constitute but one and the same instrument.

SECTION 10.10. Effect Of Headings. The Article and Section headings herein and the Table of Contents are for convenience only and shall not affect the construction hereof.

## ARTICLE XI

### REDEMPTION OF SECURITIES AND SINKING FUNDS

SECTION 11.1. Applicability Of Article. The provisions of this Article shall be applicable to the Securities of any series which are redeemable before their maturity or to any sinking fund for the retirement of Securities of a series except as otherwise specified as contemplated by Section 2.3 for Securities of such series.

SECTION 11.2. Notice Of Redemption; Partial Redemptions. Notice of redemption to the Holders of Registered Securities of any series to be redeemed as a whole or in part at the option of the Issuer shall be given by mailing notice of such redemption by first class mail, postage prepaid, at least 30 days and not more than 60 days prior to the date fixed for redemption to such Holders of Securities of such series at their last addresses as they shall appear upon the registry books. Any notice which is mailed in the manner herein provided shall be conclusively presumed to have been duly given, whether or not the Holder receives the notice. Failure to give notice by mail, or any defect in the notice to the Holder of any Security of a series designated for redemption as a whole or in part shall not affect the validity of the proceedings for the redemption of such Security of such series.

The notice of redemption to each such Registered Holder shall specify the principal amount of each Security of such series held by such Registered Holder to be redeemed, the date fixed for redemption, the redemption price, the place or places of payment, that payment will be made upon presentation and surrender of such Securities, that such redemption is pursuant to the mandatory or optional sinking fund, or both, if such be the case, that interest accrued to the date fixed for redemption will be paid as specified in such notice and that on and after said date interest thereon or on the portions thereof to be redeemed will cease to accrue. In case any Security of a series is to be redeemed in part only, the notice of redemption to Registered Holders of Securities of the series shall state the portion of the principal amount thereof to be redeemed and shall state that on and after the date fixed for redemption, upon surrender of such Security, a new Security or Securities of such series in principal amount equal to the unredeemed portion thereof will be issued.

The notice of redemption of Securities of any series to be redeemed at the option of the Issuer shall be given by the Issuer or, at the Issuer's request, by the Trustee in the name and at the expense of the Issuer.

On or before the redemption date specified in the notice of redemption given as provided in this Section, the Issuer will deposit with the Trustee or with one or more paying agents (or, if the Issuer is acting as its own paying agent, set aside, segregate and hold in trust as provided in Section 3.4) an amount of money sufficient to redeem on the redemption date all the Securities of such series so called for redemption at the appropriate redemption price, together with accrued interest to the date fixed for redemption. The Issuer will deliver to the Trustee at least 70 days prior to the date fixed for redemption, or such shorter period as shall be acceptable to the Trustee, an Officer's Certificate stating the aggregate principal amount of Securities to be redeemed. In case of a redemption at the election of the Issuer prior to the expiration of any restriction on such redemption, the Issuer shall deliver to the Trustee, prior to the giving of any notice of redemption to Holders pursuant to this Section, an Officer's Certificate stating that such restriction has been complied with.

If less than all the Securities of a series are to be redeemed, the Trustee shall select, in such manner as it shall deem appropriate and fair, in its sole discretion, Securities of such series to be redeemed in whole or in part. Securities may be redeemed in part in multiples equal to the minimum authorized denomination for Securities of such series or any multiple thereof. The Trustee shall promptly notify the Issuer in writing of the Securities of such series selected for redemption and, in the case of any Securities of such series selected for partial redemption, the principal amount thereof to be redeemed. For all purposes of this Indenture, unless the context otherwise requires, all provisions relating to the redemption of Securities of any series shall relate, in the case of any Security redeemed or to be redeemed only in part, to the portion of the principal amount of such Security which has been or is to be redeemed.

SECTION 11.3. Payment Of Securities Called For Redemption. If notice of redemption has been given as above provided, the Securities or portions of Securities specified in such notice shall become due and



payable on the date and at the place stated in such notice at the applicable redemption price, together with interest accrued to the date fixed for redemption, and on and after said date (unless the Issuer shall default in the payment of such Securities at the redemption price, together with interest accrued to said date) interest on the Securities or portions of Securities so called for redemption shall cease to accrue, and, except as provided in Sections 6.5 and 9.4, such Securities shall cease from and after the date fixed for redemption to be entitled to any benefit or security under this Indenture, and the Holders thereof shall have no right in respect of such Securities except the right to receive the redemption price thereof and unpaid interest to the date fixed for redemption. On presentation and surrender of such Securities at a place of payment specified in said notice, said Securities or the specified portions thereof shall be paid and redeemed by the Issuer at the applicable redemption price, together with interest accrued thereon to the date fixed for redemption; PROVIDED, that payment of interest becoming due on or prior to the date fixed for redemption shall be payable to the Holder of such Registered Securities registered as such on the relevant record date, subject to the terms and provisions of Section 2.3 and 2.7 hereof.

If any Security called for redemption shall not be so paid upon surrender thereof for redemption, the principal shall, until paid or duly provided for, bear interest from the date fixed for redemption at the rate of interest or Yield to Maturity (in the case of an Original Issue Discount Security) borne by such Security.

Upon presentation of any Security redeemed in part only, the Issuer shall execute and the Trustee shall authenticate and deliver to or on the order of the Holder thereof, at the expense of the Issuer, a new Security or Securities of such series, of authorized denominations, in principal amount equal to the unredeemed portion of the Security so presented.

SECTION 11.4. Exclusion Of Certain Securities From Eligibility For Selection For Redemption. Securities shall be excluded from eligibility for selection for redemption if they are identified by registration and certificate number in an Officer's Certificate delivered to the Trustee at least 40 days prior to the last date on which notice of redemption may be given as being owned of record and beneficially by, and not pledged or hypothecated by, either (a) the Issuer or (b) an entity specifically identified in such written statement as directly or indirectly controlling or controlled by or under direct or indirect common control with the Issuer.

SECTION 11.5. Mandatory And Optional Sinking Funds. The minimum amount of any sinking fund payment provided for by the terms of the Securities of any series is herein referred to as a "mandatory sinking fund payment," and any payment in excess of such minimum amount provided for by the terms of the Securities of any series is herein referred to as an "optional sinking fund payment." The date on which a sinking fund payment is to be made is herein referred to as the "sinking fund payment date."

In lieu of making all or any part of any mandatory sinking fund payment with respect to any series of Securities in cash, the Issuer may at its option (a) deliver to the Trustee Securities of such series theretofore purchased or otherwise acquired (except upon redemption pursuant to the mandatory sinking fund) by the Issuer or receive credit for Securities of such series (not previously so credited) theretofore purchased or otherwise acquired (except as aforesaid) by the Issuer and delivered to the Trustee for cancellation pursuant to Section 2.10, (b) receive credit for optional sinking fund payments (not previously so credited) made pursuant to this Section, or (c) receive credit for Securities of such series (not previously so credited) redeemed by the Issuer through any optional redemption provision contained in the terms of such series. Securities so delivered or credited shall be received or credited by the Trustee at the sinking fund redemption price specified in such Securities.

On or before the 60th day next preceding each sinking fund payment date for any series, the Issuer will deliver to the Trustee an Officer's Certificate (which need not contain the statements required by Section 10.5) (a) specifying the portion of the mandatory sinking fund payment to be satisfied by payment of cash and the portion to be satisfied by credit of Securities of such series and the basis for such credit, (b) stating that none of the Securities of such series has theretofore been so credited, (c) stating that no defaults in the payment of interest or Events of Default with respect to such series have occurred (which have not been waived or cured) and are continuing and (d) stating whether or not the Issuer intends to exercise its right to make an optional sinking fund payment with respect to such series and, if so, specifying the amount of such optional sinking fund payment which the Issuer intends to pay on or before the next succeeding sinking fund payment date. Any Securities of such series to be credited and required to be delivered to the Trustee in order for the Issuer to be entitled to credit therefor as aforesaid which have

not theretofore been delivered to the Trustee shall be delivered for cancellation pursuant to Section 2.10 to the Trustee with such Officer's Certificate (or reasonably promptly thereafter if acceptable to the Trustee). Such Officer's Certificate shall be irrevocable and upon its receipt by the Trustee, the Issuer shall become unconditionally obligated to make all the cash payments or payments therein referred to, if any, on or before the next succeeding sinking fund payment date. Failure of the Issuer, on or before any such 60th day, to deliver such Officer's Certificate and Securities specified in this paragraph, if any, shall not constitute a default but shall constitute, on and as of such date, the irrevocable election of the Issuer (i) that the mandatory sinking fund payment for such series due on the next succeeding sinking fund payment date shall be paid entirely in cash without the option to deliver or credit Securities of such series in respect thereof and (ii) that the Issuer will make no optional sinking fund payment with respect to such series as provided in this Section.

If the sinking fund payment or payments (mandatory or optional or both) to be made in cash on the next succeeding sinking fund payment date plus any unused balance of any preceding sinking fund payments made in cash shall exceed \$50,000 or a lesser sum in Dollars if the Issuer shall so request with respect to the Securities of any particular series, such cash shall be applied on the next succeeding sinking fund payment date to the redemption of Securities of such series at the sinking fund redemption price together with accrued interest to the date fixed for redemption. If such amount shall be \$50,000 or less and the Issuer makes no such request then it shall be carried over until a sum in excess of \$50,000 is available. The Trustee shall select, in the manner provided in Section 11.2, for redemption on such sinking fund payment date a sufficient principal amount of Securities of such series to absorb said cash, as nearly as may be, and shall (if requested in writing by the Issuer) inform the Issuer of the serial numbers of the Securities of such series (or portions thereof) so selected. Securities shall be excluded from eligibility for redemption under this Section if they are identified by registration and certificate number in an Officer's Certificate delivered to the Trustee at least 60 days prior to the sinking fund payment date as being owned of record and beneficially by, and not pledged or hypothecated by, either (a) the Issuer or (b) an entity specifically identified in such Officer's Certificate as directly or indirectly controlling or controlled by or under direct or indirect common control with the Issuer. The Trustee, in the name and at the expense of the Issuer (or the Issuer, if it shall so request the Trustee in writing) shall cause notice of redemption of the Securities of such series to be given in substantially the manner provided in Section 11.2 (and with the effect provided in Section 11.3) for the redemption of Securities of such series in part at the option of the Issuer. The amount of any sinking fund payments not so applied or allocated to the redemption of Securities of such series shall be added to the next cash sinking fund payment for such series and, together with such payment, shall be applied in accordance with the provisions of this Section. Any and all sinking fund moneys held on the stated maturity date of the Securities of any particular series (or earlier, if such maturity is accelerated), which are not held for the payment or redemption of particular Securities of such series shall be applied, together with other moneys, if necessary, sufficient for the purpose, to the payment of the principal of, and interest on, the Securities of such series at maturity.

On or before each sinking fund payment date, the Issuer shall pay to the Trustee in cash or shall otherwise provide for the payment of all interest accrued to the date fixed for redemption on Securities to be redeemed on the next following sinking fund payment date.

The Trustee shall not redeem or cause to be redeemed any Securities of a series with sinking fund moneys or give any notice of redemption of Securities for such series by operation of the sinking fund during the continuance of a default in payment of interest on such Securities or of any Event of Default except that, where the giving of notice of redemption of any Securities shall theretofore have been made, the Trustee shall redeem or cause to be redeemed such Securities, provided that it shall have received from the Issuer a sum sufficient for such redemption. Except as aforesaid, any moneys in the sinking fund for such series at the time when any such default or Event of Default shall occur, and any moneys thereafter paid into the sinking fund, shall, during the continuance of such default or Event of Default be deemed to have been collected under Article V and held for the payment of all such Securities. In case such Event of Default shall have been waived as provided in Section 5.10 or the default cured on or before the 60th day preceding the sinking fund payment date in any year, such moneys shall thereafter be applied on the next succeeding sinking fund payment date in accordance with this Section to the redemption of such Securities.

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IN WITNESS WHEREOF, the parties hereto have caused this Indenture to be duly executed and attested as of the date first written above.

EXELON CORPORATION

By: /s/ J. Barry Mitchell  
-----  
Name: J. Barry Mitchell  
Title: Vice President

Attest:

By: /s/ Todd D. Cutler  
-----  
Todd D. Cutler

Chase Manhattan Trust Company,  
National Association  
as Trustee

By: /s/ D. Kovach  
-----  
Name: D. Kovach  
Title: Assistant Vice President

Attest:

By: -----

EXELON CORPORATION,  
Issuer

AND

WACHOVIA BANK, NATIONAL ASSOCIATION,  
as Trustee

INDENTURE

Dated as of \_\_\_\_\_

Subordinated Debt Securities

CROSS-REFERENCE TABLE\*

Section of Trust Indenture Act of 1939, as amended -----	Section of Indenture -----
310(a)	7.09
310(b)	7.08
	7.10
310(c)	Inapplicable
311(a)	7.13
311(b)	7.13
311(c)	Inapplicable
312(a)	5.01
	5.02(a)
312(b)	5.02(c)
312(c)	5.02(d)
313(a)	5.04(a)
313(b)	5.04(b)
313(c)	5.04(a)
	5.04(b)
313(d)	5.04(c)
314(a)	5.03
314(b)	Inapplicable
314(c)	13.07
314(d)	Inapplicable
314(e)	13.07
314(f)	Inapplicable
315(a)	7.01(b)
	7.02
315(b)	6.01(e)
315(c)	7.01
315(d)	7.01(b)
	7.01(c)
315(e)	6.07
316(a)	6.06
	8.04
316(b)	6.04
316(c)	8.01
317(a)	6.02
317(b)	4.03
318(a)	13.09

\*This Cross-Reference Table does not constitute part of the Indenture and shall not have any bearing on the interpretation of any of its terms or provisions.

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THIS INDENTURE, dated as of \_\_\_\_\_, between EXELON CORPORATION, a Pennsylvania corporation (the "Company"), and WACHOVIA BANK, NATIONAL ASSOCIATION, a national banking association not in its individual capacity but solely as trustee (the "Trustee"):

W I T N E S S E T H:

WHEREAS, for its lawful corporate purposes, the Company has duly authorized the execution and delivery of this Indenture to provide for the issuance of unsecured subordinated debt securities (hereinafter referred to as the "Debt Securities"), in an unlimited aggregate principal amount to be issued from time to time in one or more series as in this Indenture provided, as registered Debt Securities without coupons, to be authenticated by the certificate of the Trustee;

WHEREAS, to provide the terms and conditions upon which the Debt Securities are to be authenticated, issued and delivered, the Company has duly authorized the execution of this Indenture; and

WHEREAS, all things necessary to make this Indenture a valid agreement of the Company, in accordance with its terms, have been done;

NOW, THEREFORE, in consideration of the premises and the purchase of the Debt Securities by the holders thereof, and intending to be legally bound hereby, it is mutually covenanted and agreed as follows for the equal and ratable benefit of the holders of Debt Securities:

ARTICLE I  
DEFINITIONS

SECTION 1.01. Definitions of Terms. The terms defined in this Section (except as in this Indenture otherwise expressly provided or unless the context otherwise requires) for all purposes of this Indenture and of any indenture supplemental hereto shall have the respective meanings specified in this Section and shall include the plural as well as the singular. All other terms used in this Indenture that are defined in the Trust Indenture Act of 1939, as amended, or that are by reference in such Act defined in the Securities Act of 1933, as amended (except as herein otherwise expressly provided or unless the context otherwise requires), shall have the meanings assigned to such terms in said Trust Indenture Act and in said Securities Act as in force at the date of the execution of this instrument.

"Additional Interest" means (i) such additional amounts as may be required so that the net amounts received and retained by the Holder (if the Holder is a Exelon Trust) after paying taxes, duties, assessments or governmental charges of whatever nature (other than withholding taxes) imposed by the United States or any other taxing authority will not be less than the amounts the Holder would have received had no such taxes, duties, assessments, or other governmental charges been imposed; and (ii) any interest due and not paid on an Interest Payment Date, together with interest thereon from such Interest Payment Date to the date of payment, compounded semiannually, on each Interest Payment Date.

"Affiliate" means, with respect to a specified Person, (a) any Person directly or indirectly owning, controlling or holding with power to vote 10% or more of the outstanding voting securities or other ownership interests of the specified Person, (b) any Person 10% or more of whose outstanding voting securities or other ownership interests are directly or indirectly owned, controlled or held with power to vote by the specified Person, (c) any Person directly or indirectly controlling, controlled by or under common control with the specified Person, (d) a partnership in which the specified Person is a general partner, (e) any officer or director of the specified Person and (f) if the specified Person is an individual, any entity of which the specified Person is an officer, director or general partner.



"Authenticating Agent" means an authenticating agent with respect to all or any of the series of Debt Securities appointed with respect to all or such series of the Debt Securities by the Trustee pursuant to Section 2.10.

"Bankruptcy Law" means Title 11, United States Code, or any similar federal or state law for the relief of debtors.

"Board of Directors" means the board of directors of the Company, or any duly authorized committee of such board or any officer of the Company duly authorized by the board of directors of the Company or a duly authorized committee of that board.

"Board Resolution" means a copy of a resolution certified by the Secretary or an Assistant Secretary of the Company to have been duly adopted by the Board of Directors and to be in full force and effect on the date of such certification; provided that any Board Resolution that is adopted by an officer of the Company shall be accompanied by a copy of a resolution of either the board of directors of the Company or a duly authorized committee of that board, certified as aforesaid, authorizing such officer to take such action.

"Business Day" means, with respect to any series of Debt Securities, any day other than a Saturday or Sunday or a day on which federal or state banking institutions in Wilmington, Delaware or Philadelphia, Pennsylvania, are authorized or obligated by law, executive order or regulation to close, or a day on which the Corporate Trust Office of the Trustee or the Property Trustee is closed for business.

"Certificate" means a certificate signed by the principal executive officer, the principal financial officer, the treasurer or the principal accounting officer of the Company. The Certificate need not comply with the provisions of Section 13.07.

"Common Securities" means undivided beneficial interests in the assets of a Exelon Trust which rank pari passu with Preferred Securities issued by such trust; provided, however, that upon the occurrence of an Event of Default, the rights of holders of Common Securities to payment in respect of distributions and payments upon liquidation, redemption and maturity are subordinated to the rights of holders of Preferred Securities.

"Common Securities Guarantee" means any guarantee that the Company may enter into with a Exelon Trust or other Persons that operate directly or indirectly for the benefit of holders of Common Securities of such trust.

"Company" means Exelon Corporation, a corporation duly organized and existing under the laws of the Commonwealth of Pennsylvania, and, subject to the provisions of Article X, shall also include its successors and assigns.

"Company Order" means a written request or order signed in the name of the Company by an officer, or if required by the context in which such term appears herein, officers, of the Company and delivered to the Trustee.

"Corporate Trust Office" means the office of the Trustee at which, at any particular time, its corporate trust business shall be principally administered, which office at the date hereof is located at Wachovia Bank, National Association, PA 1249, 123 South Broad Street, 11th Floor, Philadelphia, PA 19109, Attention: Corporate Trust Administration.

"Custodian" means any receiver, trustee, assignee, liquidator, or similar official under any Bankruptcy Law.

"Declaration" means, in respect of a Exelon Trust, the amended and restated declaration of trust of such Exelon Trust or any other governing instrument of such Exelon Trust.

"Debt Securities" means the unsecured subordinated debt securities of the Company authenticated and delivered under this Indenture.

"Default" means any event, act or condition that with notice or lapse of time, or both, would constitute an Event of Default.

"Defaulted Interest" has the meaning specified in Section 2.03.

"Depository" means, with respect to Debt Securities of any series for which the Company shall determine that such Debt Securities will be issued as a Global Security, The Depository Trust Company, New York, New York, another clearing agency, or any successor registered as a clearing agency under the Exchange Act or other applicable statute or regulation, which, in each case, shall be designated by the Company pursuant to either Section 2.01 or 2.11.

"Event of Default" means, with respect to Debt Securities of a particular series, any event specified in Section 6.01, continued for the period of time, if any, therein designated.

"Exchange Act" means the Securities Exchange Act of 1934.

"Exelon Trust" means a Delaware statutory trust formed by the Company for the purpose of purchasing Debt Securities of the Company.

"Global Security" means, with respect to any series of Debt Securities, a Debt Security executed by the Company and delivered by the Trustee to the Depository or pursuant to the Depository's instruction, all in accordance with the Indenture, which shall be registered in the name of the Depository or its nominee.

"Governmental Obligations" means securities that are (i) direct obligations of the United States of America for the payment of which its full faith and credit is pledged or (ii) obligations of a Person controlled or supervised by and acting as an agency or instrumentality of the United States of America, the payment of which is unconditionally guaranteed as a full faith and credit obligation by the United States of America that, in either case, are not callable or redeemable at the option of the issuer thereof, and shall also include a depository receipt issued by a bank (as defined in Section 3(a)(2) of the Securities Act of 1933, as amended) as custodian with respect to any such Governmental Obligation or a specific payment of principal of or interest on any such Governmental Obligation held by such custodian for the account of the holder of such depository receipt; provided, however, that (except as required by law) such custodian is not authorized to make any deduction from the amount payable to the holder of such depository receipt from any amount received by the custodian in respect of the Governmental Obligation or the specific payment of principal of or interest on the Governmental Obligation evidenced by such depository receipt.

"herein," "hereof" and "hereunder," and other words of similar import, refer to this Indenture as a whole and not to any particular Article, Section or other subdivision.

"Indenture" means this instrument as originally executed or as it may from time to time be supplemented or amended by one or more indentures supplemental hereto entered into in accordance with the terms hereof.

"Interest Payment Date," when used with respect to any installment of interest on a Debt Security of a particular series, means the date specified in such Debt Security or in a Board Resolution or in an indenture supplemental hereto with respect to such series as the fixed date on which an installment of interest with respect to Debt Securities of that series is due and payable.

"List of Holders" means the list of holders of each series of Debt Securities provided by the Company to the Trustee under Section 5.01.

"Officers' Certificate" means a certificate signed by the President or a Vice President and by the Treasurer or an Assistant Treasurer or the Controller or an Assistant Controller or the Secretary or an Assistant Secretary of the Company that is delivered to the Trustee in accordance with the terms hereof. Each such certificate shall include the statements provided for in Section 13.07, if and to the extent required by the provisions thereof.

"Opinion of Counsel" means an opinion in writing of legal counsel, who may be an employee of or counsel for the Company, that is reasonably acceptable to the Trustee and delivered to the Trustee in accordance with the terms hereof. Each such opinion shall include the statements provided for in Section 13.07, if and to the extent required by the provisions thereof.

"Outstanding," when used with reference to Debt Securities of any series, means, subject to the provisions of Section 8.04, as of any particular time, all Debt Securities of that series theretofore authenticated and delivered by the Trustee under this Indenture, except (a) Debt Securities theretofore canceled by the Trustee, or delivered to the Trustee for cancellation or that have previously been canceled; (b) Debt Securities or portions thereof for the payment or redemption of which moneys or Governmental Obligations in the necessary amount shall have been deposited in trust with the Trustee or with any paying agent (other than the Company) or shall have been set aside and segregated in trust by the Company (if the Company shall act as its own paying agent); provided, however, that if such Debt Securities or portions of such Debt Securities are to be redeemed prior to the maturity thereof, notice of such redemption shall have been given as in Article III provided, or provision satisfactory to the Trustee shall have been made for giving such notice, (c) Debt Securities in lieu of or in substitution for which other Debt Securities shall have been authenticated and delivered pursuant to the terms of Section 2.07; and (d) Debt Securities, except to the extent provided in Sections 11.01 and 11.02, with respect to which the Company has effected defeasance and/or covenant defeasance as provided in Article XI.

"Person" means any individual, corporation, partnership, limited liability company, joint venture, joint-stock company, unincorporated organization or government or any agency or political subdivision thereof or any other entity.

"Predecessor Security" of any particular Debt Security means every previous Debt Security evidencing all or a portion of the same debt and guarantee as that evidenced by such particular Debt Security; and, for the purposes of this definition, any Debt Security authenticated and delivered under Section 2.07 in lieu of a lost, destroyed or stolen Debt Security shall be deemed to evidence the same debt as the lost, destroyed or stolen Debt Security.

"Preferred Securities" means undivided beneficial interests in the assets of a Exelon Trust which rank pari passu with Common Securities issued by such trust; provided, however, that upon the occurrence of an Event of Default, the rights of holders of Common Securities to payment in respect of

distributions and payments upon liquidation, redemption and otherwise are subordinated to the rights of holders of Preferred Securities.

"Preferred Securities Guarantee" means any guarantee that the Company may enter into with a Exelon Trust or other Persons that operate directly or indirectly for the benefit of holders of Preferred Securities of such trust.

"Property Trustee" means the entity performing the functions of the Property Trustee of a Exelon Trust under the applicable Declaration of such Exelon Trust.

"Responsible Officer," when used with respect to the Trustee, means the Chairman of the Board of Directors, the President, any Vice President, the Secretary, the Treasurer, any trust officer, any corporate trust officer or any other officer or assistant officer of the Trustee customarily performing functions similar to those performed by the Persons who at the time shall be such officers, respectively, or to whom any corporate trust matter is referred because of his or her knowledge of and familiarity with the particular subject.

"Securityholder," "Holder," "holder of Debt Securities," "registered holder," or other similar term, means the Person or Persons in whose name or names a particular Debt Security shall be registered on the Security Register in accordance with the terms of this Indenture.

"Security Register" and "Security Registrar" have the respective meanings set forth in Section 2.05.

"Senior Indebtedness" means (i) any payment in respect of (A) indebtedness of the Company for money borrowed and (B) indebtedness evidenced by securities, debentures, bonds, notes or other similar instruments issued by the Company; (ii) all capital lease obligations of the Company; (iii) all obligations of the Company issued or assumed as the deferred purchase price of property, all conditional sale obligations of the Company and all obligations of such obligor under any title retention agreement (but excluding trade accounts payable arising in the ordinary course of business); (iv) all obligations of the Company for reimbursement on any letter of credit, banker's acceptance, security purchase facility or similar credit transaction; (v) all obligations of the type referred to in clauses (i) through (iv) of other persons for the payment of which the Company is responsible or liable as obligor, guarantor or otherwise; and (vi) all obligations of the type referred to in clauses (i) through (v) of other persons secured by any lien on any property or asset of the Company (whether or not such obligation is assumed by such obligor), except for (1) any such indebtedness that is by its terms subordinated to or ranked pari passu with the Debt Securities, as the case may be, including all other debt securities and guarantees in respect of those debt securities, issued to any other trusts, partnerships or any other entity affiliated with the Company which is a financing vehicle of the Company ("Financing Entity") in connection with an issuance of preferred securities by such Financing Entity or other securities which rank pari passu with, or junior to, the Preferred Securities and (2) any indebtedness between or among the Company and its Affiliates.

"Subsidiary" means, with respect to any Person, (i) any corporation at least a majority of whose outstanding Voting Stock shall at the time be owned, directly or indirectly, by such Person or by one or more of its Subsidiaries or by such Person and one or more of its Subsidiaries, (ii) any general partnership, joint venture or similar entity, at least a majority of whose outstanding partnership or similar interests shall at the time be owned by such Person, or by one or more of its Subsidiaries, or by such Person and one or more of its Subsidiaries and (iii) any limited partnership of which such Person or any of its Subsidiaries is a general partner.

"Trustee" means Wachovia Bank, National Association, not in its individual capacity, but solely as Trustee hereunder, and, subject to the provisions of Article VII, shall also include its successors and assigns, and, if at any time there is more than one Person acting in such capacity hereunder, "Trustee" shall mean each such Person. The term "Trustee," as used with respect to a particular series of Debt Securities, shall mean the trustee with respect to that series.

"Trust Indenture Act" means the Trust Indenture Act of 1939, subject to the provisions of Sections 9.01, 9.02 and 10.01, as in effect at the date of execution of this instrument.

Trust Securities" means Common Securities and Preferred Securities.

"Voting Stock," as applied to stock of any Person, means shares, interests, participations or other equivalents in the equity interest (however designated) in such Person having ordinary voting power for the election of a majority of the directors (or the equivalent) of such Person, other than shares, interests, participations or other equivalents having such power only by reason of the occurrence of a contingency.

ARTICLE II  
ISSUE, DESCRIPTION, TERMS, EXECUTION,  
REGISTRATION AND EXCHANGE OF DEBT SECURITIES

SECTION 2.01. Designation and Terms of Debt Securities. The aggregate principal amount of Debt Securities that may be authenticated and delivered under this Indenture is unlimited. The Debt Securities may be issued in one or more series up to the aggregate principal amount of Debt Securities of that series from time to time authorized by or pursuant to a Board Resolution of the Company or, pursuant to one or more indentures supplemental hereto. Prior to the initial issuance of Debt Securities of any series, there shall be established in or pursuant to a Board Resolution of the Company, and set forth in an Officers' Certificate of the Company, or established in one or more indentures supplemental hereto:

(1) the title of the series of Debt Security (which shall distinguish the Debt Securities of that series from all other series of Debt Securities);

(2) any limit upon the aggregate principal amount of the Debt Securities of that series that may be authenticated and delivered under this Indenture (except for Debt Securities authenticated and delivered upon registration of transfer of, or in exchange for, or in lieu of, other Debt Securities of that series);

(3) the date or dates on which the principal of the Debt Securities of that series is payable;

(4) the rate or rates at which the Debt Securities of that series shall bear interest or the manner of calculation of such rate or rates, if any;

(5) the date or dates from which such interest shall accrue, the Interest Payment Dates on which such interest will be payable or the manner of determination of such Interest Payment Dates and the record date for the determination of holders to whom interest is payable on any such Interest Payment Dates;

(6) the right, if any, to extend the interest payment periods and the duration of such extension;

(7) the period or periods within which, the price or prices at which, and the terms and conditions upon which, Debt Securities of that series may be redeemed, in whole or in part, at the option of the Company;

(8) the obligation, if any, of the Company to redeem or purchase Debt Securities of that series pursuant to any sinking fund or analogous provisions (including payments made in cash in participation of future sinking fund obligations) or at the option of a holder thereof and the period or periods within which, the price or prices at which, and the terms and conditions upon which, Debt Securities of that series shall be redeemed or purchased, in whole or in part, pursuant to such obligation;

(9) the subordination terms of the Debt Securities of that series;

(10) the form of the Debt Securities of that series, including the form of the certificate of authentication for such series;

(11) if other than denominations of twenty-five U.S. dollars (\$25) or any integral multiple thereof, the denominations in which the Debt Securities of that series shall be issuable;

(12) whether and under what circumstances the Company will pay Additional Interest on the Debt Securities of the series to any Holder who is not a United States person (including any modification to the definition of such term) in respect of any tax, assessment or governmental charge and, if so, whether the Company will have the option to redeem such Debt Securities rather than pay such Additional Interest (and the terms of any such option);

(13) any and all other terms with respect to such series (which terms shall not be inconsistent with the terms of this Indenture), including any terms which may be required by or advisable under United States laws or regulations or advisable in connection with the marketing of Debt Securities of that series; and

(14) whether the Debt Securities are issuable as a Global Security and, in such case, the identity of the Depository for such series.

All Debt Securities of any one series shall be substantially identical except as to denomination and except as may otherwise be provided in or pursuant to any such Board Resolution and set forth in the applicable Officer's Certificate, or in any indentures supplemental hereto.

If any of the terms of a series are established by action taken pursuant to a Board Resolution of the Company, a copy of an appropriate record of such action shall be certified by the Secretary or an Assistant Secretary of the Company and delivered to the Trustee at or prior to the delivery of the Officers' Certificate of the Company setting forth the terms of such series.

SECTION 2.02. Form of Debt Securities and Trustee's Certificate. The Debt Securities of any series and the Trustee's certificate of authentication to be borne by such Debt Securities shall be substantially of the tenor and purport as set forth in one or more indentures supplemental hereto or as provided in a Board Resolution of the Company and as set forth in an Officers' Certificate of the Company, and may have such letters, numbers or other marks of identification or designation and such legends or endorsements printed, lithographed or engraved thereon as the Company may deem appropriate and as are not inconsistent with the provisions of this Indenture, or as may be required to comply with any law or with any rule or regulation made pursuant thereto or with any rule or regulation of any stock exchange on which Debt Securities of that series may be listed, if any, or to conform to usage.

SECTION 2.03. Denominations; Provisions for Payment. The Debt Securities shall be issuable as registered Debt Securities and in the denominations of twenty-five U.S. dollars (\$25) or any integral multiple thereof, subject to Section 2.01(11). The Debt Securities of a particular series shall bear interest payable on the dates and at the rate specified with respect to that series. The principal of and the interest on the Debt Securities of any series, as well as any premium thereon in case of redemption thereof prior to maturity, shall be payable in the coin or currency of the United States of America that at the time is legal tender for public and private debt, at the office or agency of the Company maintained for that purpose in Philadelphia, Pennsylvania. Each Debt Security shall be dated the date of its authentication. Interest on the Debt Securities shall be computed on the basis of a 360-day year composed of twelve 30-day months.

The interest installment on any Debt Security that is payable, and is punctually paid or duly provided for, on any Interest Payment Date for Debt Securities of that series shall be paid to the Person in whose name said Debt Security (or one or more Predecessor Securities) is registered at the close of business on the regular record date for such interest installment. In the event that any Debt Security of a particular series or portion thereof is called for redemption and the redemption date is subsequent to a regular record date with respect to any Interest Payment Date and prior to such Interest Payment Date, interest on such Debt Security will be paid upon presentation and surrender of such Debt Security as provided in Section 3.03.

Any interest on any Debt Security that is payable, but is not punctually paid or duly provided for, on any Interest Payment Date for Debt Securities of that series (herein called "Defaulted Interest") shall forthwith cease to be payable to the registered holder on the relevant regular record date by virtue of having been such holder; and such Defaulted Interest shall be paid by the Company, at its election, as provided in clause (1) or clause (2) below:

(1) The Company may make payment of any Defaulted Interest on Debt Securities to the Persons in whose names such Debt Securities (or their respective Predecessor Securities) are registered at the close of business on a special record date for the payment of such Defaulted Interest, which shall be fixed in the following manner: the Company shall notify the Trustee and the paying agent in writing of the amount of Defaulted Interest proposed to be paid on each such Debt Security and the date of the proposed payment, and at the same time the Company shall deposit with the paying agent an amount of money equal to the aggregate amount proposed to be paid in respect of such Defaulted Interest or shall make arrangements satisfactory to the paying agent for such deposit prior to the date of the proposed payment, such money when deposited to be held in trust for the benefit of the Persons entitled to such Defaulted Interest as in this clause provided. The special record date for the payment of such Defaulted Interest shall be the close of business not more than 15 nor less than 10 Business Days prior to the date of the proposed payment and not less than 15 Business Days after the receipt by the Trustee of the notice of the proposed payment. The Trustee, in the name and at the expense of the Company, shall cause notice of the proposed payment of such Defaulted Interest and the special record date therefor to be mailed, first class postage prepaid, to each Securityholder at his or her address as it appears in the List of Holders (or in the Security Register if the Trustee is the Security Registrar of a particular series of Debt Securities), not less than 10 Business Days prior to such special record date. Notice of the proposed payment of such Defaulted Interest and the special record date therefor having been mailed as aforesaid, such Defaulted Interest shall be paid to the Persons in whose names such Debt Securities (or their respective Predecessor Securities) are registered at the close of business on such special record date and shall be no longer payable pursuant to the following clause (2).

(2) The Company may make payment of any Defaulted Interest on any Debt Securities in any other lawful manner not inconsistent with the requirements of any securities exchange on which such Debt Securities may be listed, if any, and upon such notice as may be required by such exchange, if, after

notice given by the Company to the Trustees of the proposed payment pursuant to this clause, such manner of payment shall be deemed practicable by the paying agent.

Unless otherwise set forth in a Board Resolution of the Company or one or more indentures supplemental hereto establishing the terms of any series of Debt Securities pursuant to Section 2.01 hereof, the term "regular record date" as used in this Section with respect to a series of Debt Securities with respect to any Interest Payment Date for such series shall mean either the fifteenth day of the month immediately preceding the month in which an Interest Payment Date established for such series pursuant to Section 2.01 hereof shall occur, if such Interest Payment Date is the first day of a month, or the last day of the month immediately preceding the month in which an Interest Payment Date established for such series pursuant to Section 2.01 hereof shall occur, if such Interest Payment Date is the fifteenth day of a month, whether or not such date is a Business Day.

Subject to the foregoing provisions of this Section, each Debt Security of a series delivered under this Indenture upon transfer of or in exchange for or in lieu of any other Debt Security of such series shall carry the rights to interest accrued and unpaid, and to accrue, that were carried by such other Debt Security.

SECTION 2.04. Execution and Authentication. The Debt Securities shall be signed on behalf of the Company by its President or one of its Vice Presidents, under its corporate seal attested by its Secretary or one of its Assistant Secretaries. Signatures may be in the form of a manual or facsimile signature. The Company may use the facsimile signature of any Person who shall have been a President or Vice President thereof, or of any Person who shall have been a Secretary or Assistant Secretary thereof, notwithstanding the fact that at the time the Debt Securities shall be authenticated and delivered or disposed of such Person shall have ceased to be the President or a Vice President, or the Secretary or an Assistant Secretary, of the Company. The seal of the Company may be in the form of a facsimile of such seal and may be impressed, affixed, imprinted or otherwise reproduced on the Debt Securities. The Debt Securities may contain such notations, legends or endorsements required by law, stock exchange rule or usage. Each Debt Security shall be dated the date of its authentication by the Trustee.

A Debt Security shall not be valid until authenticated manually by an authorized signatory of the Trustee, or by an Authenticating Agent. Such authentication upon any Debt Security shall be conclusive evidence that the Debt Security so authenticated has been duly authenticated and delivered hereunder and that the holder is entitled to the benefits of this Indenture.

At any time and from time to time after the execution and delivery of this Indenture, the Company may deliver Debt Securities of any series executed by the Company to the Trustee for authentication, together with a Company Order requesting the authentication and delivery of such Debt Securities, signed by its President or any Vice President and its Treasurer or any Assistant Treasurer, and the Trustee in accordance with such Company Order shall authenticate and deliver such Debt Securities.

In authenticating such Debt Securities and accepting the additional responsibilities under this Indenture in relation to such Debt Securities, the Trustee shall be entitled to receive, and (subject to Section 7.01) shall be fully protected in relying upon, in addition to an Officer's Certificate and an Opinion of Counsel under Section 13.07, an Opinion of Counsel stating that the form and terms thereof have been established in conformity with the provisions of this Indenture.

The Trustee shall not be required to authenticate such Securities if the issue of such Debt Securities pursuant to this Indenture will affect the Trustee's own rights, duties or immunities under the Debt Securities and this Indenture or otherwise in a manner that is not reasonably acceptable to the Trustee.



SECTION 2.05. Registration of Transfer and Exchange. (a) Debt Securities of any series may be exchanged upon presentation thereof at the office or agency of the Company designated for such purpose in Philadelphia, Pennsylvania or at the office of the Security Registrar, for other Debt Securities of such series of authorized denominations, and for a like aggregate principal amount, upon payment of a sum sufficient to cover any tax or other governmental charge in relation thereto, all as provided in this Section. In respect of any Debt Securities so surrendered for exchange, the Company shall execute, the Trustee, at the Security Registrar's request, shall authenticate and such office or agency shall deliver in exchange therefor the Debt Security or Debt Securities of the same series that the Securityholder making the exchange shall be entitled to receive, bearing numbers not contemporaneously outstanding.

(b) The Company shall keep, or cause to be kept, at its office or agency designated for such purpose in Philadelphia, Pennsylvania, or such other location designated by the Company a register or registers (herein referred to as the "Security Register") in which, subject to such reasonable regulations as it may prescribe, the Company shall register the Debt Securities and the transfers and exchanges of Debt Securities as in this Article provided and which at all reasonable times shall be open for inspection by the Trustee. The registrar for the purpose of registering Debt Securities and transfers and exchanges of Debt Securities as herein provided shall initially be the Trustee and thereafter as may be appointed as authorized by Board Resolution (the "Security Registrar"), such appointment to be effective by such Person's acceptance as Security Registrar. The Trustee hereby accepts its appointment as the initial Security Registrar hereunder and the location of the Security Register shall initially be the Corporate Trust Office of the Trustee.

Upon surrender for transfer of any Debt Security at the office or agency of the Company designated for such purpose in Philadelphia, Pennsylvania, the Company shall execute, the Trustee, at the Security Registrar's request, shall authenticate and such office or agency shall deliver in the name of the transferee or transferees a new Debt Security or Debt Securities of the same series as the Debt Security presented for a like aggregate principal amount.

All Debt Securities presented or surrendered for exchange or registration of transfer, as provided in this Section, shall be accompanied (if so required by the Company or the Security Registrar) by a written instrument or instruments of transfer, in form satisfactory to the Company or the Security Registrar, duly executed by the registered holder or by such holder's duly authorized attorney in writing.

(c) No service charge shall be made for any exchange or registration of transfer of Debt Securities, or issue of new Debt Securities in case of partial redemption of any series, but the Company may require payment of a sum sufficient to cover any tax or other governmental charge in relation thereto, other than exchanges pursuant to Section 2.06, Section 3.03(b) and Section 9.04 not involving any transfer.

(d) The Company shall not be required (i) to issue, exchange or register the transfer of any Debt Securities during a period beginning at the opening of business 15 days before the day of the mailing of a notice of redemption of less than all the Outstanding Debt Securities of the same series and ending at the close of business on the day of such mailing, nor (ii) to register the transfer of or exchange any Debt Securities of any series or portions thereof called for redemption. The provisions of this Section 2.05 are, with respect to any Global Security, subject to Section 2.11 hereof.

SECTION 2.06. Temporary Securities. Pending the preparation of definitive Debt Securities of any series, the Company may execute, and the Trustee shall, upon receipt of a Company Order requesting the Trustee's authentication thereof, authenticate and deliver, temporary Debt Securities (printed, lithographed or typewritten) of any authorized denomination. Such temporary Debt Securities shall be substantially in the form of the definitive Debt Securities in lieu of which they are issued, but with such

omissions, insertions and variations as may be appropriate for temporary Debt Securities, all as may be determined by the Company. Every temporary Debt Security of any series shall be executed by the Company and be authenticated by the Trustee upon the same conditions and in substantially the same manner, and with like effect, as the definitive Debt Securities of such series. Without unnecessary delay the Company will execute and will furnish definitive Debt Securities of such series and thereupon any or all temporary Debt Securities of such series may be surrendered in exchange therefor (without charge to the holders), at the office or agency of the Company designated for such purpose in Philadelphia, Pennsylvania, and the Trustee shall, upon receipt of a Company Order requesting the Trustee's authentication thereof, authenticate and such office or agency shall deliver in exchange for such temporary Debt Securities an equal aggregate principal amount of definitive Debt Securities of such series, unless the Company advises the Trustee to the effect that definitive Debt Securities need not be executed and furnished until further notice from the Company. Until so exchanged, the temporary Debt Securities of such series shall be entitled to the same benefits under this Indenture as definitive Debt Securities of such series authenticated and delivered hereunder.

SECTION 2.07. Mutilated, Destroyed, Lost or Stolen Debt Securities. In case any temporary or definitive Debt Security shall become mutilated or be destroyed, lost or stolen, the Company (subject to the next succeeding sentence) shall execute and the Trustee (subject as aforesaid) shall, upon receipt of a Company Order requesting the Trustee's authentication and delivery thereof, authenticate and deliver, a new Debt Security of the same series, bearing a number not contemporaneously outstanding, in exchange and substitution for the mutilated Debt Security, or in lieu of and in substitution for the Debt Security so destroyed, lost or stolen. In every case the applicant for a substituted Debt Security shall furnish to the Company and the Trustee such security or indemnity as may be required by them to save each of them harmless, and, in every case of destruction, loss or theft, the applicant shall also furnish to the Company and the Trustee evidence to their satisfaction of the destruction, loss or theft of the applicant's Debt Security and of the ownership thereof. Upon the issuance of any substituted Debt Security, the Company may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the fees and expenses of the Trustee) connected therewith. In case any Debt Security that has matured or is about to mature shall become mutilated or be destroyed, lost or stolen, the Company may, instead of issuing a substitute Debt Security, pay or authorize the payment of the same (without surrender thereof except in the case of a mutilated Debt Security) if the applicant for such payment shall furnish to the Company and the Trustee such security or indemnity as they may require to save them harmless, and, in case of destruction, loss or theft, evidence to the satisfaction of the Company and the Trustee of the destruction, loss or theft of such Debt Security and of the ownership thereof.

Every replacement Debt Security issued pursuant to the provisions of this Section shall constitute an additional contractual obligation of the Company, whether or not the mutilated, destroyed, lost or stolen Debt Security shall be found at any time, or be enforceable by anyone, and shall be entitled to all the benefits of this Indenture equally and proportionately with any and all other Debt Securities of the same series duly issued hereunder. All Debt Securities shall be held and owned upon the express condition that the foregoing provisions are exclusive with respect to the replacement or payment of mutilated, destroyed, lost or stolen Debt Securities, and shall preclude (to the extent lawful) any and all other rights or remedies, notwithstanding any law or statute existing or hereafter enacted to the contrary with respect to the replacement or payment of negotiable instruments or other securities without their surrender.

SECTION 2.08. Cancellation. All Debt Securities surrendered for the purpose of payment, redemption, exchange or registration of transfer shall, if surrendered to the Company or any paying agent, be delivered to the Trustee for cancellation, or, if surrendered to the Trustee, shall be cancelled by it, and no Debt Securities shall be issued in lieu thereof except as expressly required or permitted by any of the

provisions of this Indenture. On request of the Company at the time of such surrender, the Trustee shall deliver to the Company canceled Debt Securities held by the Trustee. In the absence of such request the Trustee may dispose of canceled Debt Securities in accordance with its standard procedures and deliver a certificate of disposition to the Company. If the Company shall otherwise acquire any of the Debt Securities, however, such acquisition shall not operate as a redemption or satisfaction of the indebtedness represented by such Debt Securities unless and until the same are delivered to the Trustee for cancellation.

SECTION 2.09. Benefits of Indenture. Nothing in this Indenture or in the Debt Securities, express or implied, shall give or be construed to give to any Person, other than the parties hereto and the holders of the Debt Securities (and, with respect to the provisions of Article XIV, the holders of Senior Indebtedness) any legal or equitable right, remedy or claim under or in respect of this Indenture, or under any covenant, condition or provision herein contained; all such covenants, conditions and provisions being for the sole benefit of the parties hereto and of the holders of the Debt Securities (and, with respect to the provisions of Article XIV, the holders of Senior Indebtedness).

SECTION 2.10. Authenticating Agent. So long as any of the Debt Securities of any series remain Outstanding, there may be an Authenticating Agent for any or all such series of Debt Securities which the Trustee shall have the right to appoint. Said Authenticating Agent shall be authorized to authenticate Debt Securities of such series issued upon exchange, transfer or partial redemption thereof, and Debt Securities so authenticated shall be entitled to the benefits of this Indenture and shall be valid and obligatory for all purposes as if authenticated by the Trustee hereunder. All references in this Indenture to the authentication of Debt Securities by the Trustee shall be deemed to include authentication by an Authenticating Agent. Each Authenticating Agent shall be acceptable to the Company and shall be a corporation that (i) would be permitted under the Trust Indenture Act to act as Trustee under an indenture qualified thereunder, (ii) has a combined capital and surplus, as most recently reported or determined by it, required of the Trustee under Section 7.09 and sufficient under the laws of any jurisdiction under which it is organized or in which it is doing business to conduct a trust business, (iii) is otherwise authorized under such laws to conduct such business and (iv) is subject to supervision or examination by federal or state authorities. If at any time any Authenticating Agent shall cease to be eligible in accordance with these provisions, it shall resign immediately.

Any Authenticating Agent may at any time resign by giving written notice of resignation to the Trustee and to the Company. The Trustee may at any time (and upon receipt of a Company Order requesting the termination thereof shall) terminate the agency of any Authenticating Agent by giving written notice of termination to such Authenticating Agent and to the Company. Upon resignation, termination or cessation of eligibility of any Authenticating Agent, the Trustee may appoint an eligible successor Authenticating Agent acceptable to the Company. Any successor Authenticating Agent, upon acceptance of its appointment hereunder, shall become vested with all the rights, powers and duties of its predecessor hereunder as if originally named as an Authenticating Agent pursuant hereto.

SECTION 2.11. Global Securities. (a) If the Company shall establish pursuant to Section 2.01 that the Debt Securities of a particular series are to be issued as a Global Security or Securities, then the Company shall execute and the Trustee shall, in accordance with Section 2.04, authenticate and deliver, a Global Security that (i) shall represent, and shall be denominated in an amount equal to the aggregate principal amount of, all of the Outstanding Debt Securities of such series, (ii) shall be registered in the name of the Depository or its nominee, (iii) shall be delivered by the Trustee to the Depository or pursuant to the Depository's instruction and (iv) shall bear a legend substantially to the following effect: "Except as otherwise provided in Section 2.11 of the Indenture, this Debt Security may be transferred, in whole but not in part, only to another nominee of the Depository or to a successor Depository or to a nominee of such successor Depository."

(b) Notwithstanding the provisions of Section 2.05, the Global Security or Securities of a series may be transferred, in whole but not in part and in the manner provided in Section 2.05, only to another nominee of the Depository for such series, or to a successor Depository for such series selected or approved by the Company or to a nominee of such successor Depository.

(c) If at any time the Depository for a series of the Debt Securities notifies the Company that it is unwilling or unable to continue as Depository for such series or if at any time the Depository for such series shall no longer be registered or in good standing under the Exchange Act, or other applicable statute or regulation, at a time when the Depository is required to be so registered to act as such Depository and a successor Depository for such series is not appointed by the Company within 90 days after the Company receives such notice or becomes aware of such condition, as the case may be, this Section 2.11 shall no longer be applicable to the Debt Securities of such series and the Company will execute and, subject to Section 2.05 and upon receipt of an Officer's Certificate stating that the Company has determined that an event set forth above has occurred, the Trustee will authenticate and deliver the Debt Securities of such series in definitive registered form without coupons, in authorized denominations, and in an aggregate principal amount equal to the principal amount of the Global Security or Securities of such series in exchange for such Global Security or Securities. In addition, the Company may at any time determine that the Debt Securities of any series shall no longer be represented by a Global Security or Securities and that the provisions of this Section 2.11 shall no longer apply to the Debt Securities of such series. In such event, the Company will execute and subject to Section 2.05, the Trustee, upon receipt of an Officers' Certificate evidencing such determination by the Company, will authenticate and deliver the Debt Securities of such series in definitive registered form without coupons, in authorized denominations, and in an aggregate principal amount equal to the principal amount of the Global Security or Securities of such series in exchange for such Global Security or Securities. Upon the exchange of the Global Security or Securities for such Debt Securities in definitive registered form without coupons, in authorized denominations, the Global Security or Securities shall be canceled by the Trustee in the manner set forth in Section 2.08. Such Debt Securities in definitive registered form issued in exchange for the Global Security or Securities pursuant to this Section 2.11(c) shall be registered in such names and in such authorized denominations as the Depository, pursuant to instructions from its direct or indirect participants or otherwise, shall instruct the Trustee. The Trustee shall deliver such Debt Securities to the Depository for delivery to the Persons in whose names such Debt Securities are so registered.

ARTICLE III  
REDEMPTION OF DEBT SECURITIES AND SINKING FUND PROVISIONS

SECTION 3.01. Redemption. The Company may redeem the Debt Securities of any series issued hereunder on and after the dates and in accordance with the terms established for such series pursuant to Section 2.01 hereof.

SECTION 3.02. Notice of Redemption. (a) In case the Company shall desire to exercise such right to redeem all or, as the case may be, a portion of the Debt Securities of any series in accordance with the right reserved so to do, the Company shall, or shall cause the Trustee to, give notice of such redemption to holders of the Debt Securities of such series to be redeemed by mailing, first class postage prepaid, a notice of such redemption not less than 30 days and not more than 90 days before the date fixed for redemption of that series to such holders at their last addresses as they shall appear upon the Security Register unless a shorter period is specified in the Debt Securities to be redeemed. Any notice that is mailed in the manner herein provided shall be conclusively presumed to have been duly given, whether or not the registered holder receives the notice. In any case, failure duly to give such notice to the holder of any Debt Security of any series designated for redemption in whole or in part, or any defect in the notice, shall not affect the validity of the proceedings for the redemption of any other Debt Securities of such series or any other series. In the case of any redemption of Debt Securities prior to the

expiration of any restriction on such redemption provided in the terms of such Debt Securities or elsewhere in this Indenture, the Company shall furnish the Trustee with an Officers' Certificate evidencing compliance with any such restriction.

Each such notice of redemption shall specify the date fixed for redemption and the redemption price at which Debt Securities of that series are to be redeemed, and shall state that payment of the redemption price of such Debt Securities to be redeemed will be made at the office or agency of the Company in Philadelphia, Pennsylvania or at the Corporate Trust Office, upon presentation and surrender of such Debt Securities, that interest accrued to the date fixed for redemption will be paid as specified in said notice, that from and after said date interest will cease to accrue and that the redemption is for a sinking fund, if such is the case. If less than all the Debt Securities of a series are to be redeemed, the notice to the holders of Debt Securities of that series to be redeemed in whole or in part shall specify the particular Debt Securities to be so redeemed. In case any Debt Security is to be redeemed in part only, the notice that relates to such Debt Security shall state the portion of the principal amount thereof to be redeemed, and shall state that on and after the redemption date, upon surrender of such Debt Security, a new Debt Security or Debt Securities of such series in principal amount equal to the unredeemed portion thereof will be issued.

(b) If less than all the Debt Securities of a series are to be redeemed, the Company shall give the Trustee at least 45 days' notice in advance of the date fixed for redemption as to the aggregate principal amount of Debt Securities of the series to be redeemed and the Company's selection of, by lot or in such other manner as it shall deem appropriate and fair in its discretion and that may provide for the selection of a portion or portions (equal to twenty-five U.S. dollars (\$25) or any integral multiple thereof) of the principal amount of such Debt Securities of a denomination larger than \$25, the Debt Securities to be redeemed in whole or in part.

The Company may, if and whenever it shall so elect, by delivery of a Company Order signed on its behalf by its President or any Vice President, instruct the Trustee or any paying agent to call all or any part of the Debt Securities of a particular series for redemption and to give notice of redemption in the manner set forth in this Section, such notice to be in the name of the Company or its own name as the Trustee or such paying agent may deem advisable. In any case in which notice of redemption is to be given by the Trustee or any such paying agent, the Company shall deliver or cause to be delivered to, or permit to remain with, the Trustee or such paying agent, as the case may be, such Security Register, transfer books or other records, or suitable copies or extracts therefrom, sufficient to enable the Trustee or such paying agent to give any notice by mail that may be required under the provisions of this Section.

SECTION 3.03. Payment Upon Redemption. (a) If the giving of notice of redemption shall have been completed as provided in Section 3.02, the Debt Securities or portions of Debt Securities of the series to be redeemed specified in such notice shall become due and payable on the date and at the place stated in such notice at the applicable redemption price, together with interest accrued to the date fixed for redemption and interest on such Debt Securities or portions of Debt Securities shall cease to accrue on and after the date fixed for redemption, unless the Company shall default in the payment of such redemption price and accrued interest with respect to any such Debt Security or portion thereof. On presentation and surrender of such Debt Securities on or after the date fixed for redemption at the place of payment specified in the notice, said Debt Securities shall be paid and redeemed at the applicable redemption price for such series, together with interest accrued thereon to the date fixed for redemption (but if the date fixed for redemption is an Interest Payment Date, the interest installment payable on such date shall be payable to the registered holder at the close of business on the applicable record date pursuant to Section 2.03).

(b) Upon presentation of any Debt Security of such series that is to be redeemed in part only, the Company shall execute and the Trustee shall, upon receipt of a Company Order requesting the Trustee's authentication thereof, authenticate and the office or agency where the Debt Security is presented shall deliver to the holder thereof, at the expense of the Company, a new Debt Security or Debt Securities of the same series, of authorized denominations in principal amount equal to the unredeemed portion of the Debt Security so presented.

SECTION 3.04. Sinking Fund. The provisions of Sections 3.04, 3.05 and 3.06 shall be applicable to any sinking fund for the retirement of Debt Securities of a series, except as otherwise specified as contemplated by Section 2.01 for Debt Securities of such series.

The minimum amount of any sinking fund payment provided for by the terms of Debt Securities of any series is herein referred to as a "mandatory sinking fund payment," and any payment in excess of such minimum amount provided for by the terms of Debt Securities of any series is herein referred to as an "optional sinking fund payment." If provided for by the terms of Debt Securities of any series, the cash amount of any sinking fund payment may be subject to reduction as provided in Section 3.05. Each sinking fund payment shall be applied to the redemption of Debt Securities of any series as provided for by the terms of Debt Securities of such series.

SECTION 3.05. Satisfaction of Sinking Fund Payments with Debt Securities. The Company (i) may deliver Outstanding Debt Securities of a series (other than any Debt Securities previously called for redemption) and (ii) may apply as a credit Debt Securities of a series that have been redeemed either at the election of the Company pursuant to the terms of such Debt Securities or through the application of permitted optional sinking fund payments pursuant to the terms of such Debt Securities, in each case in satisfaction of all or any part of any sinking fund payment with respect to the Debt Securities of such series required to be made pursuant to the terms of such Debt Securities as provided for by the terms of such series, provided that such Debt Securities have not been previously so credited. Such Debt Securities shall be received and credited for such purpose by the Trustee at the redemption price specified in such Debt Securities for redemption through operation of the sinking fund and the amount of such sinking fund payment shall be reduced accordingly.

SECTION 3.06. Redemption of Debt Securities for Sinking Fund. Not less than 45 days prior to each sinking fund payment date for any series of Debt Securities, the Company will deliver to the Trustee an Officers' Certificate specifying the amount of the next ensuing sinking fund payment for that series pursuant to the terms of the series, the portion thereof, if any, that is to be satisfied by delivering and crediting Debt Securities of that series pursuant to Section 3.05 and the basis for such credit and will, together with such Officers' Certificate, deliver to the Trustee any Debt Securities to be so delivered. Not less than 30 days before each such sinking fund payment date, the Company shall select the Debt Securities to be redeemed upon such sinking fund payment date in the manner specified in Section 3.02 and cause notice of the redemption thereof to be given in the name of and at the expense of the Company in the manner provided in Section 3.02. Such notice having been duly given, the redemption of such Debt Securities shall be made upon the terms and in the manner stated in Section 3.03.

#### ARTICLE IV COVENANTS OF THE COMPANY

SECTION 4.01. Payment of Principal, Premium and Interest. The Company will duly and punctually pay or cause to be paid the principal of (and premium, if any) and interest on the Debt Securities of that series at the time and place and in the manner provided herein and established with respect to such Debt Securities.

SECTION 4.02. Maintenance of Office or Agency. So long as any series of the Debt Securities remain Outstanding, the Company agrees to maintain an office or agency in Philadelphia, Pennsylvania, with respect to each such series and at such other location or locations as may be designated as provided in this Section 4.02, where (i) Debt Securities of that series may be presented for payment, (ii) Debt Securities of that series may be presented as hereinabove authorized for registration of transfer and exchange, and (iii) notices and demands to or upon the Company in respect of the Debt Securities of that series and this Indenture may be given or served, such designation to continue with respect to such office or agency until the Company shall, by written notice signed by its President or a Vice President and delivered to the Trustee, designate some other office or agency for such purposes or any of them. If at any time the Company shall fail to maintain any such required office or agency or shall fail to furnish the Trustee with the address thereof, such presentations, notices and demands may be made or served at the Corporate Trust Office of the Trustee, and the Company hereby appoints the Trustee as its agent to receive all such presentations, notices and demands.

SECTION 4.03. Paying Agents. (a) The Company shall be the initial paying agent. If the Company shall appoint one or more paying agents for all or any series of the Debt Securities, other than the Trustee, the Company will cause each such paying agent to execute and deliver to the Trustee an instrument in which such agent shall agree with the Trustee, subject to the provisions of this Section:

(1) that it will hold all sums held by it as such paying agent for the payment of the principal of (and premium, if any) or interest on the Debt Securities of that series (whether such sums have been paid to it by the Company or by any other obligor of such Debt Securities) in trust for the benefit of the Persons entitled thereto;

(2) that it will give the Trustee notice of any failure by the Company to make any payment of the principal of (and premium, if any) or interest on the Debt Securities of that series when the same shall be due and payable;

(3) that it will, at any time during the continuance of any failure referred to in the preceding paragraph (a)(2) above, upon the written request of the Trustee, forthwith pay to the Trustee all sums so held in trust by such paying agent; and

(4) that it will perform all other duties of paying agent as set forth in this Indenture.

(b) If the Company shall act as its own paying agent with respect to any series of the Debt Securities, it will on or before each due date of the principal of (and premium, if any) or interest on Debt Securities of that series, set aside, segregate and hold in trust for the benefit of the Persons entitled thereto a sum sufficient to pay such principal (and premium, if any) or interest so becoming due on Debt Securities of that series until such sums shall be paid to such Persons or otherwise disposed of as herein provided and will promptly notify the Trustee of such action, or any failure by it to take such action. Whenever the Company shall have one or more paying agents for any series of Debt Securities, it will, prior to each due date of the principal of (and premium, if any) or interest on any Debt Securities of that series, deposit with the paying agent a sum sufficient to pay the principal (and premium, if any) or interest so becoming due, such sum to be held in trust for the benefit of the Persons entitled to such principal, premium or interest, and (unless such paying agent is the Trustee) the Company will promptly notify the Trustee of this action or failure so to act.

(c) Notwithstanding anything in this Section to the contrary, (i) the agreement to hold sums in trust as provided in this Section is subject to the provisions of Section 11.05, and (ii) the Company may at any time, for the purpose of obtaining the satisfaction and discharge of this Indenture or for any other

purpose, pay, or direct any paying agent to pay, to the Trustee all sums held in trust by the Company or such paying agent, such sums to be held by the Trustee upon the same terms and conditions as those upon which such sums were held by the Company or such paying agent; and, upon such payment by any paying agent to the Trustee, such paying agent shall be released from all further liability with respect to such money.

SECTION 4.04. Appointment to Fill Vacancy in Office of Trustee. The Company, whenever necessary to avoid or fill a vacancy in the office of Trustee, will appoint, in the manner provided in Section 7.10, a Trustee, so that there shall at all times be a Trustee hereunder.

SECTION 4.05. Compliance with Consolidation Provisions. The Company will not, while any of the Debt Securities remain Outstanding, consolidate with, or merge into, or merge into itself, or sell or convey all or substantially all of its property to any other company unless the provisions of Article X hereof are complied with.

SECTION 4.06. Limitation on Dividends; Transactions with Affiliates. (a) If Debt Securities are issued to a Exelon Trust or a trustee of such trust in connection with the issuance of Trust Securities by such Exelon Trust and (i) there shall have occurred any event that would constitute an Event of Default or (ii) the Company shall be in default with respect to its payment or any obligations under the Preferred Securities Guarantee or Common Securities Guarantee relating to such Trust Securities, then the Company shall not declare or pay any dividend on, make any distributions with respect to, or redeem, purchase or make a liquidation payment with respect to, any of its capital stock.

(b) If Debt Securities are issued to a Exelon Trust or a trustee of such trust in connection with the issuance of Trust Securities by such Exelon Trust and the Company shall have given notice of its election to defer payments of interest on such Debt Securities by extending the interest payment period as provided in any indenture supplemental hereto and such period, or any extension thereof, shall be continuing, then the Company shall not declare or pay any dividend, or make any distributions with respect to, or redeem, purchase or make a liquidation payment with respect to, any of its capital stock.

SECTION 4.07. Covenants as to Exelon Trust. In the event Debt Securities are issued and sold to a Exelon Trust in connection with the issuance of Trust Securities by such trust, for so long as such Trust Securities remain outstanding, the Company will (i) maintain 100% direct or indirect ownership of the Common Securities of such trust; provided, however, that any permitted successor of the Company under the Indenture may succeed to the Company's ownership of the Common Securities, (ii) not cause, as sponsor of such trust, or permit, as holder of Common Securities of such trust, the dissolution, winding-up or termination of such trust, except in connection with a distribution of Debt Securities as provided in the Declaration and in connection with certain mergers, consolidations or amalgamations permitted by the Declaration and (iii) use its reasonable efforts to cause such trust (a) to remain a statutory trust, except in connection with a distribution of Debt Securities, the redemption of all of the Trust Securities of such Exelon Trust or certain mergers, consolidations or amalgamations, each as permitted by the Declaration of such Exelon Trust, and (b) to otherwise continue to be classified for United States federal income tax purposes as a grantor trust.

SECTION 4.08. Corporate Existence. The Company will, subject to the provisions of Article X, at all times maintain its corporate existence and right to carry on business and will duly procure all renewals and extensions thereof, and, to the extent necessary or desirable in the operation of its business, will use its best efforts to maintain, preserve and renew all of its rights, powers, privileges and franchises.



ARTICLE V

SECURITYHOLDERS, LISTS AND REPORTS BY THE COMPANY AND THE TRUSTEE

SECTION 5.01. Company to Furnish Trustee Names and Addresses of Securityholders. The Company will furnish or cause to be furnished to the Trustee (a) on a quarterly basis on each regular record date (as defined in Section 2.03) a list, in such form as the Trustee may reasonably require, of the names and addresses of the holders of each series of Debt Securities as of such regular record date, provided that the Company shall not be obligated to furnish or cause to furnish such list at any time that the list shall not differ in any respect from the most recent List of Holders furnished to the Trustee by the Company and (b) at such other times as the Trustee may request in writing within 30 days after the receipt by the Company of any such request, a list of similar form and content as of a date not more than 15 days prior to the time such list is furnished; provided, however, that in either case, no such list need be furnished for any series for which the Trustee shall be the Security Registrar.

SECTION 5.02. Preservation Of Information; Communications With Securityholders. (a) The Trustee shall preserve, in as current a form as is reasonably practicable, all information as to the names and addresses of the holders of Debt Securities contained in the most recent List of Holders furnished to it as provided in Section 5.01 and as to the names and addresses of holders of Debt Securities received by the Trustee in its capacity as Security Registrar (if acting in such capacity).

(b) The Trustee may destroy any List of Holders furnished to it as provided in Section 5.01 upon receipt of a new List of Holders so furnished.

(c) Securityholders may communicate as provided in Section 312(b) of the Trust Indenture Act with other Securityholders with respect to their rights under this Indenture or under the Debt Securities.

(d) The Trustee shall not be held accountable by reason of mailing any material pursuant to a request made under Section 312(b) of the Trust Indenture Act.

SECTION 5.03. Reports By the Company. (a) The Company covenants and agrees to file with the Trustee, within 15 days after the Company is required to file the same with the Commission, copies of the annual reports and of the information, documents and other reports (or copies of such portions of any of the foregoing as the Commission may from time to time by rules and regulations prescribe) that the Company may be required to file with the Commission pursuant to Section 13 or Section 15(d) of the Exchange Act; or, if the Company is not required to file information, documents or reports pursuant to either of such sections, then to file with the Trustee and the Commission, in accordance with the rules and regulations prescribed from time to time by the Commission, such of the supplementary and periodic information, documents and reports that may be required pursuant to Section 13 of the Exchange Act, in respect of a Debt Security listed and registered on a national securities exchange as may be prescribed from time to time in such rules and regulations.

(b) The Company covenants and agrees to file with the Trustee and the Commission, in accordance with the rules and regulations prescribed from time to time by the Commission, such additional information, documents and reports with respect to compliance by the Company with the conditions and covenants provided for in this Indenture as may be required from time to time by such rules and regulations.

(c) The Company covenants and agrees to transmit by mail, first class postage prepaid, or reputable overnight delivery service that provides for evidence of receipt, to the Securityholders, as their names and addresses appear upon the Security Register, within 30 days after the filing thereof with the

Trustee, such summaries of any information, documents and reports required to be filed by the Company pursuant to subsections (a) and (b) of this Section as may be required by rules and regulations prescribed from time to time by the Commission.

(d) The Company covenants and agrees to furnish to the Trustee, not less often than annually, a brief Certificate from the Company's principal executive officer, principal financial officer or principal accounting officer as to his or her knowledge of the Company's compliance with all conditions and covenants under the Indenture.

SECTION 5.04. Reports by the Trustee. (a) On or before June 15 in each year in which any of the Debt Securities are Outstanding, the Trustee shall transmit by mail, first class postage prepaid, to the Securityholders, as their names and addresses appear upon the Security Register, a brief report dated as of the preceding April 15, if and to the extent required under Section 313(a) of the Trust Indenture Act.

(b) The Trustee shall comply with Sections 313(b) and 313(c) of the Trust Indenture Act.

(c) A copy of each such report shall, at the time of such transmission to Securityholders, be filed by the Trustee with the Company, with each stock exchange upon which any Debt Securities are listed (if so listed) and also with the Commission. The Company agrees to notify the Trustee when any Debt Securities become listed on any stock exchange.

#### ARTICLE VI

##### REMEDIES OF THE TRUSTEE AND SECURITYHOLDERS ON EVENT OF DEFAULT

SECTION 6.01. Events of Default. (a) Whenever used herein with respect to Debt Securities of a particular series, "Event of Default" means any one or more of the following events that has occurred and is continuing:

(1) the Company defaults in the payment of any installment of interest upon any of the Debt Securities of that series, as and when the same shall become due and payable, and continuance of such default for a period of 30 days; provided, however, that a valid extension of an interest payment period by the Company in accordance with the terms established for such Debt Securities under Section 2.01, shall not constitute a default in the payment of interest for this purpose; (2) the Company defaults in the payment of the principal of (or premium, if any, on) any of the Debt Securities of that series as and when the same shall become due and payable whether at maturity, upon redemption, by declaration or otherwise, or in any payment required by any sinking or analogous fund established with respect to that series; provided, however, that a valid extension of the maturity of such Debt Securities in accordance with the terms established for such Debt Securities under Section 2.01 shall not constitute a default in the payment of principal or premium, if any;

(3) the Company fails to observe or perform any other of its covenants or agreements with respect to that series contained in this Indenture or otherwise established with respect to that series of Debt Securities pursuant to Section 2.01 hereof (other than a covenant or agreement that has been expressly included in this Indenture solely for the benefit of one or more series of Debt Securities other than such series) for a period of 90 days after the date on which written notice of such failure, requiring the same to be remedied and stating that such notice is a "Notice of Default" hereunder, shall have been given to the Company by the Trustee, by registered or certified mail, or to the Company and the Trustee by the holders of at least 25% in principal amount of the Debt Securities of that series at the time Outstanding;

(4) the Company pursuant to or within the meaning of any Bankruptcy Law (i) commences a voluntary case, (ii) consents to the entry of an order for relief against it in an involuntary case, (iii) consents to the appointment of a Custodian of it or for all or substantially all of its property or (iv) makes a general assignment for the benefit of its creditors;

(5) a court of competent jurisdiction enters an order under any Bankruptcy Law that (i) is for relief against the Company in an involuntary case, (ii) appoints a Custodian of the Company for all or substantially all of its property, or (iii) orders the liquidation of the Company, and the order or decree remains unstayed and in effect for 90 days; or

(6) in the event Debt Securities are issued and sold to a Exelon Trust or other trust of the Company in connection with the issuance of Trust Securities by such trust, such trust shall have voluntarily or involuntarily dissolved, wound-up its business or otherwise terminated its existence except in connection with (i) the distribution of Debt Securities to holders of Trust Securities in liquidation of their interests in such trust, (ii) the redemption of all outstanding Trust Securities of such trust, and (iii) mergers, consolidations or amalgamations, each as permitted by the Declaration of such trust.

(b) If an Event of Default described in clauses 1, 2, 3 or 6 of Section 6.01(a) above with respect to Debt Securities of any series at the time outstanding occurs and is continuing, unless the principal of all the Debt Securities of that series shall have already become due and payable, either the Trustee or the holders of not less than 25% in aggregate principal amount of the Debt Securities of that series then Outstanding hereunder, by notice in writing to the Company (and to the Trustee, if given by such Securityholders), may declare the principal of all the Debt Securities of that series to be due and payable immediately, and upon any such declaration the same shall become and shall be immediately due and payable, notwithstanding anything contained in this Indenture or in the Debt Securities of that series or established with respect to that series pursuant to Section 2.01 to the contrary. If an Event of Default specified in clause (4) or (5) of Section 6.01(a) above occurs or is continuing, then the principal amount of all the Debt Securities shall ipso facto become and be immediately due and payable without any declaration or other act on the part of the Trustee or any Securityholder.

(c) At any time after the principal of the Securities of that series shall have been so declared due and payable, and before any judgment or decree for the payment of the moneys due shall have been obtained or entered as hereinafter provided, the holders of a majority in aggregate principal amount of the Securities of that series then Outstanding hereunder, by written notice to the Company and the Trustee, may rescind and annul such declaration and its consequences if: (i) the Company has paid or deposited with the Trustee a sum sufficient to pay all matured installments of interest upon all the Securities of that series and the principal of (and premium, if any, on) any and all Securities of that series that shall have become due otherwise than by acceleration (with interest upon such principal and premium, if any, and, to the extent that such payment is enforceable under applicable law, upon overdue installments of interest, at the rate per annum expressed in the Securities of that series to the date of such payment or deposit) and the amount payable to the Trustee under Section 7.06, and (ii) any and all Events of Default under the Indenture with respect to such series, other than the nonpayment of principal on Securities of that series that shall not have become due by their terms, shall have been remedied or waived as provided in Section 6.06.

No such rescission and annulment shall extend to or shall affect any subsequent default or impair any right consequent thereon.

(d) In case the Trustee shall have proceeded to enforce any right with respect to Debt Securities of that series under this Indenture and such proceedings shall have been discontinued or abandoned because of such rescission or annulment or for any other reason or shall have been determined

adversely to the Trustee, then and in every such case the Company and the Trustee shall be restored respectively to their former positions and rights hereunder, and all rights, remedies and powers of the Company and the Trustee shall continue as though no such proceedings had been taken.

(e) The Trustee shall provide Securityholders with notice of all Events of Default actually known to the Trustee within 90 days after any such Event of Default becomes actually known to the Trustee; provided, however, that, except in the case of default in the payment of the principal of or interest on any Debt Security, or in the payment of any sinking or purchase fund installment, such notice may be withheld if and so long as the board of directors, the executive committee or a trust committee of directors and/or Responsible Officers of the Trustee in good faith determine that the withholding of such notice is in the interests of the Securityholders.

SECTION 6.02. Collection of Indebtedness and Suits for Enforcement by Trustee.

(a) The Company covenants that (1) in case it shall default in the payment of any installment of interest on any of the Securities of a series, or any payment required by any sinking or analogous fund established with respect to that series as and when the same shall have become due and payable, and such default shall have continued for a period of 90 days, or (2) in case it shall default in the payment of the principal of (or premium, if any, on) any of the Securities of a series when the same shall have become due and payable, whether upon maturity of the Securities of a series or upon redemption or upon declaration or otherwise, then, upon demand of the Trustee, the Company will pay to the Trustee, for the benefit of the holders of the Securities of that series, the whole amount that then shall have become due and payable on all such Securities for principal (and premium, if any) or interest, or both, as the case may be, with interest upon the overdue principal (and premium, if any) and (to the extent that payment of such interest is enforceable under applicable law and, if the Securities are held by a Exelon Trust, without duplication of any other amounts paid by such trust in respect thereof) upon overdue installments of interest at the rate per annum expressed in the Securities of that series; and, in addition thereto, such further amount as shall be sufficient to cover the costs and expenses of collection and the amount payable to the Trustee under Section 7.06.

(b) If the Company shall fail to pay such amounts forthwith upon such demand, the Trustee, in its own name or as trustee of an express trust, shall be entitled and empowered to institute any action or proceedings at law or in equity for the collection of the sums so due and unpaid, and may prosecute any such action or proceeding to judgment or final decree, and may enforce any such judgment or final decree against the Company or other obligor upon the Securities of that series and collect the moneys adjudged or decreed to be payable in the manner provided by law out of the property of the Company or other obligor upon the Securities of that series, wherever situated.

(c) In case of any receivership, insolvency, liquidation, bankruptcy, reorganization, readjustment, arrangement, composition or judicial proceedings affecting the Company or its creditors or property, the Trustee shall have power to intervene in such proceedings and take any action therein that may be permitted by the court and shall (except as may be otherwise provided by law) be entitled to file such proofs of claim and other papers and documents as may be necessary or advisable in order to have the claims of the Trustee (including any claim for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents or counsel) and of the holders of Securities of such series allowed for the entire amount due and payable by the Company under this Indenture at the date of institution of such proceedings and for any additional amount that may become due and payable by the Company after such date, and to collect and receive any moneys or other property payable or deliverable on any such claim, and to distribute the same after the deduction of the amount payable to the Trustee under Section 7.06; and any receiver, assignee or trustee in bankruptcy or reorganization is hereby authorized by each of the holders of Securities of such series to make such payments to the Trustee, and, in the event that the

Trustee shall consent to the making of such payments directly to such Securityholders, to pay to the Trustee any amount due it under Section 7.06.

(d) All rights of action and of asserting claims under this Indenture, or under any of the terms established with respect to Securities of that series, may be enforced by the Trustee without the possession of any of such Securities, or the production thereof at any trial or other proceeding relative thereto, and any such suit or proceeding instituted by the Trustee may be brought in its own name or as trustee of an express trust, and any recovery of judgment shall, after provision for payment to the Trustee of any amounts due under Section 7.06, be for the ratable benefit of the holders of the Securities of such series.

In case of an Event of Default hereunder, the Trustee may in its discretion proceed to protect and enforce the rights vested in it by this Indenture by such appropriate judicial proceedings as the Trustee shall deem most effectual to protect and enforce any of such rights, either at law or in equity or in bankruptcy or otherwise, whether for the specific enforcement of any covenant or agreement contained in this Indenture or in aid of the exercise of any power granted in this Indenture, or to enforce any other legal or equitable remedy available to the Trustee by this Indenture or by law.

Nothing contained herein shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Securityholder any plan of reorganization, arrangement, adjustment or composition affecting the Securities of that series or the rights of any holder thereof or to authorize the Trustee to vote in respect of the claim of any Securityholder in any such proceeding.

SECTION 6.03. Application of Moneys Collected. Any moneys collected by the Trustee pursuant to this Article with respect to a particular series of Securities shall be applied in the following order, at the date or dates fixed by the Trustee and, in case of the distribution of such moneys on account of principal (or premium, if any) or interest, upon presentation of the Securities of that series, and notation thereon of the payment, if only partially paid, and upon surrender thereof if fully paid:

FIRST: To the payment of costs and expenses of collection and of all amounts payable to the Trustee under Section 7.06;

SECOND: To the payment of all Senior Indebtedness of the Company if and to the extent required by Article XIV; and

THIRD: To the payment of the amounts then due and unpaid upon Securities of such series for principal (and premium, if any) and interest, in respect of which or for the benefit of which such money has been collected, ratably, without preference or priority of any kind, according to the amounts due and payable on such Securities for principal (and premium, if any) and interest, respectively.

SECTION 6.04. Limitation on Suits. No holder of any Security of any series shall have any right by virtue or by availing of any provision of this Indenture to institute any suit, action or proceeding in equity or at law upon or under or with respect to this Indenture or for the appointment of a receiver or trustee, or for any other remedy hereunder, unless (i) such holder previously shall have given to the Trustee written notice of an Event of Default and of the continuance thereof with respect to the Securities of such series specifying such Event of Default, as hereinbefore provided; (ii) the holders of not less than 25% in aggregate principal amount of the Securities of such series then Outstanding shall have made written request upon the Trustee to institute such action, suit or proceeding in its own name or as trustee hereunder; (iii) such holder or holders shall have offered to the Trustee such reasonable security and indemnity as it may require against the costs, expenses and liabilities to be incurred therein or thereby reasonably satisfactory to the Trustee; and (iv) the Trustee for 60 days after its receipt of such notice,

request and offer of indemnity, shall have failed to institute any such action, suit or proceeding; and (v) during such 60 day period, the holders of a majority in principal amount of the Securities of that series do not give the Trustee a direction inconsistent with the request.

Notwithstanding anything contained herein to the contrary, any other provisions of this Indenture, the right of any holder of any Security to receive payment of the principal of (and premium, if any) and interest on such Security, as therein provided, on or after the respective due dates expressed in such Security (or in the case of redemption, on the redemption date), or to institute suit for the enforcement of any such payment on or after such respective dates or redemption date, shall not be impaired or affected without the consent of such holder, and by accepting a Security hereunder it is expressly understood, intended and covenanted by the taker and holder of every Security of such series with every other such taker and holder and the Trustee, that no one or more holders of Securities of such series shall have any right in any manner whatsoever by virtue or by availing of any provision of this Indenture to affect, disturb or prejudice the rights of the holders of any other of such Securities, or to obtain or seek to obtain priority over or preference to any other such holder, or to enforce any right under this Indenture, except in the manner herein provided and for the equal, ratable and common benefit of all holders of Securities of series. For the protection and enforcement of the provisions of this Section, each and every Securityholder and the Trustee shall be entitled to such relief as can be given either at law or in equity.

SECTION 6.05. Rights and Remedies Cumulative; Delay or Omission Not Waiver. (a) Except as otherwise provided in Section 2.07, all powers and remedies given by this Article to the Trustee or to the Securityholders shall, to the extent permitted by law, be deemed cumulative and not exclusive of any other powers and remedies available to the Trustee or the holders of the Securities, by judicial proceedings or otherwise, to enforce the performance or observance of the covenants and agreements contained in this Indenture or otherwise established with respect to such Securities.

(b) No delay or omission of the Trustee or of any holder of any of the Securities to exercise any right or power accruing upon any Event of Default occurring and continuing as aforesaid shall impair any such right or power, or shall be construed to be a waiver of any such default or an acquiescence therein; and, subject to the provisions of Section 6.04, every power and remedy given by this Article or by law to the Trustee or the Securityholders may be exercised from time to time, and as often as shall be deemed expedient, by the Trustee or by the Securityholders.

SECTION 6.06. Control by Securityholders. The holders of a majority in aggregate principal amount of the Securities of any series at the time Outstanding, determined in accordance with Section 8.04, shall have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred on the Trustee with respect to such series; provided, however, that such direction shall not be in conflict with any rule of law or with this Indenture or be unduly prejudicial to the rights of holders of Securities of any other series at the time Outstanding determined in accordance with Section 8.04. Subject to the provisions of Section 7.01, the Trustee shall have the right to decline to follow any such direction if the Trustee in good faith shall, by a Responsible Officer or Officers of the Trustee, determine that such direction may involve the Trustee in personal liability. The holders of a majority in aggregate principal amount of the Securities of any series at the time Outstanding affected thereby, determined in accordance with Section 8.04, may on behalf of the holders of all of the Securities of such series waive any past default in the performance of any of the covenants contained herein or established pursuant to Section 2.01 with respect to such series and its consequences, except (i) a default in the payment of the principal of, or premium, if any, or interest on, any of the Securities of that series as and when the same shall become due by the terms of such Securities otherwise than by acceleration (unless such default has been cured and a sum sufficient to pay all matured installments of interest and principal and any premium has been deposited with the Trustee (in accordance with Section 6.01(c)) or (ii) a default in the covenants contained in Section 4.06(b). Upon any such

waiver, the default covered thereby shall be deemed to be cured for all purposes of this Indenture and the Company, the Trustee and the holders of the Securities of such series shall be restored to their former positions and rights hereunder, respectively; but no such waiver shall extend to any subsequent or other default or impair any right consequent thereon.

SECTION 6.07. Undertaking to Pay Costs. All parties to this Indenture agree, and each holder of any Securities by such holder's acceptance thereof shall be deemed to have agreed, that any court may in its discretion require, in any suit for the enforcement of any right or remedy under this Indenture, or in any suit against the Trustee for any action taken or omitted by it as Trustee, the filing by any party litigant in such suit of an undertaking to pay the costs of such suit, and that such court may in its discretion assess reasonable costs, including reasonable attorneys' fees, against any party litigant in such suit, having due regard to the merits and good faith of the claims or defenses made by such party litigant; but the provisions of this Section shall not apply to any suit instituted by the Trustee, to any suit instituted by any Securityholder, or group of Securityholders, holding more than 10% in aggregate principal amount of the Outstanding Securities of any series, or to any suit instituted by any Securityholder for the enforcement of the payment of the principal of (or premium, if any) or interest on any Security of such series, on or after the respective due dates expressed in such Security or established pursuant to this Indenture.

ARTICLE VII  
CONCERNING THE TRUSTEE

SECTION 7.01. Certain Duties and Responsibilities of Trustee. (a) The Trustee, prior to the occurrence of an Event of Default with respect to the Debt Securities of a series and after the curing of all Events of Default with respect to the Debt Securities of that series that may have occurred, (i) shall undertake to perform with respect to the Debt Securities of such series only such duties that are specifically required to be performed by it under this Indenture or the Trust Indenture Act and no others, and (ii) in the absence of bad faith on the part of the Trustee, the Trustee may with respect to the Debt Securities of such series conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon any certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture; however, in the case of any such certificates or opinions that by any provision hereof are specifically required to be furnished to the Trustee, the Trustee shall examine the same to determine whether or not they conform to the requirements of this Indenture (but shall not be required to confirm, investigate or otherwise determine the accuracy of mathematical calculations or other facts stated therein). In case an Event of Default with respect to the Securities of a series has occurred (that has not been cured or waived), the Trustee shall exercise with respect to Debt Securities of that series such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in their exercise, as a prudent man would exercise or use under the circumstances in the conduct of his own affairs.

(b) No provision of this Indenture shall be construed to relieve the Trustee from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that:

(1) this paragraph (b) does not limit the effect of the first sentence of Section 7.01(a);

(2) the Trustee shall not be liable for any error of judgment made in good faith by a Responsible Officer or Responsible Officers of the Trustee, unless it shall be proved that the Trustee, was negligent in ascertaining the pertinent facts; and

(3) the Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Company or the holders of not less than a majority in principal amount of the Debt Securities of any series at the time

Outstanding (including such direction relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee under this Indenture with respect to the Debt Securities of that series).

(c) None of the provisions contained in this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur personal liability in the performance of any of its duties or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that the repayment of such funds or liability is not reasonably assured to it under the terms of this Indenture or indemnity reasonably satisfactory to the Trustee against such risk is not reasonably assured to it.

(d) Every provision of this Indenture and any document pursuant to which the Trustee acts that in any way relates to the Trustee is subject to Sections 7.01 and 7.02 hereof.

(e) In the event that the Trustee is unable to decide between alternative courses of action permitted or required by it under this Indenture, or is unsure as to the application of any provision of this Indenture, or any such provision is ambiguous as to its application or in conflict with any other provision of this Indenture, permits any determination by the Trustee, or is silent or incomplete as to the course of action that the Trustee is required to take with respect to a particular set of facts, the Trustee may give notice (in such form as shall be appropriate under the circumstances) to the Company and/or the Securityholders requesting instruction from any of them, and to the extent that the Trustee acts or refrains from acting in good faith in accordance with any such instruction received, the Trustee shall not be personally liable, on account of such action or inaction, to any Person. If the Trustee shall not have received appropriate instruction within 10 days after giving notice of its request therefor (or within such reasonable shorter period of time as may be specified in such notice or as may be necessary under the circumstances), the Trustee may, but shall be under no duty to, take or refrain from taking action and shall have no personal liability to any Person for such action or inaction.

SECTION 7.02. Certain Rights of Trustee. Except as otherwise provided in Section 7.01:

(a) The Trustee may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, approval, bond, security or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties;

(b) Any request, direction, order or demand of the Company mentioned herein shall be sufficiently evidenced by a Board Resolution or a Company Order signed by the President, or any Vice President and by the Secretary or an Assistant Secretary or the Treasurer or an Assistant Treasurer thereof (unless other evidence in respect thereof is specifically prescribed herein);

(c) The Trustee may consult with counsel and the written advice of such counsel or any Opinion of Counsel shall be full and complete authorization and protection in respect of any action taken or suffered or omitted by it hereunder in good faith and in reliance thereon;

(d) The Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Indenture at the request, order or direction of any of the Securityholders, pursuant to the provisions of this Indenture, unless such Securityholders shall have offered to the Trustee security or indemnity reasonably satisfactory to the Trustee against the costs, expenses and liabilities that may be incurred by it in compliance therewith; nothing contained herein shall, however, relieve the Trustee of the obligation, upon the occurrence of an Event of Default with respect to a series of the Debt Securities (that has not been cured or waived) to exercise with respect to Debt Securities of that series such of the rights and powers vested in it by this Indenture, and to use the same degree of care and skill in their



exercise, as a prudent man would exercise or use under the circumstances in the conduct of his own affairs;

(e) The Trustee shall not be liable for any action taken or omitted to be taken by it in good faith and believed by it to be authorized or within the discretion or rights or powers conferred upon it by this Indenture;

(f) The Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, approval, bond, security, or other papers or documents, but the Trustee, in its sole discretion, may make such further inquiry or investigation into such facts or matters as it may see fit, and, if the Trustee shall determine to make such further inquiry or investigation, it shall be entitled to examine, during business hours and upon reasonable notice, the books, records and premises of the Company, personally or by agent or attorney and shall incur no personal liability to any Person by reason of such inquiry or investigation. The reasonable expense of every such examination shall be paid by the Company or, if paid by the Trustee, shall be repaid by the Company upon demand;

(g) The Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents or attorneys and the Trustee shall not be responsible for any misconduct or negligence on the part of any agent or attorney appointed with due care by it hereunder; and

(h) Whenever in the administration of this Indenture the Trustee shall deem it desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, the Trustee (unless other evidence be herein specifically prescribed) may, in the absence of bad faith on its part, require and rely upon an Officers' Certificate.

SECTION 7.03. Trustee Not Responsible for Recitals or Issuance of Debt Securities. (a) The recitals contained herein and in the Debt Securities shall be taken as the statements of the Company, and the Trustee assumes no responsibility for the correctness of the same.

(b) The Trustee makes no representations as to the validity or sufficiency of this Indenture or of the Debt Securities.

(c) The Trustee shall not be accountable for the use or application by the Company of any of the Debt Securities or of the proceeds of such Debt Securities, or for the use or application of any moneys paid over by the Trustee in accordance with any provision of this Indenture or established pursuant to Section 2.01, or for the use or application of any moneys received by any paying agent other than the Trustee.

SECTION 7.04. May Hold Debt Securities. The Trustee or any paying agent or Security Registrar, in its individual or any other capacity, may become the owner or pledgee of Debt Securities with the same rights it would have if it were not Trustee, paying agent or Security Registrar.

SECTION 7.05. Moneys Held in Trust. Subject to the provisions of Section 11.05, all moneys received by the Trustee shall, until used or applied as herein provided, be held in trust for the purposes for which they were received, but need not be segregated from other funds except to the extent required by law. The Trustee shall not be liable for interest on any moneys held by it hereunder except as it may otherwise agree with the Company.

SECTION 7.06. Compensation and Reimbursement. (a) The Company covenants and agrees to pay to the Trustee, and the Trustee shall be entitled to, such reasonable compensation (which shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust), as the Company and the Trustee may from time to time agree in writing, for all services rendered by it in the execution of the trusts hereby created and in the exercise and performance of any of the powers and duties hereunder of the Trustee, and, except as otherwise expressly provided herein, the Company will pay or reimburse the Trustee upon its request for all reasonable expenses, disbursements and advances incurred or made by the Trustee in accordance with any of the provisions of this Indenture (including the reasonable compensation and the expenses and disbursements of its counsel and of all Persons not regularly in its employ) except any such expense, disbursement or advance as may arise from its negligence or bad faith. The Company also covenants and agrees to indemnify the Trustee (and its officers, agents, directors and employees) for, and to hold it harmless against, any loss, liability or expense, to the extent incurred without negligence or bad faith on the part of the Trustee, arising out of or in connection with the acceptance or administration of this trust, including the costs and expenses of defending itself against any claim or liability in connection with the exercise or performance of any of its powers or duties hereunder.

(b) The obligations of the Company under this Section to compensate and indemnify the Trustee and to pay or reimburse the Trustee for expenses, disbursements and advances shall constitute additional indebtedness hereunder and shall survive the satisfaction and discharge of this Indenture and the resignation or removal of the Trustee. Such additional indebtedness shall be secured by a lien prior to that of the Debt Securities upon all property and funds held or collected by the Trustee as such, except funds held in trust for the benefit of the holders of particular Debt Securities.

(c) When the Trustee renders services or incurs expenses after the occurrence of a Default specified in Section 6.01, the compensation for such services and expenses of the Trustee hereunder are intended by the Company and the Trustee to constitute expenses of administration under any Bankruptcy Law.

SECTION 7.07. Reliance on Officers' Certificate. Except as otherwise provided in Section 7.01, whenever in the administration of the provisions of this Indenture the Trustee shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering or omitting to take any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may, in the absence of negligence or bad faith on the part of the Trustee, be deemed to be conclusively proved and established by an Officers' Certificate delivered to the Trustee and such certificate, in the absence of negligence or bad faith on the part of the Trustee, shall be full warrant to the Trustee for any action taken, suffered or omitted to be taken by it under the provisions of this Indenture upon the faith thereof.

SECTION 7.08. Qualification; Conflicting Interests. If the Trustee has or shall acquire any "conflicting interest" within the meaning of Section 310(b) of the Trust Indenture Act, the Trustee and the Company shall in all respects comply with the provisions of Section 310(b) of the Trust Indenture Act.

SECTION 7.09. Corporate Trustee Required; Eligibility. There shall at all times be a Trustee with respect to the Debt Securities issued hereunder which shall at all times be a corporation organized and doing business under the laws of the United States of America or any State or Territory thereof or of the District of Columbia, or a corporation or other Person permitted to act as trustee by the Commission, authorized under such laws to exercise corporate trust powers, having a combined capital and surplus of at least Fifty Million U.S. dollars (\$50,000,000), and subject to supervision or examination by Federal, State, Territorial or District of Columbia authority. If such corporation publishes reports of condition at least annually, pursuant to law or to the requirements of the aforesaid supervising or examining authority, then for the purposes of this Section, the combined capital and surplus of such corporation shall be

deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. The Company may not, nor may any Person directly or indirectly controlling, controlled by, or under common control with the Company, serve as Trustee. In case at any time the Trustee shall cease to be eligible in accordance with the provisions of this Section, the Trustee shall resign immediately in the manner and with the effect specified in Section 7.10.

SECTION 7.10. Resignation and Removal; Appointment of Successor. (a) The Trustee or any successor hereafter appointed, may at any time resign with respect to the Debt Securities of one or more series by giving written notice thereof to the Company and the Guarantor and by transmitting notice of resignation by mail, first class postage prepaid, to the Securityholders of such series, as their names and addresses appear upon the Security Register. Upon receiving such notice of resignation, the Company shall promptly appoint a successor Trustee with respect to Debt Securities of such series by written instrument, in duplicate, executed by order of the Board of Directors, one copy of which instrument shall be delivered to the resigning Trustee and one copy to the successor trustee. If no successor trustee shall have been so appointed and have accepted appointment within 30 days after the mailing of such notice of resignation, the resigning Trustee may petition any court of competent jurisdiction for the appointment of a successor trustee with respect to Debt Securities of such series, or any Securityholder of that series who has been a bona fide holder of a Debt Security or Debt Securities for at least six months may, subject to the provisions of Section 6.07, on behalf of himself and all others similarly situated, petition any such court for the appointment of a successor trustee. Such court may thereupon after such notice, if any, as it may deem proper and prescribe, appoint a successor trustee.

(b) In case at any time any one of the following shall occur:

(1) the Trustee shall fail to comply with the provisions of subsection (a) of Section 7.01 after written request therefor by the Company or by any Securityholder who has been a bona fide holder of a Debt Security or Debt Securities for at least six months; or

(2) the Trustee shall cease to be eligible in accordance with the provisions of Section 7.09 and shall fail to resign after written request therefor by the Company or by any such Securityholder; or

(3) the Trustee shall become incapable of acting, or shall be adjudged a bankrupt or insolvent, or commence a voluntary bankruptcy proceeding, or a receiver of the Trustee or of its property shall be appointed or consented to, or any public officer shall take charge or control of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation, then, in any such case, the Company may remove the Trustee with respect to all Debt Securities and appoint a successor trustee by written instrument, in duplicate, executed by order of the Board of Directors, one copy of which instrument shall be delivered to the Trustee so removed and one copy to the successor trustee, or, subject to the provisions of Section 6.07, unless the Trustee's duty to resign is stayed as provided herein, any Securityholder who has been a bona fide holder of a Debt Security or Debt Securities for at least six months may, on behalf of that holder and all others similarly situated, petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor trustee. Such court may thereupon after such notice, if any, as it may deem proper and prescribe, remove the Trustee and appoint a successor trustee.

(c) The holders of a majority in aggregate principal amount of the Debt Securities of any series at the time Outstanding may at any time remove the Trustee with respect to such series by so notifying the Trustee and the Company and may appoint a successor Trustee for such series with the consent of the Company.

(d) Any resignation or removal of the Trustee and appointment of a successor trustee with respect to the Debt Securities of a series pursuant to any of the provisions of this Section shall become effective upon acceptance of appointment by the successor trustee as provided in Section 7.11.

(e) Any successor trustee appointed pursuant to this Section may be appointed with respect to the Debt Securities of one or more series or all of such series, and at any time there shall be only one Trustee with respect to the Debt Securities of any particular series.

SECTION 7.11. Acceptance of Appointment By Successor. (a) In case of the appointment hereunder of a successor trustee with respect to all Debt Securities, every such successor trustee so appointed shall execute, acknowledge and deliver to the Company and to the retiring Trustee an instrument accepting such appointment, and thereupon the resignation or removal of the retiring Trustee shall become effective and such successor trustee, without any further act, deed or conveyance, shall become vested with all the rights, powers, trusts and duties of the retiring Trustee; but, on the request of the Company or the successor trustee, such retiring Trustee shall, upon payment of its charges, execute and deliver an instrument transferring to such successor trustee all the rights, powers, and trusts of the retiring Trustee and shall duly assign, transfer and deliver to such successor trustee all property and money held by such retiring Trustee hereunder.

(b) In case of the appointment hereunder of a successor trustee with respect to the Debt Securities of one or more (but not all) series, the Company, the retiring Trustee and each successor trustee with respect to the Debt Securities of one or more series shall execute and deliver an indenture supplemental hereto wherein each successor trustee shall accept such appointment and which (1) shall contain such provisions as shall be necessary or desirable to transfer and confirm to, and to vest in, each successor trustee all the rights, powers, trusts and duties of the retiring Trustee with respect to the Debt Securities of that or those series to which the appointment of such successor trustee relates, (2) shall contain such provisions as shall be deemed necessary or desirable to confirm that all the rights, powers, trusts and duties of the retiring Trustee with respect to the Debt Securities of that or those series as to which the retiring Trustee is not retiring shall continue to be vested in the retiring Trustee, and (3) shall add to or change any of the provisions of this Indenture as shall be necessary to provide for or facilitate the administration of the trusts hereunder by more than one Trustee, it being understood that nothing herein or in such supplemental indenture shall constitute such Trustees co-trustees of the same trust, that each such Trustee shall be trustee of a trust or trusts hereunder separate and apart from any trust or trusts hereunder administered by any other such Trustee and that no Trustee shall be responsible for any act or failure to act on the part of any other Trustee hereunder; and upon the execution and delivery of such supplemental indenture the resignation or removal of the retiring Trustee shall become effective to the extent provided therein, such retiring Trustee shall with respect to the Debt Securities of that or those series to which the appointment of such successor trustee relates have no further responsibility for the exercise of rights and powers or for the performance of the duties and obligations vested in the Trustee under this Indenture, and each such successor trustee, without any further act, deed or conveyance, shall become vested with all the rights, powers, trusts and duties of the retiring Trustee with respect to the Debt Securities of that or those series to which the appointment of such successor trustee relates; but, on request of the Company or any successor trustee, such retiring Trustee shall duly assign, transfer and deliver to such successor trustee, to the extent contemplated by such supplemental indenture, the property and money held by such retiring Trustee hereunder with respect to the Debt Securities of that or those series to which the appointment of such successor trustee relates.

(c) Upon request of any such successor trustee, the Company shall execute any and all instruments for more fully and certainly vesting in and confirming to such successor trustee all such rights, powers and trusts referred to in paragraph (a) or (b) of this Section, as the case may be.

(d) No successor trustee shall accept its appointment unless at the time of such acceptance such successor trustee shall be qualified and eligible under this Article.

(e) Upon acceptance of appointment by a successor trustee as provided in this Section, the Company shall transmit notice of the succession of such trustee hereunder by mail, first class postage prepaid, to the Securityholders, as their names and addresses appear upon the Security Register. If the Company fails to transmit such notice within ten days after acceptance of appointment by the successor trustee, the successor trustee shall cause such notice to be transmitted at the expense of the Company.

SECTION 7.12. Merger, Conversion, Consolidation or Succession to Business. Any corporation into which the Trustee may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which the Trustee shall be a party, or any corporation succeeding to the corporate trust business of the Trustee, shall be the successor of the Trustee hereunder, provided that such corporation shall be qualified under the provisions of Section 7.08 and eligible under the provisions of Section 7.09, without the execution or filing of any paper or any further act on the part of any of the parties hereto, anything herein to the contrary notwithstanding. In case any Debt Securities shall have been authenticated, but not delivered, by the Trustee then in office, any successor by merger, conversion or consolidation to such authenticating Trustee permitted under this Section 7.12 may adopt such authentication and deliver the Debt Securities so authenticated with the same effect as if such successor Trustee had itself authenticated such Debt Securities.

SECTION 7.13. Preferential Collection of Claims Against the Company. The Trustee shall comply with Section 311(a) of the Trust Indenture Act, excluding any creditor relationship described in Section 311(b) of the Trust Indenture Act. A Trustee who has resigned or been removed shall be subject to Section 311(a) of the Trust Indenture Act to the extent included therein.

#### ARTICLE VIII CONCERNING THE SECURITYHOLDERS

SECTION 8.01. Evidence of Action by Securityholders. Whenever in this Indenture it is provided that the holders of a majority or specified percentage in aggregate principal amount of the Debt Securities of a particular series may take any action (including the making of any demand or request, the giving of any notice, consent or waiver or the taking of any other action), the fact that at the time of taking any such action the holders of such majority or specified percentage of that series have joined therein may be evidenced by any instrument or any number of instruments of similar tenor executed by such holders of Debt Securities of that series in Person or by agent or proxy appointed in writing.

If the Company shall solicit from the Securityholders of any series any request, demand, authorization, direction, notice, consent, waiver or other action, the Company may, at its option, as evidenced by an Officers' Certificate, fix in advance a record date for such series for the determination of Securityholders (entitled to give such request, demand, authorization, direction, notice, consent, waiver or other action) but the Company shall have no obligation to do so. If such a record date is fixed, such request, demand, authorization, direction, notice, consent, waiver or other action may be given before or after the record date, but only the Securityholders of record as provided by the Security Registrar at the close of business on the record date shall be deemed to be Securityholders for the purposes of determining whether Securityholders of the requisite proportion of Outstanding Debt Securities of that series have authorized or agreed or consented to such request, demand, authorization, direction, notice, consent, waiver or other action, and for that purpose the Outstanding Debt Securities of that series shall be computed as of the record date; provided, however, that no such authorization, request, demand, agreement, consent, direction, notice, waiver or other action by such Securityholders on the record date

shall be deemed effective unless it shall become effective pursuant to the provisions of this Indenture not later than six months after the record date.

SECTION 8.02. Proof of Execution by Securityholders. Subject to the provisions of Section 8.01, proof of the execution of any instrument by a Securityholder (such proof will not require notarization) or his agent or proxy and proof of the holding by any Person of any of the Debt Securities shall be sufficient if made in the following manner:

- (a) The fact and date of the execution by any such Person of any instrument may be proved in any reasonable manner acceptable to the Trustee.
- (b) The ownership of Debt Securities shall be proved by the Security Register of such Debt Securities or by a certificate of the Security Registrar thereof.
- (c) The Trustee may require such additional proof of any matter referred to in this Section as it shall deem necessary.

SECTION 8.03. Who May be Deemed Owners. Prior to the due presentment for registration of transfer of any Debt Security, the Company, the Trustee, any paying agent and any Security Registrar may deem and treat the Person in whose name such Debt Security shall be registered upon the Security Register as the absolute owner of such Debt Security (whether or not such Debt Security shall be overdue and notwithstanding any notice of ownership or writing thereon made by anyone other than the Security Registrar) for the purpose of receiving payment of or on account of the principal of, premium, if any, and (subject to Section 2.03) interest on such Debt Security and for all other purposes; and neither the Company nor Guarantor nor the Trustee nor any paying agent nor any Security Registrar shall be affected by any notice to the contrary.

SECTION 8.04. Certain Debt Securities Owned by Company Disregarded. In determining whether the holders of the requisite aggregate principal amount of Debt Securities of a particular series have concurred in any direction, consent, waiver or other action under this Indenture, the Debt Securities of that series that are owned by the Company or any other obligor on the Debt Securities of that series or by any Person directly or indirectly controlling or controlled by or under common control with the Company or any other obligor (including any Affiliate of the Company or such other obligor) on the Debt Securities of that series shall be disregarded and deemed not to be outstanding for the purpose of any such determination, except that for the purpose of determining whether the Trustee shall be protected in relying on any such direction, consent, waiver or other action, only Debt Securities of such series that the Trustee actually knows are so owned shall be so disregarded. The Debt Securities so owned that have been pledged in good faith may be regarded as outstanding for the purposes of this Section, if the pledgee shall establish to the satisfaction of the Trustee the pledgee's right so to act with respect to such Debt Securities and that the pledgee is not a Person directly or indirectly controlling or controlled by or under direct or indirect common control with the Company or the Guarantor or any such other obligor (including any Affiliate of the Company or such other obligor). In case of a dispute as to such right, any decision by the Trustee taken upon the advice of counsel shall be full protection to the Trustee.

SECTION 8.05. Actions Binding on Future Securityholders. At any time prior to (but not after) the evidencing to the Trustee, as provided in Section 8.01, of the taking of any action by the holders of a majority or specified percentage in aggregate principal amount of the Debt Securities of a particular series in connection with such action, any holder of a Debt Security of that series that is shown by the evidence to be included in the Debt Securities the holders of which have consented to such action may, by filing written notice with the Trustee, and upon proof of holding as provided in Section 8.02, revoke such action so far as concerns such Debt Security. Except as aforesaid, any such action taken by the holder of any

Debt Security shall be conclusive and binding upon such holder and upon all future holders and owners of such Debt Security, and of any Debt Security issued in exchange therefor, on registration of transfer thereof or in place thereof, irrespective of whether or not any notation in regard thereto is made upon such Debt Security. Any action taken by the holders of a majority or specified percentage in aggregate principal amount of the Debt Securities of a particular series in connection with such action shall be conclusively binding upon the Company, the Trustee and the holders of all the Debt Securities of that series.

ARTICLE IX  
SUPPLEMENTAL INDENTURES

SECTION 9.01. Supplemental Indentures Without the Consent of Securityholders. In addition to any supplemental indenture otherwise authorized by this Indenture, the Company and the Guarantor and the Trustee may from time to time and at any time enter into an indenture or indentures supplemental hereto (which shall conform to the provisions of the Trust Indenture Act as then in effect), without the consent of the Securityholders, for one or more of the following purposes:

- (a) to cure any ambiguity, defect or inconsistency herein or in the Debt Securities of any series;
- (b) to comply with Article X;
- (c) to provide for uncertificated Debt Securities in addition to or in place of certificated Debt Securities;
- (d) to add to the covenants of the Company for the benefit of the holders of all or any series of Debt Securities (and if such covenants are to be for the benefit of less than all series of Debt Securities, stating that such covenants are expressly being included solely for the benefit of such series) or to surrender any right or power herein conferred upon the Company;
- (e) to add to, delete from, or revise the conditions, limitations and restrictions on the authorized amount, terms or purposes of issue, authentication and delivery of Debt Securities, as herein set forth;
- (f) to make any change that does not adversely affect the rights of any Securityholder in any material respect; or
- (g) to provide for the issuance of and establish the form and terms and conditions of the Debt Securities of any series as provided in Section 2.01, to establish the form of any certifications required to be furnished pursuant to the terms of this Indenture or any series of Debt Securities, or to add to the rights of the holders of any series of Debt Securities.

The Trustee is hereby authorized to join with the Company in the execution of any such supplemental indenture, and to make any further appropriate agreements and stipulations that may be therein contained, but the Trustee shall not be obligated to enter into any such supplemental indenture that affects the Trustee's own rights, duties or immunities under this Indenture or otherwise.

Any supplemental indenture authorized by the provisions of this Section may be executed by the Company and the Trustee without the consent of the holders of any of the Debt Securities at the time Outstanding notwithstanding any of the provisions of Section 9.02.

SECTION 9.02. Supplemental Indentures With Consent of Securityholders. With the consent (evidenced as provided in Section 8.01) of the holders of not less than 66 2/3 in aggregate principal amount of the Debt Securities of each series affected by such supplemental indenture or indentures at the time Outstanding, the Company, when authorized by a Board Resolution, and the Trustee may from time to time and at any time enter into an indenture or indentures supplemental hereto (which shall conform to the provisions of the Trust Indenture Act as then in effect) for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Indenture or of any supplemental indenture or of modifying in any manner not covered by Section 9.01 the rights of the holders of the Debt Securities of such series under this Indenture; provided, however, that no such supplemental indenture shall, without the consent of the holders of each Debt Security then Outstanding and affected thereby, (i) extend the fixed maturity of any Debt Securities of any series, or reduce the principal amount thereof, or reduce the rate or extend the time of payment of interest thereon, or reduce any premium payable upon the redemption thereof, without the consent of the holder of each Debt Security so affected or (ii) reduce the aforesaid percentage of Debt Securities, the holders of which are required to consent to any such supplemental indenture.

It shall not be necessary for the consent of the Securityholders of any series affected thereby under this Section to approve the particular form of any proposed supplemental indenture, but it shall be sufficient if such consent shall approve the substance thereof.

SECTION 9.03. Effect of Supplemental Indentures. Upon the execution of any supplemental indenture pursuant to the provisions of this Article or of Section 10.01, this Indenture shall, with respect to such series, be and be deemed to be modified and amended in accordance therewith and the respective rights, limitations of rights, obligations, duties and immunities under this Indenture of the Trustee, the Company and the holders of Debt Securities of the series affected thereby shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modifications and amendments, and all the terms and conditions of any such supplemental indenture shall be and be deemed to be part of the terms and conditions of this Indenture for any and all purposes.

SECTION 9.04. Debt Securities Affected by Supplemental Indentures. Debt Securities of any series, affected by a supplemental indenture, authenticated and delivered after the execution of such supplemental indenture pursuant to the provisions of this Article or of Section 10.01, may bear a notation in form approved by the Company, provided such form meets the requirements of any exchange upon which such series may be listed, if any, as to any matter provided for in such supplemental indenture. If the Company shall so determine, new Debt Securities of that series so modified as to conform, in the opinion of the Board of Directors of the Company, to any modification of this Indenture contained in any, such supplemental indenture may be prepared by the Company, authenticated by the Trustee and delivered in exchange for the Debt Securities of that series then outstanding.

SECTION 9.05. Execution of Supplemental Indentures. Upon the request of the Company, accompanied by a Board Resolution authorizing the execution of any such supplemental indenture, and upon the filing with the Trustee of evidence of the consent of Securityholders required to consent thereto as aforesaid, the Trustee shall join with the Company in the execution of such supplemental indenture unless such supplemental indenture affects the Trustee's own rights, duties or immunities under this Indenture or otherwise, in which case the Trustee may in its discretion but shall not be obligated to enter into such supplemental indenture. The Trustee, subject to the provisions of Section 7.01, may receive an Opinion of Counsel as conclusive evidence that any supplemental indenture executed pursuant to this Article is authorized or permitted by, and conforms to, the terms of this Article and that it is proper for the Trustee under the provisions of this Article to join in the execution thereof.



Promptly after the execution by the Company and the Trustee of any supplemental indenture pursuant to the provisions of this Section 9.05, the Trustee shall transmit by mail, first class postage prepaid, a notice, setting forth in general terms the substance of such supplemental indenture, to the Securityholders of all series affected thereby as their names and addresses appear upon the Security Register. Any failure of the Trustee to mail such notice, or any defect therein, shall not, however, in any way impair or affect the validity of any such supplemental indenture.

ARTICLE X  
SUCCESSOR CORPORATION

SECTION 10.01. Company May Consolidate, Etc. Nothing contained in this Indenture or in any of the Debt Securities shall prevent any consolidation or merger of the Company with or into any other corporation or corporations (whether or not affiliated with the Company), or successive consolidations or mergers in which the Company or its successor or successors shall be a party or parties, or shall prevent any sale, conveyance, transfer or other disposition of the property of the Company or its successor or successors as an entirety, or substantially as an entirety, to any other corporation (whether or not affiliated with the Company or the Guarantor, as the case may be, or its successor or successors) authorized to acquire and operate the same; provided, however, the Company hereby covenants and agrees that, upon any such consolidation, merger, sale, conveyance, transfer or other disposition, the due and punctual payment of the principal of (premium, if any) and interest on all of the Debt Securities of all series in accordance with the terms of each series, according to their tenor and the due and punctual performance and observance of all the covenants and conditions of this Indenture with respect to each series or established with respect to such series pursuant to Section 2.01 to be kept or performed by the Company, shall be expressly assumed, by supplemental indenture (which shall conform to the provisions of the Trust Indenture Act, as then in effect) satisfactory in form to the Trustee executed and delivered to the Trustee by the entity formed by such consolidation, or into which the Company shall have been merged, or by the entity which shall have acquired such property.

SECTION 10.02. Successor Corporation Substituted. (a) In case of any such consolidation, merger, sale, conveyance, transfer or other disposition and upon the assumption by the successor corporation, by supplemental indenture, executed and delivered to the Trustee and satisfactory in form to the Trustee, of the due and punctual payment of the principal of, premium, if any, and interest on all of the Debt Securities of all series Outstanding and the due and punctual performance of all of the covenants and conditions of this Indenture or established with respect to each series of the Debt Securities pursuant to Section 2.01 to be performed by the Company, with respect to each series, such successor corporation shall succeed to and be substituted for the Company, with the same effect as if it had been named as the Company herein.

(b) In case of any such consolidation, merger, sale, conveyance, transfer or other disposition, such changes in phraseology and form (but not in substance) may be made in the Debt Securities thereafter to be issued as may be appropriate.

(c) Nothing contained in this Indenture or in any of the Debt Securities shall prevent the Company from merging into itself or acquiring by purchase or otherwise all or any part of the property of any other Person (whether or not affiliated with the Company).

SECTION 10.03. Evidence of Consolidation, Etc. to Trustee. The Trustee, subject to the provisions of Section 7.01, may receive an Opinion of Counsel as conclusive evidence that any such consolidation, merger, sale, conveyance, transfer or other disposition, and any such assumption, comply with the provisions of this Article.

ARTICLE XI  
SATISFACTION AND DISCHARGE

SECTION 11.01. Satisfaction and Discharge of Indenture. If at any time: (a) the Company shall have delivered to the Trustee for cancellation all Debt Securities of a series theretofore authenticated (other than any Debt Securities that shall have been destroyed, lost or stolen and that shall have been replaced or paid as provided in Section 2.07) and Debt Securities for whose payment money or Governmental Obligations have theretofore been deposited in trust or segregated and held in trust by the Company or the Guarantor (and thereupon repaid to the Company or discharged from such trust, as provided in Section 11.05); or (b) all such Debt Securities of a particular series not theretofore delivered to the Trustee for cancellation shall have become due and payable, or are by their terms to become due and payable within one year or are to be called for redemption within one year under arrangements satisfactory to the Trustee for the giving of notice of redemption, and, in the case of (a) or (b) above, the Company shall deposit or cause to be deposited with the Trustee as trust funds the entire amount in moneys or Governmental Obligations or a combination thereof, sufficient in the opinion of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee, to pay at maturity or upon redemption all Debt Securities of that series not theretofore delivered to the Trustee for cancellation, including principal (and premium, if any) and interest due or to become due to such date of maturity or date fixed for redemption, as the case may be, and if the Company shall also pay or cause to be paid all other sums payable hereunder with respect to such series by the Company; then if the Company has delivered to the Trustee an Opinion of Counsel based on the fact that (x) the Company has received from, or there has been published by, the Internal Revenue Service a ruling or (y) since the date hereof, there has been a change in the applicable United States federal income tax law, in either case to the effect that, and such opinion shall confirm that, the holders of the Debt Securities of such series will not recognize income, gain or loss for United States federal income tax purposes as a result of such deposit, defeasance and discharge and will be subject to United States federal income tax on the same amount and in the same manner and at the same times, as would have been the case if such deposit, defeasance and discharge had not occurred, this Indenture shall thereupon cease to be of further effect with respect to such series except for the provisions of Sections 2.03, 2.05, 2.07, 4.01, 4.02, 4.03 and 7.10, that shall survive until the date of maturity or redemption date, as the case may be, and Sections 7.06 and 11.05, that shall survive to such date and thereafter, and the Trustee, on demand of the Company and at the cost and expense of the Company shall execute proper instruments acknowledging satisfaction of and discharging this Indenture with respect to such series.

SECTION 11.02. Discharge of Obligations. If at any time all Debt Securities of a particular series not heretofore delivered to the Trustee for cancellation or that have not become due and payable as described in Section 11.01 shall have been paid by the Company by depositing irrevocably with the Trustee as trust funds moneys or an amount of Governmental Obligations sufficient to pay at maturity or upon redemption all such Debt Securities of that series not theretofore delivered to the Trustee for cancellation, including principal (and premium, if any) and interest due or to become due to such date of maturity or date fixed for redemption, as the case may be, and if the Company shall also pay or cause to be paid all other sums payable hereunder by the Company with respect to such series, then after the date such moneys or Governmental Obligations, as the case may be, are deposited with the Trustee then, if the Company has delivered to the Trustee an Opinion of Counsel based on the fact that (x) the Company has received from, or there has been published by, the Internal Revenue Service a ruling or (y) since the date hereof, there has been a change in the applicable United States federal income tax law, in either case to the effect that, and such opinion shall confirm that, the holders of the Debt Securities of such series will not recognize income, gain or loss for United States federal income tax purposes as a result of such deposit, defeasance and discharge and will be subject to United States federal income tax on the same amount and in the same manner and at the same times, as would have been the case if such

deposit, defeasance and discharge had not occurred, the obligations of the Company, under this Indenture with respect to such series shall cease to be of further effect except for the provisions of Sections 2.03, 2.05, 2.07, 4.01, 4.02, 4.03, 7.06, 7.10 and 11.05 hereof that shall survive until such Debt Securities shall mature and be paid. Thereafter, Sections 7.06 and 11.05 shall survive.

SECTION 11.03. Deposited Moneys to be Held in Trust. All moneys or Governmental Obligations deposited with the Trustee pursuant to Sections 2.11 or 11.02 shall be held in trust and shall be available for payment as due, either directly or through any paying agent (including the Company acting as its own paying agent), to the holders of the particular series of Debt Securities for the payment or redemption of which such moneys or Governmental Obligations have been deposited with the Trustee.

SECTION 11.04. Payment of Moneys Held by Paying Agents. In connection with the satisfaction and discharge of this Indenture, all moneys or Governmental Obligations then held by any paying agent under the provisions of this Indenture shall, upon demand of the Company, be paid to the Trustee and thereupon such paying agent shall be released from all further liability with respect to such moneys or Governmental Obligations.

SECTION 11.05. Repayment to Company. Any moneys or Governmental Obligations deposited with any paying agent or the Trustee, or then held by the Company, in trust for payment of principal of or premium or interest on the Debt Securities of a particular series that are not applied but remain unclaimed by the holders of such Debt Securities for at least two years after the date upon which the principal of (and premium, if any) or interest on such Debt Securities shall have respectively become due and payable, shall be repaid to the Company on May 31 of each year or (if then held by the Company) shall be discharged from such trust; and thereupon the paying agent and the Trustee shall be released from all further liability with respect to such moneys or Governmental Obligations, and the holder of any of the Debt Securities entitled to receive such payment shall thereafter, as an unsecured general creditor, look only to the Company for the payment thereof.

#### ARTICLE XII

##### IMMUNITY OF INCORPORATORS, STOCKHOLDERS, OFFICERS AND DIRECTORS

SECTION 12.01. No Recourse. No recourse under or upon any obligation, covenant or agreement of this Indenture, or of any Debt Security, or for any claim based thereon or otherwise in respect thereof, shall be had against any incorporator, stockholder, officer or director, past, present or future as such, of the Company or of any predecessor or successor corporation, either directly or through the Company or any such predecessor or successor corporation, whether by virtue of any constitution, statute or rule of law, or by the enforcement of any assessment or penalty or otherwise; it being expressly understood that this Indenture and the obligations issued hereunder are solely corporate obligations, and that no such personal liability whatever shall attach to, or is or shall be incurred by, the incorporators, stockholders, officers or directors as such, of the Company or of any predecessor or successor corporation, or any of them, because of the creation of the indebtedness hereby authorized, or under or by reason of the obligations, covenants or agreements contained in this Indenture or in any of the Debt Securities or implied therefrom; and that any and all such personal liability of every name and nature, either at common law or in equity or by constitution or statute, of, and any and all such rights and claims against, every such incorporator, stockholder, officer or director as such, because of the creation of the indebtedness hereby authorized, or under or by reason of the obligations, covenants or agreements contained in this Indenture or in any of the Debt Securities or implied therefrom, are hereby expressly waived and released as a condition of, and as a consideration for, the execution of this Indenture and the issuance of such Debt Securities.

ARTICLE XIII  
MISCELLANEOUS PROVISIONS

SECTION 13.01. Effect on Successors and Assigns. All the covenants, stipulations, promises and agreements in this Indenture contained by or on behalf of the Company shall bind successors and assigns, whether so expressed or not.

SECTION 13.02. Actions by Successor. Any act or proceeding by any provision of this Indenture authorized or required to be done or performed by any board, committee or officer of the Company or the Guarantor shall and may be done and performed with like force and effect by the corresponding board, committee or officer of any corporation that shall at the time be the lawful successor of the Company.

SECTION 13.03. Surrender of Company Powers. The Company by instrument in writing executed by authority of 2/3 (two-thirds) of its Board of Directors and delivered to the Trustee may surrender any of the powers reserved to the Company, and thereupon such power so surrendered shall terminate both as to the Company and as to any successor corporation.

SECTION 13.04. Notices. Except as otherwise expressly provided herein, any notice or demand that by any provision of this Indenture is required or permitted to be given or served by the Trustee or by the holders of Debt Securities to or on the Company may be given or served by being deposited first class postage prepaid in a post-office letterbox addressed (until another address is filed in writing by the Company with the Trustee), as follows:

Exelon Corporation  
10 South Dearborn Street - 37th Floor  
P.O. Box 805379  
Chicago, Illinois 60680  
Attention: Treasurer

Any notice, election, request or demand by the Company or any Securityholder to or upon the Trustee shall be deemed to have been sufficiently given or made, for all purposes, if given or made in writing at the Corporate Trust Office of the Trustee.

SECTION 13.05. Governing Law. This Indenture and each Debt Security shall be deemed to be a contract made under the internal laws of the Commonwealth of Pennsylvania, and for all purposes shall be construed in accordance with the laws thereof.

SECTION 13.06. Treatment of the Debt Securities as Debt. It is intended that the Debt Securities will be treated as indebtedness and not as equity for federal income tax purposes. The provisions of this Indenture shall be interpreted to further this intention.

SECTION 13.07. Compliance Certificates and Opinions. (a) Upon any application, request or demand by the Company to the Trustee to take any action under any of the provisions of this Indenture, the Company shall furnish to the Trustee an Officers' Certificate stating that all conditions precedent provided for in this Indenture relating to the proposed action have been complied with and an Opinion of Counsel stating that in the opinion of such counsel all such conditions precedent have been complied with, except that in the case of any such application, request or demand as to which the furnishing of such documents is specifically required by any provision of this Indenture relating to such particular application, request or demand, no additional certificate or opinion need be furnished.

(b) Each certificate or opinion provided for in this Indenture and delivered to the Trustee with respect to compliance with a condition or covenant in this Indenture shall include (1) a statement that the Person making such certificate or opinion has read such covenant or condition; (2) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based; (3) a statement that, in the opinion of such Person, he has made such examination or investigation as is necessary to enable him to express an informed opinion as to whether or not such covenant or condition has been complied with; and (4) a statement as to whether or not, in the opinion of such Person, such condition or covenant has been complied with.

SECTION 13.08. Payments on Business Days. Except as provided pursuant to Section 2.01 pursuant to a Board Resolution, and as set forth in an Officers' Certificate, or established in one or more indentures supplemental to this Indenture, in any case where the date of maturity of interest or principal of any Debt Security or the date of redemption of any Debt Security shall not be a Business Day, then payment of interest or principal (and premium, if any) may be made on the next succeeding Business Day with the same force and effect as if made on the nominal date of maturity or redemption, and no interest shall accrue for the period after such nominal date.

SECTION 13.09. Conflict with Trust Indenture Act. If and to the extent that any provision of this Indenture limits, qualifies or conflicts with the duties imposed by Sections 310 to 317, inclusive, of the Trust Indenture Act, such imposed duties shall control.

SECTION 13.10. Counterparts. This Indenture may be executed in any number of counterparts, each of which shall be an original, but such counterparts shall together constitute but one and the same instrument.

SECTION 13.11. Separability. In case any one or more of the provisions contained in this Indenture or in the Debt Securities of any series shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Indenture or of such Debt Securities, but this Indenture and such Debt Securities shall be construed as if such invalid or illegal or unenforceable provision had never been contained herein or therein.

SECTION 13.12. Assignment. The Company will have the right at all times to assign any of its respective rights or obligations under this Indenture to a direct or indirect wholly-owned Subsidiary of the Company, provided that, in the event of any such assignment, the Company will remain liable for all such obligations. Subject to the foregoing, the Indenture is binding upon and inures to the benefit of the parties thereto and their respective successors and assigns. This Indenture may not otherwise be assigned by the parties thereto.

SECTION 13.13. Acknowledgment of Rights. The Company acknowledges that, with respect to any Debt Securities held by a Exelon Trust or a trustee of such trust, if the Property Trustee of such Trust fails to enforce its rights under this Indenture as the holder of the series of Debt Securities held as the assets of such Exelon Trust, any holder of Preferred Securities may, after a period of 30 days has elapsed from such holder's written request to such Property Trustee to enforce such rights, institute legal proceedings directly against the Company to enforce such Property Trustee's rights under this Indenture without first instituting any legal proceedings against such Property Trustee or any other person or entity.

ARTICLE XIV  
SUBORDINATION OF DEBT SECURITIES

SECTION 14.01. Subordination Terms. The payment by the Company of the principal of, premium, if any, and interest on any series of Debt Securities issued hereunder shall be subordinated to the extent set forth in an indenture supplemental hereto or Officers' Certificate pursuant to Section 2.01 above relating to such Debt Securities.

IN WITNESS WHEREOF, the parties hereto have caused this Indenture to be duly executed, and their respective corporate seals to be hereunto affixed and attested, all as of the day and year first above written.

EXELON CORPORATION

By: /s/  
-----  
Name:  
Title:

WACHOVIA BANK, NATIONAL ASSOCIATION,  
as Trustee

By: /s/ George J. Rayzis  
-----  
George J. Rayzis  
Vice President

CERTIFICATE OF TRUST  
OF  
EXELON CAPITAL TRUST I

The undersigned, the trustees of Exelon Capital Trust I, desiring to form a statutory trust pursuant to Delaware Statutory Trust Act, 12 Del. C. Section 3801 et seq., hereby certify as follows:

1. Name. The name of the trust (the "Trust") formed hereby is Exelon Capital Trust I.

2. Delaware Trustee. The name and business address of the trustee of the Trust which has its principal place of business in the State of Delaware is as follows:

Wachovia Trust Company, National Association  
One Rodney Square  
920 King Street, Suite 102  
Wilmington, DE 19801  
Attn: Rita Marie Ritrovato, Trust Officer

3. Effective Date. This Certificate of Trust shall be effective upon filing.

IN WITNESS WHEREOF, the undersigned have executed this Certificate of Trust as of August 25, 2003.

/s/ Thomas R. Miller  
-----  
Thomas R. Miller, as Administrative Trustee

WACHOVIA TRUST COMPANY, NATIONAL  
ASSOCIATION, as Trustee

By: /s/ Rita Marie Ritrovato  
-----  
Name: Rita Marie Ritrovato  
Title: Trust Officer



CERTIFICATE OF TRUST  
OF  
EXELON CAPITAL TRUST II

The undersigned, the trustees of Exelon Capital Trust II, desiring to form a statutory trust pursuant to Delaware Statutory Trust Act, 12 Del. C. Section 3801 et seq., hereby certify as follows:

1. Name. The name of the trust (the "Trust") formed hereby is Exelon Capital Trust II.

2. Delaware Trustee. The name and business address of the trustee of the Trust which has its principal place of business in the State of Delaware is as follows:

Wachovia Trust Company, National Association  
One Rodney Square  
920 King Street, Suite 102  
Wilmington, DE 19801  
Attn: Rita Marie Ritrovato, Trust Officer

3. Effective Date. This Certificate of Trust shall be effective upon filing.

IN WITNESS WHEREOF, the undersigned have executed this Certificate of Trust as of August 25, 2003.

/s/ Thomas R. Miller  
-----  
Thomas R. Miller, as Administrative Trustee

WACHOVIA TRUST COMPANY, NATIONAL  
ASSOCIATION, as Trustee

By: /s/ Rita Marie Ritrovato  
-----  
Name: Rita Marie Ritrovato  
Title: Trust Officer

CERTIFICATE OF TRUST  
OF  
EXELON CAPITAL TRUST III

The undersigned, the trustees of Exelon Capital Trust III, desiring to form a statutory trust pursuant to Delaware Statutory Trust Act, 12 Del. C. Section 3801 et seq., hereby certify as follows:

1. Name. The name of the trust (the "Trust") formed hereby is Exelon Capital Trust III.

2. Delaware Trustee. The name and business address of the trustee of the Trust which has its principal place of business in the State of Delaware is as follows:

Wachovia Trust Company, National Association  
One Rodney Square  
920 King Street, Suite 102  
Wilmington, DE 19801  
Attn: Rita Marie Ritrovato, Trust Officer

3. Effective Date. This Certificate of Trust shall be effective upon filing.

IN WITNESS WHEREOF, the undersigned have executed this Certificate of Trust as of August 25, 2003.

/s/ Thomas R. Miller

-----  
Thomas R. Miller, as Administrative Trustee

WACHOVIA TRUST COMPANY, NATIONAL  
ASSOCIATION, as Trustee

By: /s/ Rita Marie Ritrovato

-----  
Name: Rita Marie Ritrovato  
Title: Trust Officer

DECLARATION OF TRUST  
OF  
EXELON CAPITAL TRUST I

THIS DECLARATION OF TRUST (this "Declaration"), dated and effective as of August 25, 2003, by the undersigned trustees (together with all other Persons from time to time duly appointed and serving as trustees in accordance with the provisions of this Declaration, the "Trustees"), Exelon Corporation, a Pennsylvania corporation, as trust sponsor (the "Sponsor"), and by the holders, from time to time, of undivided beneficial interests in the Trust to be issued pursuant to this Declaration;

W I T N E S S E T H:

WHEREAS, the parties hereto desire to establish a trust (the "Trust") pursuant to the Delaware Statutory Trust Act for the sole purpose of issuing and selling certain securities representing undivided beneficial interests in the assets of the Trust and investing the proceeds thereof in certain Debt Securities (as hereinafter defined) of the Debt Issuer (as hereinafter defined);

NOW, THEREFORE, it being the intention of the parties hereto that the Trust constitute a statutory trust under the Delaware Statutory Trust Act and that this Declaration constitute the governing instrument of such statutory trust, the Trustees declare that all assets contributed to the Trust will be held in trust for the benefit of the holders, from time to time, of the securities representing undivided beneficial interests in the assets of the Trust issued hereunder, subject to the provisions of this Declaration.

ARTICLE I

DEFINITIONS AND INTERPRETATION

SECTION 1.1. Definitions. Capitalized terms used in this Declaration but not defined in the preamble above have the respective meanings assigned to them in this Section 1.1. A term defined anywhere in this Declaration has the same meaning throughout.

"Administrative Trustee" means any Trustee other than the Delaware Trustee, acting in its capacity as Delaware Trustee.

"Affiliate" has the same meaning as given to that term in Rule 405 of the Securities Act or any successor rule thereunder.

"Business Day" means any day other than a day on which banking institutions in New York, New York are authorized or required by law to close.

"Certificate" means a Common Security Certificate or a Preferred Security Certificate.

"Common Security" means a security representing an undivided beneficial interest in the assets of the Trust with such terms as may be set out in any amendment to this Declaration.

"Common Security Certificate" means a certificate representing a Common Security.

"Covered Person" means any officer, director, shareholder, partner, member, representative, employee or agent of the Trust or its Affiliates.

"Debt Issuer" means Exelon Corporation, a Pennsylvania corporation, in its capacity as the issuer of the Debt Securities.

"Debt Securities" means the series of Debt Securities to be issued by the Debt Issuer.

"Delaware Trustee" has the meaning set forth in Section 3.1.

"Exchange Act" means the Securities and Exchange Act of 1934, as amended.

"Holder" means the Person in whose name a Certificate representing a Security is registered.

"Indemnified Person" means any Trustee, any Affiliate of any Trustee, or any officers, directors, shareholders, members, partners, employees, representatives or agents of any Trustee, or any employee or agent of the Trust or its Affiliates.

"Person" means a legal person, including any individual, corporation, estate, partnership, joint venture, association, joint stock company, limited liability company, trust, unincorporated association, or government or any agency or political subdivision thereof, or any other entity of whatever nature.

"Preferred Security" means a security representing an undivided beneficial interest in the assets of the Trust with such terms as may be set out in any amendment to this Declaration.

"Preferred Security Certificate" means a certificate representing a Preferred Security.

"Securities" mean the Common Securities and the Preferred

Securities.

"Securities Act" means the Securities Act of 1933, as amended.

"Sponsor" means Exelon Corporation, a Pennsylvania corporation, in its capacity as sponsor of the Trust.

"Trust Act" means Chapter 38 of Title 12 of the Delaware Code, 12 Del. C. Sections 3801 et seq., as the same may be amended from time to time.

"Trustee" or "Trustees" means each Person who has signed this Declaration as a trustee, so long as such Person shall continue in office in accordance with the terms hereof, and all other Persons who may from time to time be duly appointed, qualified and serving as Trustees in accordance with the provisions hereof, and references herein to a Trustee or the Trustees shall refer to such Person or Persons solely in their capacity as trustees hereunder.

SECTION 1.2. Interpretation. Each definition in this Declaration includes the singular and the plural, and references to the neuter gender include the masculine and feminine where appropriate. Terms which relate to accounting matters shall be interpreted in accordance with generally accepted accounting principles in effect from time to time. References to any statute mean such statute as amended at the time and include any successor legislation. The word "or" is not exclusive, and the words "herein," "hereof" and "hereunder" refer to this Declaration as a whole. The headings to the Articles and Sections are for convenience of reference and shall not affect the meaning or interpretation of this Declaration. References to Articles, Sections and Exhibits mean the Articles, Sections and Exhibits of this Declaration. The Exhibits are hereby incorporated by reference into, and shall be deemed a part of, this Declaration.

ARTICLE II

ORGANIZATION

SECTION 2.1. Name. The Trust created by this Declaration is named "Exelon Capital Trust I." The Trust's activities may be conducted under the name of the Trust or any other name deemed advisable by the Administrative Trustees.

SECTION 2.2. Office. The address of the principal office of the Trust is c/o Exelon Corporation, 10 South Dearborn Street - 37th Floor, P.O. Box 805379, Chicago, Illinois 60680. At any time, the Administrative Trustees may designate another principal office.

SECTION 2.3. Purpose. The exclusive purposes and functions of the Trust are (a) to issue and sell Securities and use the proceeds from such sale to acquire the Debt Securities and (b) except as otherwise limited herein, to engage in only those other activities necessary, or incidental thereto. The Trust shall not borrow money, issue debt or reinvest proceeds derived from investments or pledge any of its assets.

SECTION 2.4. Authority. Subject to the limitations provided in this Declaration, the Administrative Trustees shall have exclusive and complete authority to carry out the purposes of the Trust. An action taken by the Administrative Trustees in accordance with their powers shall constitute the act of, and serve to bind, the Trust. In dealing with the Administrative Trustees acting on behalf of the Trust, no Person shall be required to inquire into the authority of the Administrative Trustees to bind the Trust. Persons dealing with the Trust are entitled to rely conclusively on the power and authority of the Administrative Trustees as set forth in this Declaration.

SECTION 2.5. Powers of the Administrative Trustees. The Administrative Trustees shall have the exclusive power and authority to cause the Trust to engage in the following activities:

(a) to issue and sell the Preferred Securities and the Common Securities in accordance with this Declaration; provided, however, that the Trust may issue no more than one series of Preferred Securities and no more than one series of Common Securities, and, provided further, there shall be no interests in the Trust other than the Securities;

(b) in connection with the issue and sale of the Preferred Securities, at the direction of the Sponsor, to:

(i) execute and file with the Securities and Exchange Commission a registration statement on Form S-3 prepared by the Sponsor in relation to the Preferred Securities, including any amendments thereto prepared by the Sponsor;

(ii) determine the states in which to take appropriate action to qualify or register for sale all or part of the Preferred Securities and to take any and all such acts as they deem necessary or advisable to comply with the applicable laws of any of those states;

(iii) execute and file an application prepared by the Sponsor to the New York Stock Exchange, Inc. or any other national stock exchange or the NASDAQ Stock Market's National Market for listing upon notice of issuance of any Preferred Securities; and

(iv) execute and file with the Securities and Exchange Commission a registration statement on Form 8-A prepared by the Sponsor relating to the registration of the Preferred Securities under Section 12(b) of the Exchange Act, including any amendments thereto;

(c) to employ or otherwise engage employees and agents (who may be designated as officers with titles) and managers, contractors, advisors, and consultants and provide for reasonable compensation for such services;

(d) to incur expenses which are necessary or incidental to carry on any of the purposes of this Declaration;

(e) to negotiate the terms of, and enter into, an underwriting agreement with one or more underwriters with respect to the sale of the Preferred Securities of the Trust; and

(f) to execute all documents or instruments, perform all duties and powers, and do all things for and on behalf of the Trust in all matters necessary or incidental to the foregoing.

SECTION 2.6. Filing of Certificate of Trust. On or after the date of execution of this Declaration, the Trustees shall cause the Certificate of Trust for the Trust in the form attached hereto as Exhibit A to be filed with the Secretary of State of the State of Delaware.

SECTION 2.7. Duration of Trust. The Trust, absent dissolution pursuant to the provisions of Section 5.2, shall have existence for thirty years from the date hereof.

### ARTICLE III

#### TRUSTEES

SECTION 3.1. Trustees. The number of Trustees shall initially be two, and thereafter the number of Trustees shall be such number as shall be fixed from time to time by a written instrument signed by the Sponsor. The Sponsor is entitled to appoint or remove without cause any Trustee at any time; provided, that the number of Trustees shall in no event be less than two; and provided further that one Trustee, in the case of a natural person, shall be a person who is a resident of the State of Delaware or which, if not a natural person, has its principal place of business in the State of Delaware (the "Delaware Trustee"). Any Trustee may resign upon the giving of thirty (30) days prior written notice to the Sponsor.

Except as expressly set forth in this Declaration, any power of the Administrative Trustees may be exercised by, or with the consent of, a majority of the Administrative Trustees; provided that if there is only one Administrative Trustee, all powers of the Administrative Trustees shall be exercised by such one Administrative Trustee.

The initial Administrative Trustee shall be:

Thomas R. Miller of Exelon Corporation

The initial Delaware Trustee shall be:

Wachovia Trust Company, National Association  
One Rodney Square  
920 King Street, Suite 102  
Wilmington, DE 19801  
Attn: Rita Marie Ritrovato, Trust Officer

SECTION 3.2. Delaware Trustee. Notwithstanding any other provisions of this Declaration, the Delaware Trustee, in its capacity as Delaware Trustee, shall not be entitled to exercise any of the powers, nor shall the Delaware Trustee have any of the duties and responsibilities, of the Administrative Trustees described in this Declaration. The Delaware Trustee shall be a Trustee for the sole and limited purpose of fulfilling the requirements of Section 3807 of the Trust Act.

SECTION 3.3. Execution of Documents. (a) Any one of the Administrative Trustees is each authorized to execute on behalf of the Trust any documents that the Administrative Trustees have the power and authority to cause the Trust to execute pursuant to Section 2.5.

(b) The Administrative Trustees may, by power of attorney consistent with applicable law, delegate to any other natural person over the age of 21 their power for the purposes of signing any documents which the Administrative Trustees have power and authority to cause the Trust to execute pursuant to Section 2.5.

#### ARTICLE IV

##### LIMITATION OF LIABILITY OF HOLDERS OF SECURITIES, TRUSTEES OR OTHERS

SECTION 4.1. Exculpation. (a) No Indemnified Person shall be liable, responsible or accountable in damages or otherwise to the Trust or any Covered Person for any loss, damage or claim incurred by reason of any act or omission performed or omitted by such Indemnified Person in good faith on behalf of the Trust and in a manner such Indemnified Person reasonably believed to be within the scope of the authority conferred on such Indemnified Person by this Declaration or by law, except that an Indemnified Person shall be liable for any such loss, damage or claim incurred by reason of such Indemnified Person's gross negligence or willful misconduct with respect to such acts or omissions.

(b) An Indemnified Person shall be fully protected in relying in good faith upon the records of the Trust and upon such information, opinions, reports or statements presented to the Trust by any Person as to matters the Indemnified Person reasonably believes are within such other Person's professional or expert competence and who has been selected with reasonable care by or on behalf of the Trust, including information, opinions, reports or statements as to the value and amount of the assets, liabilities, profits, losses, or any other facts pertinent to the existence and amount of assets from which distributions to Holders might properly be paid.

SECTION 4.2. Fiduciary Duty. (a) To the extent that, at law or in equity, an Indemnified Person has duties (including fiduciary duties) and liabilities relating thereto to the Trust or to any other Covered Person, an Indemnified Person acting under this Declaration shall not be liable to the Trust or to any other Covered Person for its good faith reliance on the provisions of this Declaration. The provisions of this Declaration, to the extent that they restrict the duties and liabilities of an Indemnified Person otherwise existing at law or in equity, are agreed by the parties hereto to replace such other duties and liabilities of such Indemnified Person.

(b) Unless otherwise expressly provide herein:

(i) whenever a conflict or interest exists or arises between an Indemnified Person and a Covered Person, or

(ii) whenever this Declaration or any other agreement contemplated herein or therein provides that an Indemnified Person shall act in a manner that is, or provides terms that are, fair and reasonable to the Trust or any Holder,

then the Indemnified Person shall resolve such conflict of interest, take such action or provide such terms, considering in each case the relative interest of each party (including its own interest) to such conflict, agreement, transaction or situation and the benefits and burdens relating to such interests, any customary or accepted industry practices, and any applicable generally accepted accounting practices or principles. In the absence of bad faith by the Indemnified Person, the resolution, action or term so made, taken or provided by the Indemnified Person shall not constitute a breach of this Declaration or any other agreement contemplated herein or of any duty or obligation of the Indemnified Person at law or in equity or otherwise.

(c) Whenever in this Declaration an Indemnified Person is permitted or required to make a decision:

(i) in its "discretion" or under a grant of similar authority, the Indemnified Person shall be entitled to consider such interest and factors as it desires, including its own interests, and shall have no duty or obligation to give any consideration to any interest of, or factors affecting, the Trust or any other Person; or

(ii) in its "good faith" or under another express standard, the Indemnified Person shall act under such express standard and shall not be subject to any other or different standard imposed by this Declaration or by applicable law.

SECTION 4.3 Indemnification. (a) To the fullest extent permitted by applicable law, the Sponsor shall indemnify and hold harmless each Indemnified Person from and against any loss, damage or claim incurred by such Indemnified Person by reason of any act or omission performed or omitted by such Indemnified Person in good faith on behalf of the Trust and in a manner such Indemnified Person reasonably believed to be within the scope of authority conferred on such Indemnified Person by this Declaration, except that no Indemnified Person shall be entitled to be indemnified in respect of any loss, damage or claim incurred by such Indemnified Person by reason of gross negligence or willful misconduct with respect to such acts or omissions.

(b) To the fullest extent permitted by applicable law, expenses (including legal fees) incurred by an Indemnified Person in defending any claim, demand, action, suit or proceeding shall, from time to time, be advanced by the Sponsor prior to the final disposition of such claim, demand, action, suit or proceeding upon receipt by the Sponsor of an undertaking by or on behalf of the Indemnified Person to repay such amount if it shall be determined that the Indemnified Person is not entitled to be indemnified as authorized in Section 4.3(a).

(c) The provisions of this Section shall survive the termination of this Declaration and the Trust or the earlier resignation or removal of the Indemnified Persons.

SECTION 4.4. Other Businesses. Any Covered Person, the Sponsor and the Delaware Trustee may engage in or possess an interest in other business ventures of any nature or description, independently or with others, similar or dissimilar to the business of the Trust, and the Trust and the Holders shall have no rights by virtue of this Declaration in and to such independent ventures or the income or profits derived therefrom and the pursuit of any such venture, even if competitive with the business of the Trust, shall not be deemed wrongful or improper. No Covered Person, the Sponsor or the Delaware Trustee shall be obligated to present any particular investment or other opportunity to the Trust



even if such opportunity is of a character that, if presented to the Trust, could be taken by the Trust, and any Covered Person, the Sponsor and the Delaware Trustee shall have the right to take for its own account (individually or as a partner or fiduciary) or to recommend to others any such particular investment or other opportunity. Any Covered Person and the Delaware Trustee may engage or be interested in any financial or other transaction with the Sponsor or any Affiliate of the Sponsor, or may act on any committee or body of holders of securities or other obligations of the Sponsor or its Affiliates.

#### ARTICLE V

##### AMENDMENTS, TERMINATION, MISCELLANEOUS

SECTION 5.1. Amendments. At any time before the issue of any Securities, this Declaration may be amended by, and only by, a written instrument executed by a majority of the Administrative Trustees, the Delaware Trustee and the Sponsor.

SECTION 5.2 Termination of Trust. (a) The Trust shall dissolve:

(i) upon the bankruptcy of the Sponsor;

(ii) upon the filing of a certificate of dissolution or its equivalent with respect to the Sponsor or the revocation of the Sponsor's charter;

(iii) upon the entry of a decree of judicial dissolution of the Sponsor or the Trust; or

(iv) before the issue of any Securities, with the consent of at least a majority of the Administrative Trustees and the Sponsor.

(b) Upon dissolution, the Delaware Trustee shall apply any funds deposited with it to reimburse the Delaware Trustee for any filing fees or other expenses in connection with the termination of the Trust. Any remaining funds shall, after payment of any other expenses of the Trust, be returned to the Sponsor.

(c) As soon as is practicable after the occurrence of an event referred to in Section 5.2(a), the Trustees shall execute and the Delaware Trustee shall file a certificate of cancellation with the Secretary of State of the State of Delaware. Thereupon, the Trust shall terminate and this Declaration shall be of no further force or effect (except Section 4.3, which shall survive).

SECTION 5.3. Governing Law. This Declaration and the rights of the parties hereunder shall be governed by and interpreted in accordance with the laws of the State of Delaware and all rights and remedies shall be governed by such laws without regard to principles of conflict of laws.

SECTION 5.4. Successors and Assigns. Whenever in this Declaration any of the parties hereto is named or referred to, the successors and assigns of such party shall be deemed to be included, and all covenants and agreements in this Declaration by the Sponsor and the Trustees shall bind and inure to the benefit of their respective successors and assigns, whether so expressed.

SECTION 5.5. Partial Enforceability. If any provisions of this Declaration, or the application of such provision to any Person or circumstance, shall be held invalid, the remainder of this Declaration, or the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

SECTION 5.6. Counterparts. This Declaration may contain more than one counterpart of the signature page and this Declaration may be executed by the affixing of the signature of each of the Trustees to one of such counterpart signature pages. All of such counterpart signature pages shall be read as though one, and they shall have the same force and effect as though all of the signers had signed a single signature page.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK.]

IN WITNESS WHEREOF, the undersigned have caused this Declaration of Trust of Exelon Capital Trust I to be executed as of the day and year first above written.

TRUSTEES:

/s/ Thomas R. Miller  
-----  
Name: Thomas R. Miller, as Administrative Trustee

WACHOVIA TRUST COMPANY, NATIONAL ASSOCIATION, as Delaware Trustee

By: /s/ Rita Marie Ritrovato  
-----  
Name: Rita Marie Ritrovato  
Title: Trust Officer

SPONSOR:

EXELON CORPORATION, as Sponsor

By: /s/ Thomas R. Miller  
-----  
Name: Thomas R. Miller  
Title: Vice President

EXHIBIT A

CERTIFICATE OF TRUST  
OF  
EXELON CAPITAL TRUST I

The undersigned, the trustees of Exelon Capital Trust I, desiring to form a statutory trust pursuant to Delaware Statutory Trust Act, 12 Del. C. Section 3801 et seq., hereby certify as follows:

1. Name. The name of the trust (the "Trust") formed hereby is Exelon Capital Trust I.

2. Delaware Trustee. The name and business address of the trustee of the Trust which has its principal place of business in the State of Delaware is as follows:

Wachovia Trust Company, National Association  
One Rodney Square  
920 King Street, Suite 102  
Wilmington, DE 19801  
Attn: Rita Marie Ritrovato, Trust Officer

3. Effective Date. This Certificate of Trust shall be effective upon filing.

IN WITNESS WHEREOF, the undersigned have executed this Certificate of Trust as of August 25, 2003.

/s/ Thomas R. Miller  
-----  
Thomas R. Miller, as Administrative Trustee

WACHOVIA TRUST COMPANY, NATIONAL  
ASSOCIATION, as Trustee

By: /s/ Rita Marie Ritrovato  
-----  
Name: Rita Marie Ritrovato  
Title: Trust Officer

DECLARATION OF TRUST  
OF  
EXELON CAPITAL TRUST II

THIS DECLARATION OF TRUST (this "Declaration"), dated and effective as of August 25, 2003, by the undersigned trustees (together with all other Persons from time to time duly appointed and serving as trustees in accordance with the provisions of this Declaration, the "Trustees"), Exelon Corporation, a Pennsylvania corporation, as trust sponsor (the "Sponsor"), and by the holders, from time to time, of undivided beneficial interests in the Trust to be issued pursuant to this Declaration;

W I T N E S S E T H:

WHEREAS, the parties hereto desire to establish a trust (the "Trust") pursuant to the Delaware Statutory Trust Act for the sole purpose of issuing and selling certain securities representing undivided beneficial interests in the assets of the Trust and investing the proceeds thereof in certain Debt Securities (as hereinafter defined) of the Debt Issuer (as hereinafter defined);

NOW, THEREFORE, it being the intention of the parties hereto that the Trust constitute a statutory trust under the Delaware Statutory Trust Act and that this Declaration constitute the governing instrument of such statutory trust, the Trustees declare that all assets contributed to the Trust will be held in trust for the benefit of the holders, from time to time, of the securities representing undivided beneficial interests in the assets of the Trust issued hereunder, subject to the provisions of this Declaration.

ARTICLE I

DEFINITIONS AND INTERPRETATION

SECTION 1.1. Definitions. Capitalized terms used in this Declaration but not defined in the preamble above have the respective meanings assigned to them in this Section 1.1. A term defined anywhere in this Declaration has the same meaning throughout.

"Administrative Trustee" means any Trustee other than the Delaware Trustee, acting in its capacity as Delaware Trustee.

"Affiliate" has the same meaning as given to that term in Rule 405 of the Securities Act or any successor rule thereunder.

"Business Day" means any day other than a day on which banking institutions in New York, New York are authorized or required by law to close.

"Certificate" means a Common Security Certificate or a Preferred Security Certificate.

"Common Security" means a security representing an undivided beneficial interest in the assets of the Trust with such terms as may be set out in any amendment to this Declaration.

"Common Security Certificate" means a certificate representing a Common Security.

"Covered Person" means any officer, director, shareholder, partner, member, representative, employee or agent of the Trust or its Affiliates.

"Debt Issuer" means Exelon Corporation, a Pennsylvania corporation, in its capacity as the issuer of the Debt Securities.

"Debt Securities" means the series of Debt Securities to be issued by the Debt Issuer.

"Delaware Trustee" has the meaning set forth in Section 3.1.

"Exchange Act" means the Securities and Exchange Act of 1934, as amended.

"Holder" means the Person in whose name a Certificate representing a Security is registered.

"Indemnified Person" means any Trustee, any Affiliate of any Trustee, or any officers, directors, shareholders, members, partners, employees, representatives or agents of any Trustee, or any employee or agent of the Trust or its Affiliates.

"Person" means a legal person, including any individual, corporation, estate, partnership, joint venture, association, joint stock company, limited liability company, trust, unincorporated association, or government or any agency or political subdivision thereof, or any other entity of whatever nature.

"Preferred Security" means a security representing an undivided beneficial interest in the assets of the Trust with such terms as may be set out in any amendment to this Declaration.

"Preferred Security Certificate" means a certificate representing a

Preferred Security.

"Securities" mean the Common Securities and the Preferred Securities.

"Securities Act" means the Securities Act of 1933, as amended.

"Sponsor" means Exelon Corporation, a Pennsylvania corporation, in its capacity as sponsor of the Trust.

"Trust Act" means Chapter 38 of Title 12 of the Delaware Code, 12 Del. C. Sections 3801 et seq., as the same may be amended from time to time.

"Trustee" or "Trustees" means each Person who has signed this Declaration as a trustee, so long as such Person shall continue in office in accordance with the terms hereof, and all other Persons who may from time to time be duly appointed, qualified and serving as Trustees in accordance with the provisions hereof, and references herein to a Trustee or the Trustees shall refer to such Person or Persons solely in their capacity as trustees hereunder.

SECTION 1.2. Interpretation. Each definition in this Declaration includes the singular and the plural, and references to the neuter gender include the masculine and feminine where appropriate. Terms which relate to accounting matters shall be interpreted in accordance with generally accepted accounting principles in effect from time to time. References to any statute mean such statute as amended at the time and include any successor legislation. The word "or" is not exclusive, and the words "herein," "hereof" and "hereunder" refer to this Declaration as a whole. The headings to the Articles and Sections are for convenience of reference and shall not affect the meaning or interpretation of this Declaration. References to Articles, Sections and Exhibits mean the Articles, Sections and Exhibits of this Declaration. The Exhibits are hereby incorporated by reference into, and shall be deemed a part of, this Declaration.

ARTICLE II

ORGANIZATION

SECTION 2.1. Name. The Trust created by this Declaration is named "Exelon Capital Trust II." The Trust's activities may be conducted under the name of the Trust or any other name deemed advisable by the Administrative Trustees.

SECTION 2.2. Office. The address of the principal office of the Trust is c/o Exelon Corporation, 10 South Dearborn Street - 37th Floor, P.O. Box 805379, Chicago, Illinois 60680. At any time, the Administrative Trustees may designate another principal office.

SECTION 2.3. Purpose. The exclusive purposes and functions of the Trust are (a) to issue and sell Securities and use the proceeds from such sale to acquire the Debt Securities and (b) except as otherwise limited herein, to engage in only those other activities necessary, or incidental thereto. The Trust shall not borrow money, issue debt or reinvest proceeds derived from investments or pledge any of its assets.

SECTION 2.4. Authority. Subject to the limitations provided in this Declaration, the Administrative Trustees shall have exclusive and complete authority to carry out the purposes of the Trust. An action taken by the Administrative Trustees in accordance with their powers shall constitute the act of, and serve to bind, the Trust. In dealing with the Administrative Trustees acting on behalf of the Trust, no Person shall be required to inquire into the authority of the Administrative Trustees to bind the Trust. Persons dealing with the Trust are entitled to rely conclusively on the power and authority of the Administrative Trustees as set forth in this Declaration.

SECTION 2.5. Powers of the Administrative Trustees. The Administrative Trustees shall have the exclusive power and authority to cause the Trust to engage in the following activities:

(a) to issue and sell the Preferred Securities and the Common Securities in accordance with this Declaration; provided, however, that the Trust may issue no more than one series of Preferred Securities and no more than one series of Common Securities, and, provided further, there shall be no interests in the Trust other than the Securities;

(b) in connection with the issue and sale of the Preferred Securities, at the direction of the Sponsor, to:

(i) execute and file with the Securities and Exchange Commission a registration statement on Form S-3 prepared by the Sponsor in relation to the Preferred Securities, including any amendments thereto prepared by the Sponsor;

(ii) determine the states in which to take appropriate action to qualify or register for sale all or part of the Preferred Securities and to take any and all such acts as they deem necessary or advisable to comply with the applicable laws of any of those states;

(iii) execute and file an application prepared by the Sponsor to the New York Stock Exchange, Inc. or any other national stock exchange or the NASDAQ Stock Market's National Market for listing upon notice of issuance of any Preferred Securities; and

(iv) execute and file with the Securities and Exchange Commission a registration statement on Form 8-A prepared by the Sponsor relating to the registration of the Preferred Securities under Section 12(b) of the Exchange Act, including any amendments thereto;

(c) to employ or otherwise engage employees and agents (who may be designated as officers with titles) and managers, contractors, advisors, and consultants and provide for reasonable compensation for such services;

(d) to incur expenses which are necessary or incidental to carry on any of the purposes of this Declaration;

(e) to negotiate the terms of, and enter into, an underwriting agreement with one or more underwriters with respect to the sale of the Preferred Securities of the Trust; and

(f) to execute all documents or instruments, perform all duties and powers, and do all things for and on behalf of the Trust in all matters necessary or incidental to the foregoing.

SECTION 2.6. Filing of Certificate of Trust. On or after the date of execution of this Declaration, the Trustees shall cause the Certificate of Trust for the Trust in the form attached hereto as Exhibit A to be filed with the Secretary of State of the State of Delaware.

SECTION 2.7. Duration of Trust. The Trust, absent dissolution pursuant to the provisions of Section 5.2, shall have existence for thirty years from the date hereof.

### ARTICLE III

#### TRUSTEES

SECTION 3.1. Trustees. The number of Trustees shall initially be two, and thereafter the number of Trustees shall be such number as shall be fixed from time to time by a written instrument signed by the Sponsor. The Sponsor is entitled to appoint or remove without cause any Trustee at any time; provided, that the number of Trustees shall in no event be less than two; and provided further that one Trustee, in the case of a natural person, shall be a person who is a resident of the State of Delaware or which, if not a natural person, has its principal place of business in the State of Delaware (the "Delaware Trustee"). Any Trustee may resign upon the giving of thirty (30) days prior written notice to the Sponsor.

Except as expressly set forth in this Declaration, any power of the Administrative Trustees may be exercised by, or with the consent of, a majority of the Administrative Trustees; provided that if there is only one Administrative Trustee, all powers of the Administrative Trustees shall be exercised by such one Administrative Trustee.

The initial Administrative Trustee shall be:

Thomas R. Miller of Exelon Corporation

The initial Delaware Trustee shall be:

Wachovia Trust Company, National Association  
One Rodney Square  
920 King Street, Suite 102  
Wilmington, DE 19801  
Attn: Rita Marie Ritrovato, Trust Officer



SECTION 3.2. Delaware Trustee. Notwithstanding any other provisions of this Declaration, the Delaware Trustee, in its capacity as Delaware Trustee, shall not be entitled to exercise any of the powers, nor shall the Delaware Trustee have any of the duties and responsibilities, of the Administrative Trustees described in this Declaration. The Delaware Trustee shall be a Trustee for the sole and limited purpose of fulfilling the requirements of Section 3807 of the Trust Act.

SECTION 3.3. Execution of Documents. (a) Any one of the Administrative Trustees is each authorized to execute on behalf of the Trust any documents that the Administrative Trustees have the power and authority to cause the Trust to execute pursuant to Section 2.5.

(b) The Administrative Trustees may, by power of attorney consistent with applicable law, delegate to any other natural person over the age of 21 their power for the purposes of signing any documents which the Administrative Trustees have power and authority to cause the Trust to execute pursuant to Section 2.5.

#### ARTICLE IV

##### LIMITATION OF LIABILITY OF HOLDERS OF SECURITIES, TRUSTEES OR OTHERS

SECTION 4.1. Exculpation. (a) No Indemnified Person shall be liable, responsible or accountable in damages or otherwise to the Trust or any Covered Person for any loss, damage or claim incurred by reason of any act or omission performed or omitted by such Indemnified Person in good faith on behalf of the Trust and in a manner such Indemnified Person reasonably believed to be within the scope of the authority conferred on such Indemnified Person by this Declaration or by law, except that an Indemnified Person shall be liable for any such loss, damage or claim incurred by reason of such Indemnified Person's gross negligence or willful misconduct with respect to such acts or omissions.

(b) An Indemnified Person shall be fully protected in relying in good faith upon the records of the Trust and upon such information, opinions, reports or statements presented to the Trust by any Person as to matters the Indemnified Person reasonably believes are within such other Person's professional or expert competence and who has been selected with reasonable care by or on behalf of the Trust, including information, opinions, reports or statements as to the value and amount of the assets, liabilities, profits, losses, or any other facts pertinent to the existence and amount of assets from which distributions to Holders might properly be paid.

SECTION 4.2. Fiduciary Duty. (a) To the extent that, at law or in equity, an Indemnified Person has duties (including fiduciary duties) and liabilities relating thereto to the Trust or to any other Covered Person, an Indemnified Person acting under this Declaration shall not be liable to the Trust or to any other Covered Person for its good faith reliance on the provisions of this Declaration. The provisions of this Declaration, to the extent that they restrict the duties and liabilities of an Indemnified Person otherwise existing at law or in equity, are agreed by the parties hereto to replace such other duties and liabilities of such Indemnified Person.

(b) Unless otherwise expressly provide herein:

(i) whenever a conflict or interest exists or arises between an Indemnified Person and a Covered Person, or

(ii) whenever this Declaration or any other agreement contemplated herein or therein provides that an Indemnified Person shall act in a manner that is, or provides terms that are, fair and reasonable to the Trust or any Holder,

then the Indemnified Person shall resolve such conflict of interest, take such action or provide such terms, considering in each case the relative interest of each party (including its own interest) to such conflict, agreement, transaction or situation and the benefits and burdens relating to such interests, any customary or accepted industry practices, and any applicable generally accepted accounting practices or principles. In the absence of bad faith by the Indemnified Person, the resolution, action or term so made, taken or provided by the Indemnified Person shall not constitute a breach of this Declaration or any other agreement contemplated herein or of any duty or obligation of the Indemnified Person at law or in equity or otherwise.

(c) Whenever in this Declaration an Indemnified Person is permitted or required to make a decision:

(i) in its "discretion" or under a grant of similar authority, the Indemnified Person shall be entitled to consider such interest and factors as it desires, including its own interests, and shall have no duty or obligation to give any consideration to any interest of, or factors affecting, the Trust or any other Person; or

(ii) in its "good faith" or under another express standard, the Indemnified Person shall act under such express standard and shall not be subject to any other or different standard imposed by this Declaration or by applicable law.

SECTION 4.3 Indemnification. (a) To the fullest extent permitted by applicable law, the Sponsor shall indemnify and hold harmless each Indemnified Person from and against any loss, damage or claim incurred by such Indemnified Person by reason of any act or omission performed or omitted by such Indemnified Person in good faith on behalf of the Trust and in a manner such Indemnified Person reasonably believed to be within the scope of authority conferred on such Indemnified Person by this Declaration, except that no Indemnified Person shall be entitled to be indemnified in respect of any loss, damage or claim incurred by such Indemnified Person by reason of gross negligence or willful misconduct with respect to such acts or omissions.

(b) To the fullest extent permitted by applicable law, expenses (including legal fees) incurred by an Indemnified Person in defending any claim, demand, action, suit or proceeding shall, from time to time, be advanced by the Sponsor prior to the final disposition of such claim, demand, action, suit or proceeding upon receipt by the Sponsor of an undertaking by or on behalf of the Indemnified Person to repay such amount if it shall be determined that the Indemnified Person is not entitled to be indemnified as authorized in Section 4.3(a).

(c) The provisions of this Section shall survive the termination of this Declaration and the Trust or the earlier resignation or removal of the Indemnified Persons.

SECTION 4.4. Other Businesses. Any Covered Person, the Sponsor and the Delaware Trustee may engage in or possess an interest in other business ventures of any nature or description, independently or with others, similar or dissimilar to the business of the Trust, and the Trust and the Holders shall have no rights by virtue of this Declaration in and to such independent ventures or the income or profits derived therefrom and the pursuit of any such venture, even if competitive with the business of the Trust, shall not be deemed wrongful or improper. No Covered Person, the Sponsor or the Delaware Trustee shall be obligated to present any particular investment or other opportunity to the Trust

even if such opportunity is of a character that, if presented to the Trust, could be taken by the Trust, and any Covered Person, the Sponsor and the Delaware Trustee shall have the right to take for its own account (individually or as a partner or fiduciary) or to recommend to others any such particular investment or other opportunity. Any Covered Person and the Delaware Trustee may engage or be interested in any financial or other transaction with the Sponsor or any Affiliate of the Sponsor, or may act on any committee or body of holders of securities or other obligations of the Sponsor or its Affiliates.

#### ARTICLE V

##### AMENDMENTS, TERMINATION, MISCELLANEOUS

SECTION 5.1. Amendments. At any time before the issue of any Securities, this Declaration may be amended by, and only by, a written instrument executed by a majority of the Administrative Trustees, the Delaware Trustee and the Sponsor.

SECTION 5.2 Termination of Trust. (a) The Trust shall dissolve:

(i) upon the bankruptcy of the Sponsor;

(ii) upon the filing of a certificate of dissolution or its equivalent with respect to the Sponsor or the revocation of the Sponsor's charter;

(iii) upon the entry of a decree of judicial dissolution of the Sponsor or the Trust; or

(iv) before the issue of any Securities, with the consent of at least a majority of the Administrative Trustees and the Sponsor.

(b) Upon dissolution, the Delaware Trustee shall apply any funds deposited with it to reimburse the Delaware Trustee for any filing fees or other expenses in connection with the termination of the Trust. Any remaining funds shall, after payment of any other expenses of the Trust, be returned to the Sponsor.

(c) As soon as is practicable after the occurrence of an event referred to in Section 5.2(a), the Trustees shall execute and the Delaware Trustee shall file a certificate of cancellation with the Secretary of State of the State of Delaware. Thereupon, the Trust shall terminate and this Declaration shall be of no further force or effect (except Section 4.3, which shall survive).

SECTION 5.3. Governing Law. This Declaration and the rights of the parties hereunder shall be governed by and interpreted in accordance with the laws of the State of Delaware and all rights and remedies shall be governed by such laws without regard to principles of conflict of laws.

SECTION 5.4. Successors and Assigns. Whenever in this Declaration any of the parties hereto is named or referred to, the successors and assigns of such party shall be deemed to be included, and all covenants and agreements in this Declaration by the Sponsor and the Trustees shall bind and inure to the benefit of their respective successors and assigns, whether so expressed.

SECTION 5.5. Partial Enforceability. If any provisions of this Declaration, or the application of such provision to any Person or circumstance, shall be held invalid, the remainder of this Declaration, or the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

SECTION 5.6. Counterparts. This Declaration may contain more than one counterpart of the signature page and this Declaration may be executed by the affixing of the signature of each of the Trustees to one of such counterpart signature pages. All of such counterpart signature pages shall be read as though one, and they shall have the same force and effect as though all of the signers had signed a single signature page.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK.]

IN WITNESS WHEREOF, the undersigned have caused this Declaration of Trust of Exelon Capital Trust II to be executed as of the day and year first above written.

TRUSTEES:

/s/ Thomas R. Miller

-----  
Name: Thomas R. Miller, as Administrative Trustee

WACHOVIA TRUST COMPANY, NATIONAL  
ASSOCIATION, as Delaware Trustee

By: /s/ Rita Marie Ritrovato

-----  
Name: Rita Marie Ritrovato  
Title: Trust Officer

SPONSOR:

EXELON CORPORATION, as Sponsor

By: /s/ Thomas R. Miller

-----  
Name: Thomas R. Miller  
Title: Vice President

EXHIBIT A

CERTIFICATE OF TRUST  
OF  
EXELON CAPITAL TRUST II

The undersigned, the trustees of Exelon Capital Trust II, desiring to form a statutory trust pursuant to Delaware Statutory Trust Act, 12 Del. C. Section 3801 et seq., hereby certify as follows:

1. Name. The name of the trust (the "Trust") formed hereby is Exelon Capital Trust II.

2. Delaware Trustee. The name and business address of the trustee of the Trust which has its principal place of business in the State of Delaware is as follows:

Wachovia Trust Company, National Association  
One Rodney Square  
920 King Street, Suite 102  
Wilmington, DE 19801  
Attn: Rita Marie Ritrovato, Trust Officer

3. Effective Date. This Certificate of Trust shall be effective upon filing.

IN WITNESS WHEREOF, the undersigned have executed this Certificate of Trust as of August 25, 2003.

/s/ Thomas R. Miller  
-----  
Thomas R. Miller, as Administrative Trustee

WACHOVIA TRUST COMPANY, NATIONAL  
ASSOCIATION, as Trustee

By: /s/ Rita Marie Ritrovato  
-----  
Name: Rita Marie Ritrovato  
Title: Trust Officer

DECLARATION OF TRUST  
OF  
EXELON CAPITAL TRUST III

THIS DECLARATION OF TRUST (this "Declaration"), dated and effective as of August 25, 2003, by the undersigned trustees (together with all other Persons from time to time duly appointed and serving as trustees in accordance with the provisions of this Declaration, the "Trustees"), Exelon Corporation, a Pennsylvania corporation, as trust sponsor (the "Sponsor"), and by the holders, from time to time, of undivided beneficial interests in the Trust to be issued pursuant to this Declaration;

W I T N E S S E T H:

WHEREAS, the parties hereto desire to establish a trust (the "Trust") pursuant to the Delaware Statutory Trust Act for the sole purpose of issuing and selling certain securities representing undivided beneficial interests in the assets of the Trust and investing the proceeds thereof in certain Debt Securities (as hereinafter defined) of the Debt Issuer (as hereinafter defined);

NOW, THEREFORE, it being the intention of the parties hereto that the Trust constitute a statutory trust under the Delaware Statutory Trust Act and that this Declaration constitute the governing instrument of such statutory trust, the Trustees declare that all assets contributed to the Trust will be held in trust for the benefit of the holders, from time to time, of the securities representing undivided beneficial interests in the assets of the Trust issued hereunder, subject to the provisions of this Declaration.

ARTICLE I

DEFINITIONS AND INTERPRETATION

SECTION 1.1. Definitions. Capitalized terms used in this Declaration but not defined in the preamble above have the respective meanings assigned to them in this Section 1.1. A term defined anywhere in this Declaration has the same meaning throughout.

"Administrative Trustee" means any Trustee other than the Delaware Trustee, acting in its capacity as Delaware Trustee.

"Affiliate" has the same meaning as given to that term in Rule 405 of the Securities Act or any successor rule thereunder.

"Business Day" means any day other than a day on which banking institutions in New York, New York are authorized or required by law to close.

"Certificate" means a Common Security Certificate or a Preferred Security Certificate.

"Common Security" means a security representing an undivided beneficial interest in the assets of the Trust with such terms as may be set out in any amendment to this Declaration.

"Common Security Certificate" means a certificate representing a Common Security.

"Covered Person" means any officer, director, shareholder, partner, member, representative, employee or agent of the Trust or its Affiliates.

"Debt Issuer" means Exelon Corporation, a Pennsylvania corporation, in its capacity as the issuer of the Debt Securities.

"Debt Securities" means the series of Debt Securities to be issued by the Debt Issuer.

"Delaware Trustee" has the meaning set forth in Section 3.1.

"Exchange Act" means the Securities and Exchange Act of 1934, as amended.

"Holder" means the Person in whose name a Certificate representing a Security is registered.

"Indemnified Person" means any Trustee, any Affiliate of any Trustee, or any officers, directors, shareholders, members, partners, employees, representatives or agents of any Trustee, or any employee or agent of the Trust or its Affiliates.

"Person" means a legal person, including any individual, corporation, estate, partnership, joint venture, association, joint stock company, limited liability company, trust, unincorporated association, or government or any agency or political subdivision thereof, or any other entity of whatever nature.

"Preferred Security" means a security representing an undivided beneficial interest in the assets of the Trust with such terms as may be set out in any amendment to this Declaration.

"Preferred Security Certificate" means a certificate representing a Preferred Security.

"Securities" mean the Common Securities and the Preferred

Securities.

"Securities Act" means the Securities Act of 1933, as amended.

"Sponsor" means Exelon Corporation, a Pennsylvania corporation, in its capacity as sponsor of the Trust.

"Trust Act" means Chapter 38 of Title 12 of the Delaware Code, 12 Del. C. Sections 3801 et seq., as the same may be amended from time to time.

"Trustee" or "Trustees" means each Person who has signed this Declaration as a trustee, so long as such Person shall continue in office in accordance with the terms hereof, and all other Persons who may from time to time be duly appointed, qualified and serving as Trustees in accordance with the provisions hereof, and references herein to a Trustee or the Trustees shall refer to such Person or Persons solely in their capacity as trustees hereunder.

SECTION 1.2. Interpretation. Each definition in this Declaration includes the singular and the plural, and references to the neuter gender include the masculine and feminine where appropriate. Terms which relate to accounting matters shall be interpreted in accordance with generally accepted accounting principles in effect from time to time. References to any statute mean such statute as amended at the time and include any successor legislation. The word "or" is not exclusive, and the words "herein," "hereof" and "hereunder" refer to this Declaration as a whole. The headings to the Articles and Sections are for convenience of reference and shall not affect the meaning or interpretation of this Declaration. References to Articles, Sections and Exhibits mean the Articles, Sections and Exhibits of this Declaration. The Exhibits are hereby incorporated by reference into, and shall be deemed a part of, this Declaration.



ARTICLE II

ORGANIZATION

SECTION 2.1. Name. The Trust created by this Declaration is named "Exelon Capital Trust III." The Trust's activities may be conducted under the name of the Trust or any other name deemed advisable by the Administrative Trustees.

SECTION 2.2. Office. The address of the principal office of the Trust is c/o Exelon Corporation, 10 South Dearborn Street - 37th Floor, P.O. Box 805379, Chicago, Illinois 60680. At any time, the Administrative Trustees may designate another principal office.

SECTION 2.3. Purpose. The exclusive purposes and functions of the Trust are (a) to issue and sell Securities and use the proceeds from such sale to acquire the Debt Securities and (b) except as otherwise limited herein, to engage in only those other activities necessary, or incidental thereto. The Trust shall not borrow money, issue debt or reinvest proceeds derived from investments or pledge any of its assets.

SECTION 2.4. Authority. Subject to the limitations provided in this Declaration, the Administrative Trustees shall have exclusive and complete authority to carry out the purposes of the Trust. An action taken by the Administrative Trustees in accordance with their powers shall constitute the act of, and serve to bind, the Trust. In dealing with the Administrative Trustees acting on behalf of the Trust, no Person shall be required to inquire into the authority of the Administrative Trustees to bind the Trust. Persons dealing with the Trust are entitled to rely conclusively on the power and authority of the Administrative Trustees as set forth in this Declaration.

SECTION 2.5. Powers of the Administrative Trustees. The Administrative Trustees shall have the exclusive power and authority to cause the Trust to engage in the following activities:

(a) to issue and sell the Preferred Securities and the Common Securities in accordance with this Declaration; provided, however, that the Trust may issue no more than one series of Preferred Securities and no more than one series of Common Securities, and, provided further, there shall be no interests in the Trust other than the Securities;

(b) in connection with the issue and sale of the Preferred Securities, at the direction of the Sponsor, to:

(i) execute and file with the Securities and Exchange Commission a registration statement on Form S-3 prepared by the Sponsor in relation to the Preferred Securities, including any amendments thereto prepared by the Sponsor;

(ii) determine the states in which to take appropriate action to qualify or register for sale all or part of the Preferred Securities and to take any and all such acts as they deem necessary or advisable to comply with the applicable laws of any of those states;

(iii) execute and file an application prepared by the Sponsor to the New York Stock Exchange, Inc. or any other national stock exchange or the NASDAQ Stock Market's National Market for listing upon notice of issuance of any Preferred Securities; and

(iv) execute and file with the Securities and Exchange Commission a registration statement on Form 8-A prepared by the Sponsor relating to the registration of the Preferred Securities under Section 12(b) of the Exchange Act, including any amendments thereto;

(c) to employ or otherwise engage employees and agents (who may be designated as officers with titles) and managers, contractors, advisors, and consultants and provide for reasonable compensation for such services;

(d) to incur expenses which are necessary or incidental to carry on any of the purposes of this Declaration;

(e) to negotiate the terms of, and enter into, an underwriting agreement with one or more underwriters with respect to the sale of the Preferred Securities of the Trust; and

(f) to execute all documents or instruments, perform all duties and powers, and do all things for and on behalf of the Trust in all matters necessary or incidental to the foregoing.

SECTION 2.6. Filing of Certificate of Trust. On or after the date of execution of this Declaration, the Trustees shall cause the Certificate of Trust for the Trust in the form attached hereto as Exhibit A to be filed with the Secretary of State of the State of Delaware.

SECTION 2.7. Duration of Trust. The Trust, absent dissolution pursuant to the provisions of Section 5.2, shall have existence for thirty years from the date hereof.

### ARTICLE III

#### TRUSTEES

SECTION 3.1. Trustees. The number of Trustees shall initially be two, and thereafter the number of Trustees shall be such number as shall be fixed from time to time by a written instrument signed by the Sponsor. The Sponsor is entitled to appoint or remove without cause any Trustee at any time; provided, that the number of Trustees shall in no event be less than two; and provided further that one Trustee, in the case of a natural person, shall be a person who is a resident of the State of Delaware or which, if not a natural person, has its principal place of business in the State of Delaware (the "Delaware Trustee"). Any Trustee may resign upon the giving of thirty (30) days prior written notice to the Sponsor.

Except as expressly set forth in this Declaration, any power of the Administrative Trustees may be exercised by, or with the consent of, a majority of the Administrative Trustees; provided that if there is only one Administrative Trustee, all powers of the Administrative Trustees shall be exercised by such one Administrative Trustee.

The initial Administrative Trustee shall be:

Thomas R. Miller of Exelon Corporation

The initial Delaware Trustee shall be:

Wachovia Trust Company, National Association  
One Rodney Square  
920 King Street, Suite 102  
Wilmington, DE 19801  
Attn: Rita Marie Ritrovato, Trust Officer

SECTION 3.2. Delaware Trustee. Notwithstanding any other provisions of this Declaration, the Delaware Trustee, in its capacity as Delaware Trustee, shall not be entitled to exercise any of the powers, nor shall the Delaware Trustee have any of the duties and responsibilities, of the Administrative Trustees described in this Declaration. The Delaware Trustee shall be a Trustee for the sole and limited purpose of fulfilling the requirements of Section 3807 of the Trust Act.

SECTION 3.3. Execution of Documents. (a) Any one of the Administrative Trustees is each authorized to execute on behalf of the Trust any documents that the Administrative Trustees have the power and authority to cause the Trust to execute pursuant to Section 2.5.

(b) The Administrative Trustees may, by power of attorney consistent with applicable law, delegate to any other natural person over the age of 21 their power for the purposes of signing any documents which the Administrative Trustees have power and authority to cause the Trust to execute pursuant to Section 2.5.

#### ARTICLE IV

##### LIMITATION OF LIABILITY OF HOLDERS OF SECURITIES, TRUSTEES OR OTHERS

SECTION 4.1. Exculpation. (a) No Indemnified Person shall be liable, responsible or accountable in damages or otherwise to the Trust or any Covered Person for any loss, damage or claim incurred by reason of any act or omission performed or omitted by such Indemnified Person in good faith on behalf of the Trust and in a manner such Indemnified Person reasonably believed to be within the scope of the authority conferred on such Indemnified Person by this Declaration or by law, except that an Indemnified Person shall be liable for any such loss, damage or claim incurred by reason of such Indemnified Person's gross negligence or willful misconduct with respect to such acts or omissions.

(b) An Indemnified Person shall be fully protected in relying in good faith upon the records of the Trust and upon such information, opinions, reports or statements presented to the Trust by any Person as to matters the Indemnified Person reasonably believes are within such other Person's professional or expert competence and who has been selected with reasonable care by or on behalf of the Trust, including information, opinions, reports or statements as to the value and amount of the assets, liabilities, profits, losses, or any other facts pertinent to the existence and amount of assets from which distributions to Holders might properly be paid.

SECTION 4.2. Fiduciary Duty. (a) To the extent that, at law or in equity, an Indemnified Person has duties (including fiduciary duties) and liabilities relating thereto to the Trust or to any other Covered Person, an Indemnified Person acting under this Declaration shall not be liable to the Trust or to any other Covered Person for its good faith reliance on the provisions of this Declaration. The provisions of this Declaration, to the extent that they restrict the duties and liabilities of an Indemnified Person otherwise existing at law or in equity, are agreed by the parties hereto to replace such other duties and liabilities of such Indemnified Person.

(b) Unless otherwise expressly provide herein:

(i) whenever a conflict or interest exists or arises between an Indemnified Person and a Covered Person, or

(ii) whenever this Declaration or any other agreement contemplated herein or therein provides that an Indemnified Person shall act in a manner that is, or provides terms that are, fair and reasonable to the Trust or any Holder,

then the Indemnified Person shall resolve such conflict of interest, take such action or provide such terms, considering in each case the relative interest of each party (including its own interest) to such conflict, agreement, transaction or situation and the benefits and burdens relating to such interests, any customary or accepted industry practices, and any applicable generally accepted accounting practices or principles. In the absence of bad faith by the Indemnified Person, the resolution, action or term so made, taken or provided by the Indemnified Person shall not constitute a breach of this Declaration or any other agreement contemplated herein or of any duty or obligation of the Indemnified Person at law or in equity or otherwise.

(c) Whenever in this Declaration an Indemnified Person is permitted or required to make a decision:

(i) in its "discretion" or under a grant of similar authority, the Indemnified Person shall be entitled to consider such interest and factors as it desires, including its own interests, and shall have no duty or obligation to give any consideration to any interest of, or factors affecting, the Trust or any other Person; or

(ii) in its "good faith" or under another express standard, the Indemnified Person shall act under such express standard and shall not be subject to any other or different standard imposed by this Declaration or by applicable law.

SECTION 4.3 Indemnification. (a) To the fullest extent permitted by applicable law, the Sponsor shall indemnify and hold harmless each Indemnified Person from and against any loss, damage or claim incurred by such Indemnified Person by reason of any act or omission performed or omitted by such Indemnified Person in good faith on behalf of the Trust and in a manner such Indemnified Person reasonably believed to be within the scope of authority conferred on such Indemnified Person by this Declaration, except that no Indemnified Person shall be entitled to be indemnified in respect of any loss, damage or claim incurred by such Indemnified Person by reason of gross negligence or willful misconduct with respect to such acts or omissions.

(b) To the fullest extent permitted by applicable law, expenses (including legal fees) incurred by an Indemnified Person in defending any claim, demand, action, suit or proceeding shall, from time to time, be advanced by the Sponsor prior to the final disposition of such claim, demand, action, suit or proceeding upon receipt by the Sponsor of an undertaking by or on behalf of the Indemnified Person to repay such amount if it shall be determined that the Indemnified Person is not entitled to be indemnified as authorized in Section 4.3(a).

(c) The provisions of this Section shall survive the termination of this Declaration and the Trust or the earlier resignation or removal of the Indemnified Persons.

SECTION 4.4. Other Businesses. Any Covered Person, the Sponsor and the Delaware Trustee may engage in or possess an interest in other business ventures of any nature or description, independently or with others, similar or dissimilar to the business of the Trust, and the Trust and the Holders shall have no rights by virtue of this Declaration in and to such independent ventures or the income or profits derived therefrom and the pursuit of any such venture, even if competitive with the business of the Trust, shall not be deemed wrongful or improper. No Covered Person, the Sponsor or the Delaware Trustee shall be obligated to present any particular investment or other opportunity to the Trust

even if such opportunity is of a character that, if presented to the Trust, could be taken by the Trust, and any Covered Person, the Sponsor and the Delaware Trustee shall have the right to take for its own account (individually or as a partner or fiduciary) or to recommend to others any such particular investment or other opportunity. Any Covered Person and the Delaware Trustee may engage or be interested in any financial or other transaction with the Sponsor or any Affiliate of the Sponsor, or may act on any committee or body of holders of securities or other obligations of the Sponsor or its Affiliates.

#### ARTICLE V

##### AMENDMENTS, TERMINATION, MISCELLANEOUS

SECTION 5.1. Amendments. At any time before the issue of any Securities, this Declaration may be amended by, and only by, a written instrument executed by a majority of the Administrative Trustees, the Delaware Trustee and the Sponsor.

SECTION 5.2 Termination of Trust. (a) The Trust shall dissolve:

(i) upon the bankruptcy of the Sponsor;

(ii) upon the filing of a certificate of dissolution or its equivalent with respect to the Sponsor or the revocation of the Sponsor's charter;

(iii) upon the entry of a decree of judicial dissolution of the Sponsor or the Trust; or

(iv) before the issue of any Securities, with the consent of at least a majority of the Administrative Trustees and the Sponsor.

(b) Upon dissolution, the Delaware Trustee shall apply any funds deposited with it to reimburse the Delaware Trustee for any filing fees or other expenses in connection with the termination of the Trust. Any remaining funds shall, after payment of any other expenses of the Trust, be returned to the Sponsor.

(c) As soon as is practicable after the occurrence of an event referred to in Section 5.2(a), the Trustees shall execute and the Delaware Trustee shall file a certificate of cancellation with the Secretary of State of the State of Delaware. Thereupon, the Trust shall terminate and this Declaration shall be of no further force or effect (except Section 4.3, which shall survive).

SECTION 5.3. Governing Law. This Declaration and the rights of the parties hereunder shall be governed by and interpreted in accordance with the laws of the State of Delaware and all rights and remedies shall be governed by such laws without regard to principles of conflict of laws.

SECTION 5.4. Successors and Assigns. Whenever in this Declaration any of the parties hereto is named or referred to, the successors and assigns of such party shall be deemed to be included, and all covenants and agreements in this Declaration by the Sponsor and the Trustees shall bind and inure to the benefit of their respective successors and assigns, whether so expressed.

SECTION 5.5. Partial Enforceability. If any provisions of this Declaration, or the application of such provision to any Person or circumstance, shall be held invalid, the remainder of this Declaration, or the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

SECTION 5.6. Counterparts. This Declaration may contain more than one counterpart of the signature page and this Declaration may be executed by the affixing of the signature of each of the Trustees to one of such counterpart signature pages. All of such counterpart signature pages shall be read as though one, and they shall have the same force and effect as though all of the signers had signed a single signature page.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK.]

IN WITNESS WHEREOF, the undersigned have caused this Declaration of Trust of Exelon Capital Trust III to be executed as of the day and year first above written.

TRUSTEES:

/s/ Thomas R. Miller  
-----  
Name: Thomas R. Miller, as Administrative Trustee

WACHOVIA TRUST COMPANY, NATIONAL ASSOCIATION, as Delaware Trustee

By: /s/ Rita Marie Ritrovato  
-----  
Name: Rita Marie Ritrovato  
Title: Trust Officer

SPONSOR:

EXELON CORPORATION, as Sponsor

By: /s/ Thomas R. Miller  
-----  
Name: Thomas R. Miller  
Title: Vice President

EXHIBIT A

CERTIFICATE OF TRUST  
OF  
EXELON CAPITAL TRUST III

The undersigned, the trustees of Exelon Capital Trust II, desiring to form a statutory trust pursuant to Delaware Statutory Trust Act, 12 Del. C. Section 3801 et seq., hereby certify as follows:

1. Name. The name of the trust (the "Trust") formed hereby is Exelon Capital Trust III.

2. Delaware Trustee. The name and business address of the trustee of the Trust which has its principal place of business in the State of Delaware is as follows:

Wachovia Trust Company, National Association  
One Rodney Square  
920 King Street, Suite 102  
Wilmington, DE 19801  
Attn: Rita Marie Ritrovato, Trust Officer

3. Effective Date. This Certificate of Trust shall be effective upon filing.

IN WITNESS WHEREOF, the undersigned have executed this Certificate of Trust as of August 25, 2003.

/s/ Thomas R. Miller  
-----  
Thomas R. Miller, as Administrative Trustee

WACHOVIA TRUST COMPANY, NATIONAL  
ASSOCIATION, as Trustee

By: /s/ Rita Marie Ritrovato  
-----  
Name: Rita Marie Ritrovato  
Title: Trust Officer



EXELON CAPITAL TRUST \_\_

AMENDED AND RESTATED DECLARATION OF TRUST

among

EXELON CORPORATION, as Sponsor,

WACHOVIA TRUST COMPANY, NATIONAL ASSOCIATION,  
as Delaware Trustee and Property Trustee,

and

\_\_\_\_\_, \_\_\_\_\_ and \_\_\_\_\_  
as Administrative Trustees

Dated as of \_\_\_\_\_, 200\_

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Section of Trust Indenture Act of 1939, as amended -----	Section of Amended and Restated Declaration of Trust -----
310(a)(1)	8.07
310(a)(2)	8.07
310(a)(3)	8.09
310(a)(4)	2.07(B)
310(b)	8.08
311(a)	8.13
311(b)	8.13
312(a)	5.07
312(b)	5.07
312(c)	5.07
313(a)	8.14
313(b)	8.14
313(c)	8.14
313(d)	8.14
314(a)	8.15
314(b)	Inapplicable
314(c)(1)	8.16, 1.01
314(c)(2)	8.16, 1.01
314(c)(3)	Inapplicable
314(d)	Inapplicable
314(e)	1.01
315(a)	8.01(a), 8.03(i)
315(b)	8.02, 10.08
315(c)	8.01(a)
315(d)	8.01, 8.03
315(e)	Inapplicable
316(a)	Inapplicable
316(a)(1)(A)	Inapplicable
316(a)(1)(B)	Inapplicable
316(a)(2)	Inapplicable
316(b)	Inapplicable
316(c)	Inapplicable
317(a)(1)	Inapplicable
317(a)(2)	Inapplicable

\* This Cross-Reference Table does not constitute part of the Amended and Restated Declaration of Trust and shall not affect the interpretation of any of its

AMENDED AND RESTATED DECLARATION OF TRUST

THIS AMENDED AND RESTATED DECLARATION OF TRUST is made as of \_\_\_\_\_, 200\_\_, by and among (i) Exelon Corporation, a Pennsylvania corporation (the "Sponsor" or the "Company"), (ii) Wachovia Trust Company, National Association, a national banking association, as Delaware trustee and property trustee (the "Delaware Trustee" and the "Property Trustee," respectively, and, in its separate corporate capacity and not in its capacity as Delaware Trustee or Property Trustee, the "Bank"), (iii) \_\_\_\_\_, an individual, \_\_\_\_\_, an individual, and \_\_\_\_\_, an individual, as administrative trustees (each an "Administrative Trustee" and together the "Administrative Trustees") (the Property Trustee, the Delaware Trustee and the Administrative Trustees referred to collectively as the "Trustees") and (iv) the several Holders, as hereinafter defined.

WITNESSETH:

WHEREAS, the Sponsor, the Delaware Trustee and \_\_\_\_\_, as Administrative Trustee, have heretofore duly declared and established a statutory trust pursuant to the Delaware Statutory Trust Act by entering into that certain Declaration of Trust, dated as of August \_\_, 2003 (the "Original Declaration of Trust"), and by the execution and filing by the Delaware Trustee and \_\_\_\_\_, as Administrative Trustee, with the Secretary of State of the State of Delaware of the Certificate of Trust, dated and filed on August \_\_, 2003 (the "Certificate of Trust"); and

WHEREAS, the parties hereto desire to amend and restate the Original Declaration of Trust in its entirety as set forth herein to provide for, among other things, (i) the addition of the Bank, as Property Trustee, and \_\_\_\_\_ and \_\_\_\_\_, as Administrative Trustees of the Trust, (ii) the acquisition by the Trust from the Sponsor of all of the right, title and interest in the Debentures, (iii) the issuance of the Common Securities by the Trust to the Sponsor, and (iv) the issuance and sale of the Preferred Securities by the Trust pursuant to the Underwriting Agreement.

NOW THEREFORE, in consideration of the agreements and obligations set forth herein and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, each party, for the benefit of the other parties and for the benefit of the Securityholders, hereby amends and restates the Original Declaration of Trust in its entirety and agrees as follows:

Article 1  
Defined Terms

Section 1.01 Definitions For all purposes of this Amended and Restated Declaration of Trust, except as otherwise expressly provided or unless the context otherwise requires:

(a) the terms defined in this Article 1 have the meanings assigned to them in this Article 1 and include the plural as well as the singular;

(b) all other terms used herein that are defined in the Trust Indenture Act, either directly or by reference therein, have the meanings assigned to them therein;

(c) unless the context otherwise requires, any reference to an "Article" or a "Section" refers to an Article or a Section, as the case may be, of this Amended and Restated Declaration of Trust; and

(d) the words "herein," "hereof" and "hereunder" and other words of similar import refer to this Amended and Restated Declaration of Trust as a whole and not to any particular Article, Section or other subdivision.

"Act" has the meaning specified in Section 6.08.

"Additional Amounts" has the meaning specified in Section

4.01(b).

"Administrative Trustee" means each of the individuals identified as an "Administrative Trustee" in the preamble to this Amended and Restated Declaration of Trust solely in their capacities as Administrative Trustees of the Trust and not in their individual capacities, or such trustee's successor(s) in interest in such capacity, or any successor "Administrative Trustee" appointed as herein provided.

"Affiliate" of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For the purposes of this definition, "control" when used with respect to any specified Person means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms "controlling" and "controlled" have meanings correlative to the foregoing.

"Amended and Restated Declaration of Trust" means this Amended and Restated Declaration of Trust, as the same may be modified, amended or supplemented in accordance with the applicable provisions hereof, including all exhibits hereto, and including, for all purposes of this Amended and Restated Declaration of Trust and any modification, amendment or supplement hereto, the provisions of the Trust Indenture Act that are deemed to be a part of and govern this Amended and Restated Declaration of Trust and any such modification, amendment or supplement, respectively.

"Bank" has the meaning specified in the preamble to this Amended and Restated Declaration of Trust.

"Bankruptcy Event" means, with respect to any Person:

(a) the entry of a decree or order by a court having jurisdiction in the premises judging such Person a bankrupt or insolvent, or approving as properly filed a petition seeking reorganization, arrangement, adjudication or composition of or in respect of such Person under federal bankruptcy law or any other applicable federal or state law, or appointing a receiver, liquidator, assignee, trustee, sequestrator or other similar official of such Person or of any substantial part of its property, or ordering the winding up or liquidation of its affairs, and the continuance of such decree or order unstayed and in effect for a period of 60 consecutive days; or

(b) the institution by such Person of proceedings to be adjudicated a bankrupt or insolvent, or the consent by it to the institution of bankruptcy or insolvency proceedings against it, or the filing by it of a petition or answer or consent seeking reorganization or relief under federal bankruptcy law or any other applicable federal or state law, or the consent by it to the filing of such petition or to the appointment of a receiver, liquidator, assignee, trustee, sequestrator or similar official of such Person or of any substantial part of its property, or the making by it of an assignment for the benefit of creditors, or the admission by it in writing of its inability to pay its debts generally as they become due, or the taking of action by such Person in furtherance of any such action.

"Bankruptcy Laws" has the meaning specified in Section 10.09.

"Board Resolution" means a copy of a resolution certified by the Secretary or an Assistant Secretary of the Sponsor to have been duly adopted by the Sponsor's Board of Directors or a duly authorized committee thereof and to be in full force and effect on the date of such certification, and delivered to the Trustees.

"Book-Entry Preferred Securities Certificates" means certificates representing Preferred Securities issued in global, fully registered form to the Clearing Agency as described in Section 5.11.

"Business Day" means a day other than a Saturday or a Sunday or any other day on which banking institutions in Wilmington, Delaware or New York, New York are authorized or obligated by law, executive order or regulation to close, or a day on which the Corporate Trust Office is closed for business.

"Certificate Depository Agreement" means the Letter of Representations among the Trust, the Property Trustee and The Depository Trust Company, as the initial Clearing Agency, dated \_\_\_\_\_, 200\_, relating to the Preferred Securities Certificates, as the same may be amended and supplemented from time to time.

"Certificate of Trust" has the meaning specified in the recitals to this Amended and Restated Declaration of Trust.

"Clearing Agency" means an organization registered as a "clearing agency" pursuant to Section 17A of the Exchange Act. The Depository Trust Company will be the initial Clearing Agency.

"Clearing Agency Participant" means a broker, dealer, bank, other financial institution or other Person for whom from time to time a Clearing Agency effects book-entry transfers and pledges of securities deposited with the Clearing Agency.

"Code" means the Internal Revenue Code of 1986, as amended.

"Commission" means the Securities and Exchange Commission, as from time to time constituted, created under the Exchange Act, or, if at any time after the execution of this instrument such Commission is not existing and performing the duties now assigned to it under the Trust Indenture Act, then the body performing such duties at such time.

"Common Securities Certificate" means a certificate evidencing ownership of a Common Security or Securities, substantially in the form attached as Exhibit A.

"Common Security" means an undivided beneficial interest in the assets of the Trust having a Liquidation Amount of \$\_\_\_\_\_ and having the rights provided therefor in this Amended and Restated Declaration of Trust, including the right to receive Distributions and a Liquidation Distribution as provided herein.

"Corporate Trust Office" means the office of the Property Trustee or the Delaware Trustee, as the case may be, at which its corporate trust business shall be principally administered, which office as of the date hereof, in each such case, is located at One Rodney Square, 920 King Street, Suite 102, Wilmington, DE 19801, Attention: Corporate Trust Administration/Delaware, Facsimile No.: (302) 888-7544.

"Debentures" means the \$\_\_\_\_\_ aggregate principal amount of the Sponsor's \_\_\_% Deferrable Interest Subordinated Debentures due \_\_\_\_\_ issued pursuant to the Subordinated Indenture.

"Definitive Preferred Securities Certificates" means either or both (as the context requires) of (i) Preferred Securities Certificates issued in certificated, fully registered form as provided in Section 5.11(a) and (ii) Preferred Securities Certificates issued in certificated, fully registered form as provided in Section 5.13.

"Delaware Statutory Trust Act" means Chapter 38 of Title 12 of the Delaware Code, 12 Del. Code Section 3801 et seq., as it may be amended from time to time.

"Delaware Trustee" means the commercial bank or trust company or any other Person identified as the "Delaware Trustee" and has the meaning specified in the preamble to this Amended and Restated Declaration of Trust solely in its capacity as Delaware Trustee of the Trust and not in its individual capacity, or its successor in interest in such capacity, or any successor Delaware Trustee appointed as herein provided.

"Distribution Date" has the meaning specified in Section 4.01(a).

"Distributions" means amounts payable in respect of the Trust Securities as provided in Section 4.01.

"Early Termination Event" has the meaning specified in Section 9.02.

"Event of Default" means the occurrence of an Indenture Event of Default (whatever the reason for such Event of Default and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body).

"Exchange Act" means the Securities Exchange Act of 1934, as amended.

"Expense Agreement" means the Agreement as to Expenses and Liabilities between the Guarantor and the Trust, substantially in the form attached as Exhibit B, as amended from time to time.

"Extension Period" has the meaning specified in Section 4.01(b).

"Guarantee" means the Preferred Securities Guarantee Agreement executed and delivered by the Guarantor and Wachovia Trust Company, National Association, as Guarantee Trustee, contemporaneously with the execution and delivery of this Amended and Restated Declaration of Trust, for the benefit of the Holders of the Preferred Securities, as amended from time to time.

"Guarantor" means the Sponsor, its successors and assigns.

"Indenture Certificate" means the officer's certificate of the Sponsor dated as of June 24, 2003 and issued pursuant to Section 2.01 of the Subordinated Indenture.

"Indenture Event of Default" means an "Event of Default" as defined in the Subordinated Indenture.

"Indenture Redemption Date" means a date on which Debentures are redeemed by the Sponsor pursuant to the Subordinated Indenture, whether upon repayment, in whole or part, at maturity or upon early redemption (either at the Sponsor's option or pursuant to a Special Event).

"Indenture Trustee" means the trustee under the Subordinated Indenture.



"Issue Date" means the date of the delivery of the Trust Securities.

"Legal Action" has the meaning specified in Section 2.07(A)(iv).

"Lien" means any lien, pledge, charge, encumbrance, mortgage, deed of trust, adverse ownership interest, hypothecation, assignment, security interest or preference, priority or other security agreement or preferential arrangement of any kind or nature whatsoever.

"Like Amount" means (i) Trust Securities having a Liquidation Amount equal to the principal amount of Debentures to be contemporaneously redeemed in accordance with the Subordinated Indenture and the proceeds of which will be used to pay the applicable Redemption Price of such Trust Securities and (ii) Debentures having a principal amount equal to the Liquidation Amount of the Trust Securities of the Holder to whom such Debentures are distributed.

"Liquidation Amount" means the stated amount of \$\_\_\_\_\_ per Trust Security.

"Liquidation Date" means the date on which Debentures are to be distributed to Holders of Trust Securities in connection with a dissolution and liquidation of the Trust pursuant to Section 9.04.

"Liquidation Distribution" has the meaning specified in Section 9.05.

"Maturity Redemption Price" means, with respect to a redemption of Trust Securities, an amount equal to the principal of and accrued and unpaid interest on the Debentures as of the maturity date thereof.

"Officers' Certificate" means a certificate signed by the Chairman of the Board, a Vice Chairman of the Board, the President or a Vice President, and by the Treasurer, an Assistant Treasurer, the Secretary or an Assistant Secretary, of the Sponsor, and delivered to the appropriate Trustee. One of the officers signing an Officers' Certificate given pursuant to Section 8.16 shall be the principal executive, financial or accounting officer of the Sponsor. An Officers' Certificate delivered with respect to compliance with a condition or covenant provided for in this Amended and Restated Declaration of Trust shall include:

(a) a statement that each officer signing the Officers' Certificate has read the covenant or condition and the definitions relating thereto;

(b) a brief statement of the nature and scope of the examination or investigation undertaken by each officer in rendering the Officers' Certificate;

(c) a statement that each such officer has made such examination or investigation as is necessary, in such officer's opinion, to express an informed opinion as to whether or not such covenant or condition has been complied with; and

(d) a statement as to whether, in the opinion of each such officer, such condition or covenant has been complied with.

"Opinion of Counsel" means a written opinion of counsel, who may be counsel for the Trust, the Trustees, the Guarantor or the Sponsor, but not an employee of the Trust or the Trustees, and who shall be reasonably acceptable to the Property Trustee. Any Opinion of Counsel pertaining to federal income tax matters may rely on published rulings of the Internal Revenue Service.

"Optional Redemption Price" means, with respect to a redemption of Trust Securities, an amount equal to the greater of:

(a) 100% of the principal amount of the Debentures being redeemed, or

(b) as determined by the Quotation Agent, the sum of the present values of scheduled payments of principal and interest thereon for the Remaining Life, discounted to the redemption date on a \_\_\_\_\_ basis (assuming a 360-day year consisting of twelve 30-day months) at the Treasury Rate plus \_\_%,

plus, in either case, accrued and unpaid interest on the Debentures being redeemed, including any Compounded Interest and Additional Amounts (as such terms are defined in the Indenture Certificate), to the redemption date.

"Original Declaration of Trust" has the meaning specified in the recitals to this Amended and Restated Declaration of Trust.

"Outstanding", when used with respect to Preferred Securities, means, as of the date of determination, all Preferred Securities theretofore authenticated and delivered under this Amended and Restated Declaration of Trust, except:

(a) Preferred Securities theretofore canceled by the Securities Registrar or delivered to the Securities Registrar for cancellation;

(b) Preferred Securities for whose payment or redemption money in the necessary amount has been theretofore deposited with the Property Trustee or any Paying Agent for the Holders of such Preferred Securities; provided that if such Preferred Securities are to be redeemed, notice of such redemption has been duly given pursuant to this Amended and Restated Declaration of Trust; and

(c) Preferred Securities in exchange for or in lieu of which other Preferred Securities have been authenticated and delivered pursuant to this Amended and Restated Declaration of Trust;

provided, however, that in determining whether the Holders of the requisite Liquidation Amount of the Outstanding Preferred Securities have given any request, demand, authorization, direction, notice, consent or waiver hereunder, Preferred Securities owned by the Sponsor, the Holder of the Common Securities, the Guarantor, any Administrative Trustee or any Affiliate of the Sponsor, the Guarantor or any Administrative Trustee shall be disregarded and deemed not to be Outstanding, except that (i) in determining whether any Trustee shall be protected in relying upon any such request, demand, authorization, direction, notice, consent or waiver, only Preferred Securities which such Trustee knows to be so owned shall be so disregarded and (ii) the foregoing shall not apply at any time when all of the Outstanding Preferred Securities are owned by the Sponsor, the Holder of the Common Securities, the Guarantor, one or more Administrative Trustees and/or any such Affiliate. Preferred Securities so owned which have been pledged in good faith may be regarded as Outstanding if the pledgee establishes to the satisfaction of the Administrative Trustees the pledgee's right so to act with respect to such Preferred Securities and that the pledgee is not the Sponsor, the Guarantor or any Affiliate of the Sponsor or the Guarantor.

"Owner" means each Person who is the beneficial owner of a Book-Entry Preferred Securities Certificate as reflected in the records of the Clearing Agency or, if a Clearing Agency Participant is not the Owner, then as reflected in the records of a Person maintaining an account with such Clearing Agency (directly or indirectly, in accordance with the rules of such Clearing Agency).

"Paying Agent" means any paying agent or co-paying agent appointed pursuant to Section 5.09 and shall initially be the Property Trustee.

"Payment Account" means a segregated non-interest-bearing corporate trust account maintained by the Property Trustee for the benefit of the Securityholders in which all amounts paid in respect of the Debentures will be held and from which the Property Trustee shall make payments to the Securityholders in accordance with Sections 4.01 and 4.02.

"Person" means an individual, corporation, partnership, joint venture, trust, limited liability company or corporation, unincorporated organization or government or any agency or political subdivision thereof.

"Preferred Security" means an undivided beneficial interest in the assets of the Trust having a Liquidation Amount of \$\_\_\_\_\_ and having rights provided therefor in this Amended and Restated Declaration of Trust, including the right to receive Distributions and a Liquidation Distribution as provided herein.

"Preferred Securities Certificate" means a certificate evidencing ownership of a Preferred Security or Securities, substantially in the form attached as Exhibit C.

"Property Trustee" means the commercial bank or trust company identified as the "Property Trustee" in the preamble to this Amended and Restated Declaration of Trust solely in its capacity as Property Trustee of the Trust and not in its individual capacity, or its successor in interest in such capacity, or any successor "Property Trustee" as herein provided.

"Quotation Agent" has the meaning specified in the Indenture Certificate.

"Redemption Date" means, with respect to any Trust Security to be redeemed, the date fixed for such redemption by or pursuant to this Amended and Restated Declaration of Trust; provided that each Indenture Redemption Date shall be a Redemption Date for a Like Amount of Trust Securities.

"Redemption Price" means:

(a) in the case of the repayment of the Trust Securities as a result of the repayment of the Debentures at maturity, the Maturity Redemption Price;

(b) in the case of the redemption of Trust Securities as a result of the optional redemption of the Debentures upon the occurrence of a Special Event, the Special Event Redemption Price; and

(c) in the case of the redemption of Trust Securities as a result of the optional redemption of the Debentures other than as a result of the occurrence of a Special Event, the Optional Redemption Price.

"Relevant Trustee" has the meaning specified in Section 8.10.

"Remaining Life" has the meaning specified in the Indenture Certificate.

"Responsible Officer" means, with respect to the Property Trustee, any managing director, any vice president, any assistant vice president, any assistant secretary, any assistant treasurer or any other officer of the Corporate Trust Office of the Trustee customarily performing functions

similar to those performed by any of the above designated officers and also means, with respect to a particular corporate trust matter, any other officer to whom such matter is referred because of that officer's knowledge of and familiarity with the particular subject.

"Securities Act" means the Securities Act of 1933, as amended from time to time, or any successor legislation.

"Securities Register" and "Securities Registrar" are described in Section 5.04.

"Securityholder" or "Holder" means a Person in whose name a Trust Security or Securities is registered in the Securities Register; any such Person is a beneficial owner within the meaning of the Delaware Statutory Trust Act.

"Special Event" has the meaning specified in the Indenture Certificate.

"Special Event Redemption Price" means, with respect to a redemption of Trust Securities, an amount equal to the greater of:

(a) 100% of the principal amount of the Debentures, or

(b) as determined by the Quotation Agent, the sum of the present values of scheduled payments of principal and interest thereon for the Remaining Life, discounted to the redemption date on a \_\_\_\_\_ basis (assuming a 360-day year consisting of twelve 30-day months) at the Treasury Rate plus \_\_%,

plus, in either case, accrued and unpaid interest on the Debentures, including any Compounded Interest and Additional Amounts (as such terms are defined in the Indenture Certificate), to the redemption date.

"Sponsor" has the meaning specified in the preamble to this Amended and Restated Declaration of Trust, and includes its successors and assigns.

"Subordinated Indenture" means the Indenture, dated as of \_\_\_\_\_, between the Sponsor and the Indenture Trustee, as heretofore supplemented and as supplemented by the Indenture Certificate.

"Successor Securities" has the meaning specified in Section 2.10.

"Treasury Rate" has the meaning specified in the Indenture Certificate.

"Trust" means the Delaware statutory trust continued hereby and identified on the cover page to this Amended and Restated Declaration of Trust.

"Trustees" means the Persons identified as "Trustees" in the preamble to this Amended and Restated Declaration of Trust solely in their capacities as Trustees of the Trust and not in their individual capacities, or their successor in interest in such capacity, or any successor trustee appointed as herein provided.

"Trust Indenture Act" means the Trust Indenture Act of 1939 as in force at the date as of which this instrument was executed; provided, however, that in the event the Trust Indenture Act of 1939 is amended after such date, "Trust Indenture Act" shall mean, to the extent required by any such amendment, the Trust Indenture Act of 1939 as so amended.

"Trust Property" means (i) the Debentures, (ii) any cash on deposit in, or owing to, the Payment Account, and (iii) all proceeds and rights in respect of the foregoing and any other property and assets for the time being held or deemed to be held by the Property Trustee pursuant to this Amended and Restated Declaration of Trust.

"Trust Securities Certificate" means any one of the Common Securities Certificates or the Preferred Securities Certificates.

"Trust Security" means any one of the Common Securities or the Preferred Securities.

"Underwriting Agreement" means the Underwriting Agreement, dated \_\_\_\_\_, 200\_, among the Sponsor, the Trust and the Underwriters named therein.

## Article 2 Establishment of the Trust

### Section 2.01 Name

The Trust continued hereby shall be known as "Exelon Capital Trust \_\_," in which name the Trustees may conduct the business of the Trust, make and execute contracts and other instruments on behalf of the Trust and sue and be sued. The Administrative Trustees may change the name of the Trust from time to time following written notice to the Holders and the other Trustees.

### Section 2.02 Offices of the Trustees; Principal Place of Business

The address of the Property Trustee and the Delaware Trustee is c/o Wachovia Trust Company, National Association, One Rodney Square, 920 King Street, Suite 102, Wilmington, DE 19801, Attention: Corporate Trust Administration/Delaware, or such other address as the Property Trustee or Delaware Trustee may designate by written notice to the Securityholders, the Sponsor and the Guarantor. The address of the Administrative Trustees is c/o Exelon Corporation, 10 South Dearborn Street - 37th Floor, P.O. Box 805379, Chicago, IL 60680, Attention: Secretary. The principal place of business of the Trust is c/o Exelon Corporation, 10 South Dearborn Street - 37th Floor, P.O. Box 805379, Chicago, IL 60680. The Sponsor may change the principal place of business of the Trust at any time by giving notice thereof to the Trustees.

### Section 2.03 Organizational Expenses

The Sponsor shall pay organizational expenses of the Trust as they arise or shall, upon request of the Trustees, promptly reimburse the Trustees for any such expenses paid by the Trustees. The Sponsor shall make no claim upon the Trust Property for the payment of such expenses.

### Section 2.04 Issuance of the Preferred Securities

Contemporaneously with the execution and delivery of this Amended and Restated Declaration of Trust, the Administrative Trustees, on behalf of the Trust, shall execute and deliver to the underwriters named in the Underwriting Agreement Preferred Securities Certificates, registered in the name of the nominee of the initial Clearing Agency, in an aggregate number of \_\_\_\_\_ Preferred Securities having an aggregate Liquidation Amount of \$\_\_\_\_\_, against receipt of the aggregate purchase price of such Preferred Securities of \$\_\_\_\_\_.

Section 2.05 Purchase of Debentures; Issuance of the Common Securities

Contemporaneously with the execution and delivery of this Amended and Restated Declaration of Trust, the Administrative Trustees, on behalf of the Trust, shall execute and deliver to the Sponsor Common Securities Certificates, registered in the name of the Sponsor, in an aggregate number of \_\_\_\_\_ Common Securities having an aggregate Liquidation Amount of \$\_\_\_\_\_, against payment by the Sponsor of \$\_\_\_\_\_. Contemporaneously therewith, the Administrative Trustees, on behalf of the Trust, shall purchase from the Sponsor Debentures, registered in the name of the Property Trustee, on behalf of the Trust and the Holders, and having an aggregate principal amount equal to \$\_\_\_\_\_, and, in satisfaction of the purchase price for such Debentures, the Administrative Trustees, on behalf of the Trust, shall deliver to the Sponsor the sum of \$\_\_\_\_\_.

Section 2.06 Amended and Restated Declaration of Trust

The exclusive purposes and functions of the Trust are (i) to issue and sell the Trust Securities and use the proceeds from such sale to acquire the Debentures, and (ii) to engage in those activities necessary, incidental, appropriate or convenient thereto. The Sponsor hereby appoints the Trustees, as trustees of the Trust, to have all the rights, powers and duties to the extent set forth herein. The Property Trustee hereby declares that it will hold the Trust Property in trust upon and subject to the conditions set forth herein for the benefit of the Trust and the Securityholders. The Trustees shall have all rights, powers and duties set forth herein and in accordance with applicable law with respect to accomplishing the purposes of the Trust. The Delaware Trustee shall not be entitled to exercise any powers, nor shall the Delaware Trustee have any of the duties and responsibilities, of the Property Trustee or the Administrative Trustees set forth herein. The Delaware Trustee shall be one of the Trustees for the sole and limited purpose of fulfilling the requirements of the Delaware Statutory Trust Act.

Section 2.07 Authorization to Enter into Certain Transactions

The Trustees shall conduct the affairs of the Trust in accordance with the terms of this Amended and Restated Declaration of Trust. Subject to the limitations set forth in paragraph C of this Section 2.07, Article 8, and in accordance with the following paragraphs A and B, the Trustees shall have the power and authority, and hereby are authorized, to enter into all transactions and agreements determined by the Trustees to be appropriate in exercising the authority, express (in the case of the Property Trustee) or implied, otherwise granted to the Trustees under this Amended and Restated Declaration of Trust, and to perform all acts in furtherance thereof, including without limitation, the following:

A. As among the Trustees, the Administrative Trustees, acting singly or jointly, shall have the exclusive power, duty and authority to act on behalf of the Trust with respect to the following matters:

(i) establish and maintain a Payment Account pursuant to Article III or otherwise in accordance with this Amended and Restated Declaration of Trust;

(ii) engage in such ministerial activities as shall be necessary or appropriate to effect the redemption of the Trust Securities to the extent the Debentures are redeemed or mature;

(iii) upon notice of distribution issued by the Administrative Trustees in accordance with the terms of this Amended and Restated Declaration of Trust, engage in such ministerial activities as shall be necessary or appropriate to effect the distribution pursuant to terms of this Amended and Restated Declaration of Trust of Debentures to Holders of Trust Securities;

(iv) subject to the terms hereof, take any Legal Action which arises out of or in connection with an Event of Default of which a Responsible Officer of the Property Trustee has actual knowledge or the Property Trustee's duties and obligations under this Amended and Restated Declaration of Trust or the Trust Indenture Act;

(v) take all actions and perform such duties as may be specifically required of the Property Trustee pursuant to the terms of this Amended and Restated Declaration of Trust;

(vi) to acquire the Debentures with the proceeds of the sale of the Trust Securities; provided, however, the Administrative Trustees shall cause legal title to all of the Debentures to be vested in, and the Debentures to be held of record in the name of, the Property Trustee for the benefit of the Holders of the Trust Securities;

(vii) to give the Sponsor and the Property Trustee prompt written notice of the occurrence of any Special Event (as defined in the Indenture Certificate) and to, at its option, take any ministerial actions in connection therewith; provided, that the Administrative Trustees shall consult with the Sponsor and the Property Trustee before taking any ministerial action in relation to a Special Event;

(viii) to establish a record date with respect to all actions to be taken hereunder that require a record date be established, including for the purposes of ss. 316(c) of the Trust Indenture Act and with respect to Distributions, voting rights, redemptions, and exchanges, and to issue relevant notices to Holders of the Trust Securities as to such actions and applicable record dates;

(ix) to bring or defend, pay, collect, compromise, arbitrate, resort to legal action, or otherwise adjust claims or demands of or against the Trust ("Legal Action"), unless pursuant to Section 2.07(B)(iv), the Property Trustee has the power to bring such Legal Action;

(x) to employ or otherwise engage employees and agents (who may be designated as officers with titles) and managers, contractors, advisors, and consultants and pay reasonable compensation for such services;

(xi) to cause the Trust to comply with the Trust's obligations under the Trust Indenture Act;

(xii) to give the certificate on behalf of the Company, as obligor (as defined in the Trust Indenture Act), to the Property Trustee required by ss. 314(a)(4) of the Trust Indenture Act, which certificate may be executed by any Administrative Trustee;

(xiii) to take all actions and perform such duties on behalf of the Trust as may be required of the Administrative Trustees pursuant to the terms of this Amended and Restated Declaration of Trust;

(xiv) to take all action that may be necessary or appropriate for the preservation and the continuation of the Trust's valid existence, rights, franchises and privileges as a statutory trust under the laws of the State of Delaware and of each other jurisdiction in which such existence is necessary to protect the limited liability of the Holders of the Trust Securities or to enable the Trust to effect the purposes for which the Trust has been created;

(xv) to take all action necessary to cause all applicable tax returns and tax information reports that are required to be filed with respect to the Trust to be duly prepared and filed by the Administrative Trustees, on behalf of the Trust;

(xvi) to issue and sell the Trust Securities pursuant to the terms of this Amended and Restated Declaration of Trust;

(xvii) to cause the Trust to enter into, and to execute, deliver and perform on behalf of the Trust, the Underwriting Agreement providing for the sale of the Preferred Securities, the Expense Agreement and the Certificate Depository Agreement and such other agreements as may be necessary or desirable in connection with the consummation of the transactions contemplated hereby and thereby;

(xviii) to assist in the registration of the Preferred Securities under the Securities Act and under state securities or blue sky laws, and the qualification of this Amended and Restated Declaration of Trust as a trust indenture under the Trust Indenture Act;

(xix) to assist in the listing of the Preferred Securities upon such securities exchanges or national trading markets, if any, as shall be determined by the Sponsor and, if required, the registration of the Preferred Securities under the Exchange Act, and the preparation, execution and filing of all periodic and other reports and other documents pursuant to the foregoing;

(xx) to send notices (other than notices of default) and other information regarding the Trust Securities and the Debentures to the Securityholders in accordance with this Amended and Restated Declaration of Trust;

(xxi) to appoint a Paying Agent (subject to Section 5.09), authenticating agent and Securities Registrar in accordance with this Amended and Restated Declaration of Trust;

(xxii) to assist in, to the extent provided in this Amended and Restated Declaration of Trust, the winding up of the affairs of and termination of the Trust and the preparation, execution and filing of the certificate of cancellation with the Secretary of State of the State of Delaware; and

(xxiii) to take any action incidental to the foregoing as the Administrative Trustees may from time to time determine is necessary, appropriate, convenient or advisable to protect and conserve the Trust Property for the benefit of the Securityholders (without consideration of the effect of any such action on any particular Securityholder).

**B. The Property Trustee shall:**

(i) establish and maintain the Payment Account pursuant to Article III or otherwise in accordance with this Amended and Restated Declaration of Trust;

(ii) engage in such ministerial activities as shall be necessary or appropriate to effect the redemption of the Trust Securities to the extent the Debentures are redeemed or mature;

(iii) upon notice of distribution issued by the Administrative Trustees in accordance with the terms of this Amended and Restated Declaration of Trust, engage in such ministerial activities as shall be necessary or appropriate to effect the distribution pursuant to terms of this Amended and Restated Declaration of Trust of Debentures to Holders of Trust Securities;



(iv) subject to the terms hereof, take any Legal Action which arises out of or in connection with an Event of Default of which a Responsible Officer of the Property Trustee has actual knowledge or the Property Trustee's express duties and obligations under this Amended and Restated Declaration of Trust or the Trust Indenture Act;

(v) take all actions and perform such duties as may be specifically required of the Property Trustee pursuant to the terms of this Amended and Restated Declaration of Trust;

(vi) to the extent that it is designated as the Securities Registrar, to register transfers of the Trust Securities and otherwise take action with respect to the Trust Securities in accordance with the express provisions of this Amended and Restated Declaration of Trust; and

(vii) except as otherwise provided in this Section 2.07B, the Property Trustee shall have none of the powers, duties, authority or liabilities of the Administrative Trustees set forth in Section 2.07A.

C. So long as this Amended and Restated Declaration of Trust remains in effect, the Trust (or the Trustees acting on behalf of the Trust) shall not undertake any business, activities or transaction except as expressly provided herein or contemplated hereby. In particular, the Trustees shall not (i) acquire any investments or engage in any activities not authorized by this Amended and Restated Declaration of Trust, (ii) sell, assign, transfer, exchange, pledge, set-off or otherwise dispose of any of the Trust Property or interests therein, including to Securityholders, except as expressly provided herein, (iii) take or consent to any action that would cause the Trust to fail or cease to qualify as a grantor trust for United States federal income tax purposes, (iv) incur any indebtedness for borrowed money, (v) take or consent to any action that would result in the placement of a Lien on any of the Trust Property, (vi) issue any securities other than the Trust Securities, or (vii) have any power to, or agree to any action by the Sponsor that would, vary the investment (within the meaning of Treasury Regulation Section 301.7701-4(c)) of the Trust or of the Securityholders. The Trustees shall defend all claims and demands of all Persons at any time claiming any Lien on any of the Trust Property adverse to the interest of the Trust or the Securityholders in their capacity as Securityholders.

D. In connection with the issue and sale of the Preferred Securities, the Sponsor shall have the right and responsibility to assist the Trust with respect to, or effect on behalf of the Trust, the following (and any actions taken by the Sponsor in furtherance of the following prior to the date of this Amended and Restated Declaration of Trust are hereby ratified and confirmed in all respects):

(i) if required, to prepare for filing by the Trust with the Commission a registration statement on Form S-3 under the Securities Act in relation to the Preferred Securities, including any amendments thereto;

(ii) to determine the states in which to take appropriate action to qualify or register for sale all or part of the Preferred Securities and to do any and all such acts, other than actions which must be taken by or on behalf of the Trust, and advise the Trustees of actions they must take on behalf of the Trust, and prepare for execution and filing any documents to be executed and filed by the Trust or on behalf of the Trust, as the Sponsor deems necessary or advisable in order to comply with the applicable laws of any such states;

(iii) if deemed necessary or advisable by the Sponsor, to prepare for filing by the Trust an application to the New York Stock Exchange or any other national stock exchange or The Nasdaq National Market for listing upon notice of issuance of any Preferred Securities;

(iv) if required, to prepare for filing by the Trust with the Commission a registration statement on Form 8-A relating to the registration of the Preferred Securities under Section 12(b) of the Exchange Act, including any amendments thereto;

(v) to negotiate the terms of the Underwriting Agreement providing for the sale of the Preferred Securities; and

(vi) any other actions necessary, incidental, appropriate or convenient to carry out any of the foregoing activities.

E. Notwithstanding anything herein to the contrary, the Administrative Trustees are authorized and directed to conduct the affairs of the Trust and to operate the Trust so that the Trust will not be deemed to be an "investment company" required to be registered under the Investment Company Act of 1940, as amended, or taxed as other than a grantor trust for United States federal income tax purposes and so that the Debentures will be treated as indebtedness of the Sponsor for United States federal income tax purposes. In this connection, the Sponsor and the Administrative Trustees are authorized to take any action, not inconsistent with applicable law, the Certificate of Trust or this Amended and Restated Declaration of Trust, that each of the Sponsor and the Administrative Trustees determines in its discretion to be necessary or desirable for such purposes, as long as such action does not materially and adversely affect the interests of the Holders of the Preferred Securities.

F. To the extent that Trust Property is deemed to be subject to the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), Holders of Preferred Securities that are "employee benefit plans" within the meaning of section 3(3) of ERISA shall be deemed to have directed the Trustees to invest in the Debentures.

#### Section 2.08 Assets of Trust

The assets of the Trust shall consist of the Trust Property.

#### Section 2.09 Title to Trust Property

Legal title to all Trust Property shall be vested at all times in the Property Trustee (in its capacity as such) and shall be held and administered by the Property Trustee for the benefit of the Securityholders and the Trust in accordance with this Amended and Restated Declaration of Trust. The right, title and interest of the Property Trustee to the Debentures shall vest automatically in each Person who may thereafter be appointed as Property Trustee in accordance with the terms hereof. Such vesting and cessation of title shall be effective whether or not conveyancing documents have been executed and delivered.

#### Section 2.10 Mergers and Consolidations of the Trust

The Trust may not consolidate, amalgamate, merge with or into, or be replaced by, or convey, transfer or lease its properties and assets substantially as an entirety to any corporation or other body, except as described below or otherwise provided in this Amended and Restated Declaration of Trust. The Trust may at the request of the Sponsor, with the consent of the Administrative Trustees and without the consent of the Holders of the Trust Securities, the Delaware Trustee or the Property Trustee, consolidate, amalgamate, merge with or into, or be replaced by a trust organized as such under the laws of any state; provided, that (i) such successor entity either (x) expressly assumes all of the obligations of the Trust with respect to the Trust Securities or (y) substitutes for the Preferred Securities other securities having substantially the same terms as the Preferred Securities (herein referred to as the "Successor Securities") so long as the Successor Securities rank the same as the Preferred Securities rank in priority with respect to Distributions

and payments upon liquidation, redemption and otherwise, (ii) the Sponsor expressly appoints a trustee of such successor entity possessing substantially the same powers and duties as the Property Trustee as the holder of legal title to the Debentures, (iii) the Preferred Securities or any Successor Securities are listed, or any Successor Securities will be listed upon notification of issuance, on any national securities exchange or other organization, if any, on which the Preferred Securities are then listed, (iv) such merger, consolidation, amalgamation or replacement does not cause the Preferred Securities (including any Successor Securities) to be downgraded by any nationally recognized statistical rating organization, (v) such merger, consolidation, amalgamation or replacement does not adversely affect the rights, preferences and privileges of the Holders of the Trust Securities (including any Successor Securities) in any material respect, (vi) such successor entity has a purpose substantially identical to that of the Trust, (vii) prior to such merger, consolidation, amalgamation, or replacement, the Sponsor and the Property Trustee have received an Opinion of Counsel to the effect that (A) such merger, consolidation, amalgamation or replacement does not adversely affect the rights, preferences and privileges of the Holders of the Trust Securities (including any Successor Securities) in any material respect, (B) following such merger, consolidation, amalgamation or replacement, neither the Trust nor such successor entity will be required to register as an investment company under the Investment Company Act of 1940 and (C) following such merger, consolidation, amalgamation or replacement, the Trust (or the successor entity) will continue to be classified as a grantor trust for United States federal income tax purposes, and (viii) the Sponsor guarantees the obligations of such successor entity under the Successor Securities at least to the extent provided by the Guarantee. Notwithstanding the foregoing, the Trust shall not, except with the consent of Holders of 100% in Liquidation Amount of the Trust Securities, consolidate, amalgamate, merge with or into, or be replaced by any other entity or permit any other entity to consolidate, amalgamate, merge with or into, or replace it if such consolidation, amalgamation, merger or replacement would cause the Trust or the successor entity to be classified as other than a grantor trust for United States federal income tax purposes.

Article 3  
Payment Account

Section 3.01 Payment Account.

(a) On or prior to the Issue Date, the Property Trustee shall establish the Payment Account. The Property Trustee (and if deemed necessary by the Property Trustee, an agent of the Property Trustee) shall have exclusive control and sole right of withdrawal with respect to the Payment Account for the purpose of making deposits in and withdrawals from the Payment Account in accordance with this Amended and Restated Declaration of Trust. All monies and other property deposited or held from time to time in the Payment Account shall be held by the Property Trustee in the Payment Account for the exclusive benefit of the Securityholders and for distribution as herein provided, including (and subject to) any priority of payments provided for herein.

(b) The Property Trustee shall deposit in the Payment Account, promptly upon receipt, all payments of principal or interest on, and any other payments or proceeds with respect to, the Debentures. Amounts held in the Payment Account shall not be invested by the Property Trustee pending distribution thereof.

Article 4  
Distributions; Redemption

Section 4.01 Distributions.

(a) Distributions on the Trust Securities shall be cumulative and accrue from the Issue Date and, except in the event that the Sponsor exercises its right to extend the interest payment period for

the Debentures pursuant to Section \_\_\_ of the Indenture Certificate, shall be payable \_\_\_\_\_ in arrears on \_\_\_\_\_ and \_\_\_\_\_ of each year, commencing on \_\_\_\_\_, 2003. If any date on which Distributions are otherwise payable on the Trust Securities is not a Business Day, then the payment of such Distribution shall be made on the next succeeding day which is a Business Day (and without any interest or other payment in respect of any such delay) except that, if such Business Day is in the next succeeding calendar year, payment of such Distribution shall be made on the immediately preceding Business Day, in each case, with the same force and effect as if made on such date (each such date, a "Distribution Date").

(b) Distributions payable on the Trust Securities shall be fixed at a rate of \_\_\_% per annum of the Liquidation Amount of the Trust Securities, such rate being the rate of interest payable on the Debentures to be held by the Property Trustee. Distributions in arrears for more than one \_\_\_\_\_ period will bear interest thereon compounded \_\_\_\_\_ at \_\_\_% per annum (to the extent permitted by applicable law). The amount of Distributions payable for any full \_\_\_\_\_ period shall be computed on the basis of twelve 30-day months and a 360-day year, and for any period shorter than a full month for which Distributions are computed, Distributions will be computed on the basis of the actual number of days elapsed in any such partial month. If the interest payment period for the Debentures is extended by the Sponsor pursuant to Section \_\_\_ of the Indenture Certificate (an "Extension Period"), no interest shall be due and payable on the Debentures. As a consequence of an Extension Period, Distributions will also be deferred, provided that \_\_\_\_\_ Distributions will continue to accrue with interest thereon (to the extent permitted by applicable law) at \_\_\_% per annum compounded \_\_\_\_\_ ("Additional Amounts") during any such Extension Period. Such deferred Distributions, together with Additional Amounts, will be distributed to the Holders of the Trust Securities as received at the end of any Extension Period; provided, however, that the Trust may distribute such amounts earlier if the Sponsor prepays interest accrued on the Debentures prior to the end of any Extension Period as permitted by the Subordinated Indenture.

(c) Distributions on the Trust Securities shall be made and shall be deemed payable on each Distribution Date only to the extent that the Trust has legally and immediately available funds in the Payment Account for the payment of such Distributions.

(d) Distributions, including Additional Amounts, if any, on the Trust Securities on each Distribution Date shall be payable to the Holders thereof as they appear on the Securities Register for the Trust Securities on the relevant record date. While the Preferred Securities are in book-entry only form, the relevant record dates shall be one Business Day prior to the relevant payment dates which payment dates correspond to the interest payment dates on the Debentures. If the Preferred Securities shall not continue to remain in book-entry only form, the relevant record dates for the Preferred Securities shall conform to the rules of any securities exchange on which the Preferred Securities are listed and, if none, shall be selected by the Administrative Trustees, which dates shall be at least one Business Day but not more than 60 Business Days before the relevant payment dates, which payment dates correspond to the interest payment dates on the Debentures. The relevant record dates for the Common Securities shall be the same record date as for the Preferred Securities. Distributions payable on the Trust Securities that are not punctually paid on any Distribution Date as a result of the Sponsor having failed to make a payment on the Debentures will cease to be payable to the Person in whose name such Trust Securities are registered on the relevant record date, and such defaulted Distribution will instead be payable to the Person in whose name such Trust Securities are registered on the special record date or other specified date determined in accordance with the Subordinated Indenture.

Each Trust Security upon registration of transfer of or in exchange for or in lieu of any other Trust Security shall carry the rights of Distributions accrued (including Additional Amounts, if any) and unpaid, and to accrue (including Additional Amounts, if any), which were carried by such other Trust Security.

Section 4.02 Redemption.

(a) On each Indenture Redemption Date with respect to the Debentures (other than following the distribution of the Debentures to the holders of Trust Securities pursuant to Section 9.04), the Trust will be required to redeem a Like Amount of Trust Securities at the applicable Redemption Price.

(b) Notice of redemption shall be given by the Property Trustee by first-class mail, postage prepaid, mailed not less than 30 nor more than 60 days prior to the Redemption Date to each Holder of Trust Securities to be redeemed, at such Holder's address appearing in the Securities Register. All notices of redemption shall state:

(i) the Redemption Date;

(ii) the applicable Redemption Price;

(iii) the CUSIP number;

(iv) if less than all the Outstanding Trust Securities are to be redeemed, the total Liquidation Amount of the Trust Securities to be redeemed; and

(v) that on the Redemption Date the applicable Redemption Price will become due and payable upon each such Trust Security to be redeemed and that Distributions thereon will cease to accrue on and after such date.

(c) The Trust Securities redeemed on each Redemption Date shall be redeemed at the applicable Redemption Price with the proceeds from the contemporaneous redemption of Debentures. Redemptions of the Trust Securities shall be made and the applicable Redemption Price shall be deemed payable on each Redemption Date only to the extent that the Trust has funds legally and immediately available in the Payment Account for the payment of such Redemption Price.

(d) If the Property Trustee gives a notice of redemption in respect of any Preferred Securities, then, by 2:00 p.m. New York time, on the Redemption Date, subject to Section 4.02(c), the Property Trustee will, so long as the Preferred Securities are in book-entry only form, irrevocably deposit with the Clearing Agency for the Preferred Securities funds sufficient to pay the applicable Redemption Price. If the Preferred Securities are not in book-entry only form, the Property Trustee, subject to Section 4.02(c), shall irrevocably deposit with the Paying Agent funds sufficient to pay the applicable Redemption Price and will give the Paying Agent (if other than the Property Trustee) irrevocable instructions to pay such Redemption Price to the Holders thereof upon surrender of their Preferred Securities Certificates. Notwithstanding the foregoing, Distributions payable on or prior to the Redemption Date for any Trust Securities called for redemption shall be payable to the Holders of such Trust Securities as they appear on the Securities Register for the Trust Securities on the relevant record dates for the related Distribution Dates. If notice of redemption shall have been given and funds deposited as required, then upon the date of such deposit, all rights of Securityholders holding Trust Securities so called for redemption will cease, except the right of such Securityholders to receive the applicable Redemption Price, but

without interest, and such Securities will cease to be outstanding. In the event that any date on which any Redemption Price is payable is not a Business Day, then payment of the applicable Redemption Price payable on such date shall be made on the next succeeding day which is a Business Day (and without any interest or other payment in respect of any such delay) except that, if such Business Day is in the next succeeding calendar year, payment of such Redemption Price shall be made on the immediately preceding Business Day, in each case, with the same force and effect as if made on such date. In the event that payment of the applicable Redemption Price in respect of Trust Securities is improperly withheld or refused and not paid either by the Trust or by the Guarantor pursuant to the Guarantee, Distributions on such Trust Securities will continue to accrue at the then applicable rate, from such Redemption Date originally established by the Trust for such Preferred Securities to the date such Redemption Price is actually paid, and the actual payment date will be the Redemption Date for purposes of calculating the applicable Redemption Price.

(e) If less than all the Outstanding Trust Securities are to be redeemed on a Redemption Date, then, subject to Section 4.03, the aggregate Liquidation Amount of Trust Securities to be redeemed shall be allocated pro rata to the Holders of the Trust Securities, with such adjustments that each amount so allocated shall be divisible by \$\_\_\_\_\_. The particular Preferred Securities to be redeemed shall be selected not more than 60 days prior to the Redemption Date by the Property Trustee from the Outstanding Preferred Securities not previously called for redemption, by such method as the Property Trustee shall deem fair and appropriate and which may provide for the selection for a redemption of portions (equal to \$\_\_\_\_\_ or integral multiple thereof) of the Liquidation Amount of Preferred Securities of a denomination larger than \$\_\_\_\_\_. The Property Trustee shall promptly notify the Securities Registrar (if other than the Property Trustee) in writing of the Preferred Securities selected for redemption and, in the case of any Preferred Securities selected for partial redemption, the Liquidation Amount thereof to be redeemed. For all purposes of this Amended and Restated Declaration of Trust, unless the context otherwise requires, all provisions relating to the redemption of Preferred Securities shall relate, in the case of any Preferred Securities redeemed or to be redeemed only in part, to the portion of the Liquidation Amount of Preferred Securities which has been or is to be redeemed.

(f) Less than all the Outstanding Trust Securities may not be redeemed unless all accrued and unpaid Distributions have been paid on all Trust Securities for all \_\_\_\_\_ distribution periods terminating on or before the date of redemption.

(g) Subject to the foregoing provisions of this Section 4.02 and to applicable law (including, without limitation, United States federal securities laws), the Sponsor, the Guarantor or their Affiliates may, at any time and from time to time, purchase Outstanding Preferred Securities by tender, in the open market or by private agreement.

#### Section 4.03 Subordination of Common Securities.

(a) Payment of Distributions (including Additional Amounts, if applicable) on, and the applicable Redemption Price of, the Trust Securities, as the case may be, shall be made pro rata based on the Liquidation Amount of the Trust Securities; provided, however, that if on any Distribution Date or Redemption Date an Indenture Event of Default shall have occurred and be continuing, no payment of any Distribution (including Additional Amounts, if applicable) on, or the applicable Redemption Price of, any Common Security, and no other payment on account of the redemption, liquidation or other acquisition of Common Securities, shall be made unless payment in full in cash of all accumulated and unpaid Distributions (including Additional Amounts, if applicable) on all Outstanding Preferred Securities for all distribution periods terminating on or prior thereto, or in the case of payment of the applicable Redemption Price the full amount of such

Redemption Price on all Outstanding Preferred Securities, shall have been made or provided for, and all funds immediately available to the Property Trustee shall first be applied to the payment in full in cash of all Distributions (including Additional Amounts, if applicable) on, or the applicable Redemption Price of, Preferred Securities then due and payable.

(b) In the case of the occurrence of any Indenture Event of Default, the Holder of Common Securities will be deemed to have waived any such Event of Default under this Amended and Restated Declaration of Trust until the effect of all such Events of Default with respect to the Preferred Securities have been cured, waived or otherwise eliminated. Until any such Events of Default under this Amended and Restated Declaration of Trust with respect to the Preferred Securities have been so cured, waived or otherwise eliminated, the Property Trustee shall act solely on behalf of the Holders of the Preferred Securities and not the Holder of the Common Securities, and only the Holders of the Preferred Securities will have the right to direct the Property Trustee to act on their behalf.

#### Section 4.04 Payment Procedures

Payments in respect of the Preferred Securities shall be made by check mailed to the address of the Person entitled thereto as such address shall appear on the Securities Register or, if the Preferred Securities are held by a Clearing Agency, such Distributions shall be made to the Clearing Agency, which shall credit the relevant Persons' accounts at such Clearing Agency on the applicable Distribution Dates. Payments in respect of the Common Securities shall be made in such manner as shall be mutually agreed between the Property Trustee and the Holder of the Common Securities.

#### Section 4.05 Tax Returns and Reports

The Administrative Trustee(s) shall prepare (or cause to be prepared), at the Sponsor's expense, and file all United States federal, state and local tax and information returns and reports required to be filed by or in respect of the Trust. The Administrative Trustee(s) shall provide or cause to be provided on a timely basis to each Holder any Internal Revenue Service form required to be so provided in respect of the Trust Securities.

### Article 5 Trust Securities Certificates

#### Section 5.01 Initial Ownership

Upon the creation of the Trust and until the issuance of the Trust Securities, and at any time during which no Trust Securities are outstanding, the Sponsor shall be the sole beneficial owner of the Trust.

#### Section 5.02 The Trust Securities Certificates

Each of the Trust Securities Certificates shall be issued in minimum denominations of \$\_\_\_\_\_ and integral multiples in excess thereof. The Trust Securities Certificates shall be executed on behalf of the Trust by manual or facsimile signature of at least one Administrative Trustee. Trust Securities Certificates bearing the manual or facsimile signatures of individuals who were, at the time when such signatures shall have been affixed, authorized to sign on behalf of the Trust, shall be validly issued and entitled to the benefits of this Amended and Restated Declaration of Trust, notwithstanding that such individuals or any of them shall have ceased to be so authorized prior to the authentication and delivery of such Trust Securities Certificates or did not hold such offices at the date of authentication and delivery of such Trust Securities Certificates. A transferee of a Trust Securities Certificate shall

become a Securityholder, and shall be entitled to the rights and subject to the obligations of a Securityholder hereunder, upon due registration of such Trust Securities Certificate in such transferee's name pursuant to Section 5.04.

#### Section 5.03 Authentication of Trust Securities Certificates

On the Issue Date, the Administrative Trustees shall cause Trust Securities Certificates, in an aggregate Liquidation Amount as provided in Sections 2.04 and 2.05, to be executed on behalf of the Trust, authenticated and delivered to or upon the written order of the Sponsor signed by its Chairman of the Board, its President or any Vice President, without further corporate action by the Sponsor, in authorized denominations. No Trust Securities Certificate shall entitle its holder to any benefit under this Amended and Restated Declaration of Trust, or shall be valid for any purpose, unless there shall appear on such Trust Securities Certificate a certificate of authentication substantially in the form set forth in Exhibit A or Exhibit C, as applicable, executed by the Property Trustee by manual signature; such authentication shall constitute conclusive evidence that such Trust Securities Certificate shall have been duly authenticated and delivered hereunder. All Trust Securities Certificates shall be dated the date of their authentication. Upon the written order of the Trust signed by the Administrative Trustees, the Property Trustee shall authenticate and make available for delivery the Trust Security Certificates.

#### Section 5.04 Registration of Transfer and Exchange of Preferred Securities Certificates

The Securities Registrar shall keep or cause to be kept, at the office or agency maintained pursuant to Section 5.08, a Securities Register in which, subject to such reasonable regulations as it may prescribe, the Securities Registrar shall provide for the registration of Preferred Securities Certificates and the Common Securities Certificates (subject to Section 5.10 in the case of the Common Securities Certificates) and registration of transfers and exchanges of Preferred Securities Certificates as herein provided. The Property Trustee shall be the initial Securities Registrar.

Upon surrender for registration of transfer of any Preferred Securities Certificate at the office or agency maintained pursuant to Section 5.08, one or more of the Administrative Trustees shall execute and cause the Property Trustee to authenticate and deliver in the name of the designated transferee or transferees one or more new Preferred Securities Certificates in authorized denominations of a like aggregate Liquidation Amount dated the date of authentication by the Property Trustee. The Securities Registrar shall not be required to register the transfer of any Preferred Securities that have been called for redemption. At the option of a Holder, Preferred Securities Certificates may be exchanged for other Preferred Securities Certificates in authorized denominations of the same class and of a like aggregate Liquidation Amount upon surrender of the Preferred Securities Certificates to be exchanged at the office or agency maintained pursuant to Section 5.08.

Every Preferred Securities Certificate presented or surrendered for registration of transfer or exchange shall be accompanied by a written instrument of transfer in form satisfactory to the Administrative Trustees and the Securities Registrar duly executed by the Holder or his attorney duly authorized in writing. Each Preferred Securities Certificate surrendered for registration of transfer or exchange shall be canceled and subsequently disposed of by the Securities Registrar in accordance with its customary practice.

No service charge shall be made for any registration of transfer or exchange of Preferred Securities Certificates, but the Securities Registrar or the Administrative Trustees may require payment of a sum sufficient to cover any tax or governmental charge that may be imposed in connection with any transfer or exchange of Preferred Securities Certificates.



Section 5.05 Mutilated, Destroyed, Lost or Stolen Trust Securities Certificates

If (i) any mutilated Trust Securities Certificate shall be surrendered to the Securities Registrar, or if the Securities Registrar shall receive evidence to its satisfaction of the destruction, loss or theft of any Trust Securities Certificate and (ii) there shall be delivered to the Securities Registrar, the Property Trustee and the Administrative Trustees such security or indemnity as may be required by them to save each of them harmless, then in the absence of notice that such Trust Securities Certificate shall have been acquired by a protected purchaser, the Administrative Trustees or any one of them on behalf of the Trust shall execute and cause the Property Trustee to authenticate and make available for delivery, in exchange for or in lieu of any such mutilated, destroyed, lost or stolen Trust Securities Certificate, a new Trust Securities Certificate of like class, tenor and denomination. In connection with the issuance of any new Trust Securities Certificate under this Section 5.05, the Administrative Trustees or the Securities Registrar may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection therewith. Any duplicate Trust Securities Certificate issued pursuant to this Section 5.05 shall constitute conclusive evidence of an ownership interest in the Trust, as if originally issued, whether or not the lost, stolen or destroyed Trust Securities Certificate shall be found at any time.

Section 5.06 Persons Deemed Securityholders

Prior to due presentation of a Trust Securities Certificate for registration of transfer, the Trustees or the Securities Registrar shall treat the Person in whose name any Trust Securities Certificate shall be registered in the Securities Register as the owner of such Trust Securities Certificate for the purpose of receiving Distributions (subject to Section 4.01(d)) and for all other purposes whatsoever, and neither the Trustees nor the Securities Registrar shall be bound by any notice to the contrary.

Section 5.07 Access to List of Securityholders' Names and Addresses

The Administrative Trustees shall furnish or cause to be furnished to (i) the Sponsor and the Property Trustee \_\_\_\_\_, not later than \_\_\_\_\_ and \_\_\_\_\_ in each year, and (ii) the Sponsor or the Property Trustee, as the case may be, within 30 days after receipt by any Administrative Trustee of a request therefor from the Sponsor or the Property Trustee, as the case may be, in writing, a list, in such form as the Sponsor or the Property Trustee, as the case may be, may reasonably require, of the names and addresses of the Securityholders as of a date not more than 15 days prior to the time such list is furnished; provided, that the Administrative Trustees shall not be obligated to provide such list at any time such list does not differ from the most recent list given to the Sponsor and the Property Trustee by the Administrative Trustees or at any time the Property Trustee is the Securities Registrar. If three or more Securityholders or one or more Holders of Trust Securities Certificates evidencing not less than \_\_\_% of the outstanding Liquidation Amount apply in writing to the Administrative Trustees, and such application states that the applicants desire to communicate with other Securityholders with respect to their rights under this Amended and Restated Declaration of Trust or under the Trust Securities Certificates and such application is accompanied by a copy of the communication that such applicants propose to transmit, then the Administrative Trustees shall, within five Business Days after the receipt of such application, afford such applicants access during normal business hours to the current list of Securityholders. Each Holder, by receiving and holding a Trust Securities Certificate, shall be deemed to have agreed not to hold the Sponsor, the Property Trustee or the Administrative Trustees accountable by reason of the disclosure of its name and address, regardless of the source from which such information was derived.

Section 5.08 Maintenance of Office or Agency

The Administrative Trustees shall maintain in the Borough of Manhattan, New York, or Wilmington, Delaware, an office or offices or agency or agencies where Preferred Securities Certificates may be surrendered for registration of

transfer or exchange and where notices and demands to or upon the Trustees in respect of the Trust Securities Certificates may be served. The Administrative Trustees initially designate the Corporate Trust Office of the Property Trustee, Wachovia Trust Company, National Association, at its office for such purposes. The Administrative Trustees shall give prompt written notice to the Sponsor and to the Securityholders of any change in the location of the Securities Register or any such office or agency.

#### Section 5.09 Appointment of Paying Agent

The Paying Agent shall make Distributions and other payments provided hereby to Securityholders from the Payment Account and shall report the amounts of such Distributions and payments to the Property Trustee and the Administrative Trustees. Any Paying Agent shall have the revocable power to withdraw funds from the Payment Account for the purpose of making the Distributions and payments provided hereby. The Administrative Trustees may revoke such power and remove the Paying Agent if such Trustees determine in their sole discretion that the Paying Agent shall have failed to perform its obligations under this Agreement in any material respect. The Paying Agent shall initially be the Property Trustee, and it may choose any co-paying agent that is acceptable to the Administrative Trustees and the Sponsor. Any Person acting as Paying Agent shall be permitted to resign as Paying Agent upon 30 days written notice to the Administrative Trustees and the Sponsor. In the event that a Paying Agent shall resign or be removed, the Administrative Trustees shall appoint a successor that is acceptable to the Sponsor to act as Paying Agent (which shall be a bank or trust company). The Administrative Trustees shall cause such successor Paying Agent or any additional Paying Agent appointed by the Administrative Trustees to execute and deliver to the Trustees an instrument in which such successor Paying Agent or additional Paying Agent shall agree with the Trustees that as Paying Agent, such successor Paying Agent or additional Paying Agent will hold all sums, if any, held by it for payment to the Securityholders in trust for the benefit of the Securityholders entitled thereto until such sums shall be paid to such Securityholders. The Paying Agent shall return all unclaimed funds to the Property Trustee and upon removal of a Paying Agent such Paying Agent shall also return all funds in its possession to the Property Trustee. The provisions of Sections 8.01, 8.03 and 8.06 shall apply to the Property Trustee also in its role as Paying Agent, for so long as the Property Trustee shall act as Paying Agent and, to the extent applicable, to any other paying agent appointed hereunder. Any reference in this Agreement to the Paying Agent shall include any co-paying agent unless the context requires otherwise.

#### Section 5.10 Ownership of Common Securities by Sponsor

On the Issue Date, the Sponsor shall acquire, and thereafter retain, beneficial and record ownership of the Common Securities. To the fullest extent permitted by law, any attempted transfer of the Common Securities, except for transfers by operation of law or to an Affiliate of the Guarantor or the Sponsor or a permitted successor under the Subordinated Indenture, shall be void. The Administrative Trustees shall cause each Common Securities Certificate issued to the Sponsor to contain a legend stating "THIS CERTIFICATE IS NOT TRANSFERABLE EXCEPT AS PROVIDED IN THE AMENDED AND RESTATED DECLARATION OF TRUST REFERRED TO HEREIN".

#### Section 5.11 Book-Entry Preferred Securities Certificates; Common Securities Certificate.

(a) The Preferred Securities Certificates, upon original issuance, will be issued in the form of a typewritten Preferred Securities Certificate or Certificates representing Book-Entry Preferred Securities Certificates, to be delivered to The Depository Trust Company, the initial Clearing Agency, by, or on behalf of, the Trust. Such Preferred Securities Certificate or Certificates shall initially be registered on the Securities Register in the name of Cede & Co., the nominee of the initial Clearing Agency, and no Owner will receive a definitive Preferred Securities Certificate representing such beneficial owner's interest in such Preferred Securities, except as

provided in Section 5.13. Unless and until Definitive Preferred Securities Certificates have been issued to Owners pursuant to Section 5.13:

(i) the provisions of this Section 5.11(a) shall be in full force and effect;

(ii) the Securities Registrar and the Trustees shall be entitled to deal with the Clearing Agency for all purposes of this Amended and Restated Declaration of Trust relating to the Book-Entry Preferred Securities Certificates (including the payment of principal of and interest on the Book-Entry Preferred Securities and the giving of instructions or directions to Owners of Book-Entry Preferred Securities) as the sole Holder of Book-Entry Preferred Securities and shall have no obligations to the Owners thereof;

(iii) to the extent that the provisions of this Section 5.11 conflict with any other provisions of this Amended and Restated Declaration of Trust, the provisions of this Section 5.11 shall control; and

(iv) the rights of the Owners of the Book-Entry Preferred Securities Certificates shall be exercised only through the Clearing Agency and shall be limited to those established by law and agreements between such Owners and the Clearing Agency and/or the Clearing Agency Participants. Pursuant to the Certificate Depository Agreement, unless and until Definitive Preferred Securities Certificates are issued pursuant to Section 5.13, the Clearing Agency will make book-entry transfers among the Clearing Agency Participants and receive and transmit payments on the Preferred Securities to such Clearing Agency Participants.

(b) A Common Securities Certificate representing the Common Securities shall be issued to the Sponsor in the form of a definitive Common Securities Certificate.

#### Section 5.12 Notices to Clearing Agency

To the extent a notice or other communication to the Owners is required under this Amended and Restated Declaration of Trust, unless and until Definitive Preferred Securities Certificates shall have been issued to Owners pursuant to Section 5.13, the Trustees shall give all such notices and communications specified herein to be given to Holders to the Clearing Agency, and shall have no obligations to provide notice to the Owners.

#### Section 5.13 Definitive Preferred Securities Certificates

If (i) the Sponsor advises the Trustees in writing that the Clearing Agency is no longer willing or able to properly discharge its responsibilities with respect to the Preferred Securities Certificates, and the Sponsor is unable to locate a qualified successor, or (ii) the Sponsor at its option advises the Trustees in writing that it elects to terminate the book-entry system through the Clearing Agency, then the Administrative Trustees shall notify the Clearing Agency and Holders of the Preferred Securities. Upon surrender to the Administrative Trustees of the typewritten Preferred Securities Certificate or Certificates representing the Book-Entry Preferred Securities Certificates by the Clearing Agency, accompanied by registration instructions, the Administrative Trustees or any one of them shall execute and cause the Property Trustee to authenticate and deliver the Definitive Preferred Securities Certificates in accordance with the instructions of the Clearing Agency. Neither the Securities Registrar nor the Trustees shall be liable for any delay in delivery of such instructions and may conclusively rely on, and shall be protected in relying on, such instructions. Upon the issuance of Definitive Preferred Securities Certificates, the Trustees shall recognize the Holders of the Definitive Preferred Securities Certificates as Securityholders. The Definitive Preferred Securities Certificates shall be printed, lithographed or

engraved or may be produced in any other manner as is reasonably acceptable to the Administrative Trustees, as evidenced by the execution thereof by the Administrative Trustees or any one of them.

#### Section 5.14 Rights of Securityholders

The legal title to the Trust Property is vested exclusively in the Property Trustee (in its capacity as such) in accordance with Section 2.09, and the Securityholders shall not have any right or title therein other than an undivided beneficial interest in the assets of the Trust conferred by their Trust Securities, and they shall have no right to call for any partition or division of property, profits or rights of the Trust except as described below. The Trust Securities shall be personal property giving only the rights specifically set forth therein and in this Amended and Restated Declaration of Trust. The Trust Securities shall have no preemptive or other similar rights and when issued and delivered to Securityholders against payment of the purchase price therefor, except as otherwise provided in the Expense Agreement and Section 10.01, will be fully paid and nonassessable by the Trust and will be entitled to the benefits of this Amended and Restated Declaration of Trust. Except as otherwise provided in the Expense Agreement and Section 10.01 with respect to the Holder of the Common Securities, the Holders of the Trust Securities shall be entitled to the same limitation of personal liability extended to stockholders of private corporations for profit organized under the General Corporation Law of the State of Delaware.

### Article 6 Acts of Securityholders; Meetings; Voting

#### Section 6.01 Limitations on Voting Rights.

(a) Except as provided in this Section 6.01, in Sections 8.10 or 10.03, in the Subordinated Indenture, and as otherwise required by law, no Holder of Preferred Securities shall have any right to vote or in any manner otherwise control the administration, operation and management of the Trust or the obligations of the parties hereto, nor shall anything herein set forth, or contained in the terms of the Trust Securities Certificates, be construed so as to constitute the Securityholders from time to time as partners or members of an association.

(b) So long as any Debentures are held by the Property Trustee, the Trustees shall not (i) direct the time, method and place of conducting any proceeding for any remedy available to the Indenture Trustee, or executing any trust or power conferred on the Indenture Trustee with respect to such Debentures, (ii) waive any past default which is waivable under the Subordinated Indenture, (iii) exercise any right to rescind or annul a declaration that the principal of all the Debentures shall be due and payable or (iv) consent to any amendment, modification or termination of the Subordinated Indenture or the Debentures, where such consent shall be required, or to any other action, as holder of the Debentures, under the Subordinated Indenture, without, in each case, obtaining the prior approval of the Holders of at least 66-2/3% in Liquidation Amount of the Preferred Securities; provided, however, that where a consent under the Subordinated Indenture would require the consent of each holder of Debentures affected thereby, no such consent shall be given by the Trustees without the prior written consent of each Holder of Preferred Securities. The Trustees shall not revoke any action previously authorized or approved by a vote of the Holders of Preferred Securities, except pursuant to a subsequent vote of the Holders of Preferred Securities. The Property Trustee shall notify all Holders of the Preferred Securities of any notice of default received from the Indenture Trustee with respect to the Debentures. In addition to obtaining the foregoing approvals of the Holders of the Preferred Securities, prior to taking any of the foregoing actions, the Administrative Trustees and the Property Trustee shall, at the expense of the Sponsor, obtain an Opinion of Counsel experienced in such

matters to the effect that the Trust will not be classified as other than a grantor trust for United States federal income tax purposes on account of such action.

(c) If any proposed amendment to this Amended and Restated Declaration of Trust provides for, or the Trustees otherwise propose to effect, (i) any action that would adversely affect the powers, preferences or special rights of the Preferred Securities, whether by way of amendment to this Amended and Restated Declaration of Trust or otherwise, or (ii) the dissolution, winding-up or termination of the Trust, other than pursuant to the terms of this Amended and Restated Declaration of Trust, then the Holders of Outstanding Preferred Securities as a class will be entitled to vote on such amendment or proposal and such amendment or proposal shall not be effective except with the approval of the Holders of at least 66-2/3% in the Outstanding Preferred Securities (based upon their Liquidation Amount). In addition to obtaining the foregoing approvals of the Holders of the Preferred Securities, prior to taking any of the foregoing actions, the Administrative Trustees and the Property Trustee shall, at the expense of the Sponsor, obtain an Opinion of Counsel experienced in such matters to the effect that the Trust will not be classified as other than a grantor trust for United States federal income tax purposes on account of such action.

#### Section 6.02 Notice of Meetings

Notice of all meetings of the Preferred Securityholders, stating the time, place and purpose of the meeting, shall be given by the Administrative Trustees pursuant to Section 10.08 to each Preferred Securityholder of record, at his registered address, at least 15 days and not more than 90 days before the meeting. At any such meeting, any business properly before the meeting may be so considered whether or not stated in the notice of the meeting. Any adjourned meeting may be held as adjourned without further notice.

#### Section 6.03 Meetings of Preferred Securityholders

No annual meeting of Securityholders is required to be held. The Administrative Trustees, however, shall call a meeting of Securityholders to vote on any matter upon the written request of the Preferred Securityholders of record of 25% of the Outstanding Preferred Securities (based upon their Liquidation Amount) and the Administrative Trustees or the Property Trustee may, at any time in their discretion, call a meeting of Preferred Securityholders to vote on any matters as to which Preferred Securityholders are entitled to vote.

Preferred Securityholders of record of 50% of the Outstanding Preferred Securities (based upon their Liquidation Amount) present in person or by proxy, shall constitute a quorum at any meeting of Securityholders.

If a quorum is present at a meeting, an affirmative vote by the Preferred Securityholders of record present, in person or by proxy, holding more than 66-2/3% of the Outstanding Preferred Securities (based upon their Liquidation Amount) held by the Preferred Securityholders of record present, either in person or by proxy, at such meeting shall constitute the action of the Securityholders, unless this Amended and Restated Declaration of Trust requires a greater number of affirmative votes.

#### Section 6.04 Voting Rights

Securityholders shall be entitled to one vote for each \$\_\_\_\_\_ of Liquidation Amount represented by their Trust Securities in respect of any matter as to which such Securityholders are entitled to vote.

Section 6.05 Proxies, etc.

At any meeting of Securityholders, any Securityholder entitled to vote may vote by proxy, provided that no proxy shall be voted at any meeting unless it shall have been placed on file with the Administrative Trustees, or with such other officer or agent of the Trust as the Administrative Trustees may direct, for verification prior to the time at which such vote shall be taken. A Securityholder may grant a proxy by any means permitted by the General Corporation Law of the State of Delaware. Only Securityholders of record shall be entitled to vote. When Trust Securities are held jointly by several Persons, any one of them may vote at any meeting in person or by proxy in respect of such Trust Securities, but if more than one of them shall be present at such meeting in person or by proxy, and such joint owners or their proxies so present disagree as to any vote to be cast, such vote shall not be received in respect of such Trust Securities. A proxy purporting to be executed by or on behalf of a Securityholder shall be deemed valid unless challenged at or prior to its exercise, and the burden of proving invalidity shall rest on the challenger. No proxy shall be valid more than three years after its date of execution.

Section 6.06 Securityholder Action by Written Consent

Any action which may be taken by Securityholders at a meeting may be taken without a meeting if Securityholders holding at least 66-2/3% of all Outstanding Trust Securities (based upon their Liquidation Amount) entitled to vote in respect of such action (or such other proportion thereof as shall be required by any express provision of this Amended and Restated Declaration of Trust) shall consent to the action in writing.

Section 6.07 Record Date for Voting and Other Purposes

For the purposes of determining the Securityholders who are entitled to notice of and to vote at any meeting or by written consent, or to participate in any Distribution on the Trust Securities in respect of which a record date is not otherwise provided for in this Amended and Restated Declaration of Trust, or for the purpose of any other action, the Administrative Trustees may from time to time fix a date, not more than 60 days prior to the date of any meeting of Securityholders or the payment of a Distribution or other action, as the case may be, as a record date for the determination of the identity of the Securityholders of record for such purposes.

Section 6.08 Acts of Securityholders

Any request, demand, authorization, direction, notice, consent, waiver or other action provided or permitted by this Amended and Restated Declaration of Trust to be given, made or taken by Securityholders may be embodied in and evidenced by one or more instruments of substantially similar tenor signed by such Securityholders in person or by an agent appointed in writing; and, except as otherwise expressly provided herein, such action shall become effective when such instrument or instruments are delivered to the Administrative Trustees. Such instrument or instruments (and the action embodied therein and evidenced thereby) are herein sometimes referred to as the "Act" of the Securityholders signing such instrument or instruments. Proof of execution of any such instrument or of a writing appointing any such agent shall be sufficient for any purpose of this Amended and Restated Declaration of Trust and (subject to Section 8.01) conclusive in favor of the Trustees, if made in the manner provided in this Section 6.08.

The fact and date of the execution by any Person of any such instrument or writing may be proved by the affidavit of a witness of such execution or by a certificate of a notary public or other officer authorized by law to take acknowledgments of deeds, certifying that the individual signing such instrument or writing acknowledged to him the execution thereof. Where such execution is by a signer acting in a capacity other than his individual capacity, such certificate or affidavit shall also constitute sufficient proof of his authority. The fact and date of the execution of any such instrument or writing, or the authority of the Person executing the same, may also be proved in any other manner which the Trustees deem sufficient.

The ownership of Preferred Securities shall be proved by the Securities Register.

Any request, demand, authorization, direction, notice, consent, waiver or other Act of the Securityholder of any Trust Security shall bind every future Securityholder of the same Trust Security and the Securityholder of every Trust Security issued upon the registration of transfer thereof or in exchange therefor or in lieu thereof in respect of anything done, omitted or suffered to be done by the Trustees or the Trust in reliance thereon, whether or not notation of such action is made upon such Trust Security.

Without limiting the foregoing, a Securityholder entitled hereunder to take any action hereunder with regard to any particular Trust Security may do so with regard to all or any part of the Liquidation Amount of such Trust Security or by one or more duly appointed agents each of which may do so pursuant to such appointment with regard to all or any part of such Liquidation Amount.

#### Section 6.09 Inspection of Records

Upon reasonable notice to the Trustees, the records of the Trust, and the records of any Trustee as such records relate to the Trust, shall be open to inspection by Securityholders during normal business hours for any purpose reasonably related to such Securityholder's interest as a Securityholder.

### Article 7

#### Representations and Warranties of the Property Trustee and Delaware Trustee

##### Section 7.01 Representations and Warranties of Property Trustee

The Trustee that acts as initial Property Trustee represents and warrants to the Trust and to the Sponsor at the date of this Amended and Restated Declaration of Trust, and each Successor Property Trustee represents and warrants to the Trust and the Sponsor at the time of the Successor Property Trustee's acceptance of its appointment as Property Trustee that:

(a) The Property Trustee is a national bank with trust powers and authority to execute and deliver, and to carry out and perform its obligations under the terms of, this Amended and Restated Declaration of Trust;

(b) The execution, delivery and performance by the Property Trustee of this Amended and Restated Declaration of Trust have been duly authorized by all necessary corporate action on the part of the Property Trustee. This Amended and Restated Declaration of Trust has been duly executed and delivered by the Property Trustee and constitutes a legal, valid and binding obligation of the Property Trustee, enforceable against it in accordance with its terms, subject to applicable bankruptcy, reorganization, moratorium, insolvency, and other similar laws affecting creditors' rights generally and to general principles of equity and the discretion of the court (regardless of whether the enforcement of such remedies is considered in a proceeding in equity or at law);

(c) The execution, delivery and performance of this Amended and Restated Declaration of Trust by the Property Trustee do not conflict with or constitute a breach of the charter or by-laws of the Property Trustee; and

(d) No consent, approval or authorization of, or registration with or notice to, any Delaware or federal banking authority is required for the execution, delivery or performance by the Property Trustee of this Amended and Restated Declaration of Trust.

Section 7.02 Representations and Warranties of Delaware Trustee

The Trustee that acts as initial Delaware Trustee represents and warrants to the Trust and to the Sponsor at the date of this Amended and Restated Declaration of Trust, and each Successor Delaware Trustee represents and warrants to the Trust and the Sponsor at the time of the Successor Delaware Trustee's acceptance of its appointment as Delaware Trustee that:

(a) The Delaware Trustee is duly organized, validly existing and in good standing under the laws of the State of Delaware, with trust power and authority to execute and deliver, and to carry out and perform its obligations under the terms of, this Amended and Restated Declaration of Trust;

(b) The execution, delivery and performance by the Delaware Trustee of this Amended and Restated Declaration of Trust have been duly authorized by all necessary corporate action on the part of the Delaware Trustee. This Amended and Restated Declaration of Trust has been duly executed and delivered by the Delaware Trustee and constitutes a legal, valid and binding obligation of the Delaware Trustee, enforceable against it in accordance with its terms, subject to applicable bankruptcy, reorganization, moratorium, insolvency, and other similar laws affecting creditors' rights generally and to general principles of equity and the discretion of the court (regardless of whether the enforcement of such remedies is considered in a proceeding in equity or at law);

(c) No consent, approval or authorization of, or registration with or notice to, any Delaware or federal banking authority is required for the execution, delivery or performance by the Delaware Trustee of this Amended and Restated Declaration of Trust; and

(d) The Delaware Trustee is a natural person who is a resident of the State of Delaware or, if not a natural person, an entity which has its principal place of business in the State of Delaware.

Article 8  
The Trustees

Section 8.01 Certain Duties and Responsibilities.

(a) The rights, duties and responsibilities of the Trustees shall be as provided by this Amended and Restated Declaration of Trust and, in the case of the Property Trustee, the Trust Indenture Act. Notwithstanding the foregoing, no provision of this Amended and Restated Declaration of Trust shall require the Trustees to expend or risk their own funds or otherwise incur any financial liability in the performance of any of their duties hereunder, or in the exercise of any of their rights or powers, if they shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to them. Whether or not therein expressly so provided, every provision of this Amended and Restated Declaration of Trust relating to the conduct or affecting the liability of or affording protection to the Trustees shall be subject to the provisions of this Section 8.01.

(b) All payments made by the Property Trustee or a Paying Agent in respect of the Trust Securities shall be made only from the income and proceeds from the Trust Property and only to the extent that there shall be sufficient income or proceeds from the Trust Property to enable the Property Trustee or a Paying Agent to make payments in accordance with the terms hereof. Each Securityholder, by its acceptance of a Trust Security, agrees that it will look solely to the income and proceeds from the Trust Property to the extent available for distribution to it as herein provided and that the Trustees are not personally liable to it for any amount distributable in respect of any Trust Security or for any other liability in respect of any Trust Security. This Section 8.01(b) does not limit the liability of the



Trustees expressly set forth elsewhere in this Amended and Restated Declaration of Trust and, in the case of the Property Trustee, in the Trust Indenture Act.

(c) No Trustee shall be liable for its acts or omissions hereunder except as a result of its own gross negligence (or ordinary negligence in the case of the Property Trustee), willful misconduct or bad faith. To the extent that, at law or in equity, a Trustee has duties (including fiduciary duties) and liabilities relating thereto to the Trust or to the Securityholders, such Trustee shall not be liable to the Trust or to any Securityholder for such Trustee's good faith reliance on the provisions of this Amended and Restated Declaration of Trust. The provisions of this Amended and Restated Declaration of Trust, to the extent that they restrict the duties and liabilities of the Trustees otherwise existing at law or in equity, are agreed by the Sponsor and the Securityholders to replace such other duties and liabilities of the Trustees (other than the mandatory duties and liabilities of the Property Trustee under the Trust Indenture Act).

(d) No provision of this Amended and Restated Declaration of Trust shall be construed to relieve the Property Trustee from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that:

(i) the Property Trustee shall not be liable for any error of judgment made in good faith by an authorized officer of the Property Trustee, unless it shall be proved that the Property Trustee was negligent in ascertaining the pertinent facts;

(ii) the Property Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Holders of not less than a majority in Liquidation Amount of the Trust Securities relating to the time, method and place of conducting any proceeding for any remedy available to the Property Trustee, or exercising any trust or power conferred upon the Property Trustee under this Amended and Restated Declaration of Trust;

(iii) the Property Trustee's sole duty with respect to the custody, safe keeping and physical preservation of the Debentures and the Payment Account shall be to deal with such Property in a similar manner as the Property Trustee deals with similar property for its own account, subject to the protections and limitation on liability afforded to the Property Trustee under this Amended and Restated Declaration of Trust and the Trust Indenture Act;

(iv) the Property Trustee shall not be liable for any interest on any money received by it except as it may otherwise agree in writing with the Sponsor, and money held by the Property Trustee need not be segregated from other funds held by it except in relation to the Payment Account maintained by the Property Trustee pursuant to Section 3.01 and except to the extent otherwise required by law; and

(v) the Property Trustee shall not be responsible for monitoring the compliance by the Administrative Trustees or the Sponsor with their respective duties under this Amended and Restated Declaration of Trust, nor shall the Property Trustee be liable for the negligence, default or misconduct of the Administrative Trustees or the Sponsor.

(e) Any direction or act of the Sponsor or the Administrative Trustees contemplated by this Amended and Restated Declaration of Trust shall be sufficiently evidenced by an Officers' Certificate;

The Property Trustee shall have no duty to see to any recording, filing or registration of any instrument (including any financing or continuation statement) or any filing under tax or securities laws or any rerecording, refiling, or reregistration thereof;

(f) Whenever in the administration of this Amended and Restated Declaration of Trust the Property Trustee shall deem it desirable to receive instructions with respect to enforcing any remedy or right or taking any other action hereunder as to which the Preferred Securityholders are entitled to vote under the terms of this Amended and Restated Declaration of Trust, the Property Trustee (i) may request instructions from the Holders of the Trust Securities which instructions may only be given by the Holders of the same proportion in Liquidation Amount of the Trust Securities as would be entitled to direct the Property Trustee under the terms of the Trust Securities in respect of such remedy, right or action; (ii) may refrain from enforcing such remedy or right or taking such other action until such instructions are received; and (iii) shall be protected in acting in accordance with such instructions; and

(g) Except as otherwise expressly provided by this Amended and Restated Declaration of Trust, the Property Trustee shall not be under any obligation to take any action that is discretionary under the provisions of this Amended and Restated Declaration of Trust. No provision of this Amended and Restated Declaration of Trust shall be deemed to impose any duty or obligations on the Property Trustee to perform any act or acts or exercise any right, power, duty or obligation conferred or imposed on it, in any jurisdiction in which it shall be illegal, or in which the Property Trustee shall be unqualified or incompetent in accordance with applicable law, to perform any such act or acts, or to exercise any such right, power, duty or obligation. No permissive power or authority available to the Property Trustee shall be construed to be a duty.

#### Section 8.02 Notice of Defaults

Within 90 days after the occurrence of any Event of Default, the Property Trustee shall transmit, in the manner and to the extent provided in Section 10.08, notice of any Event of Default known to the Property Trustee to the Securityholders, the Administrative Trustees, the Guarantor and the Sponsor, unless such Event of Default shall have been cured or waived.

#### Section 8.03 Certain Rights of Property Trustee.

Subject to the provisions of Section 8.01:

(i) the Property Trustee may conclusively rely and shall be protected in acting or refraining from acting in good faith upon any resolution, Opinion of Counsel, Officer's Certificate, written representation of a Holder or transferee, certificate of auditors or any other certificate, statement, instrument, opinion, report, notice, request, consent, order, appraisal, bond, note or other evidence of indebtedness or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties;

(ii) if (A) in performing its duties under this Amended and Restated Declaration of Trust the Property Trustee is required to decide between alternative courses of action, or (B) in construing any of the provisions in this Amended and Restated Declaration of Trust the Property Trustee finds the same ambiguous or inconsistent with any other provisions contained herein, or (C) the Property Trustee is unsure of the application of any provision of this Amended and Restated Declaration of Trust, then, except as to any matter as to which the Preferred Securityholders are entitled to vote under the terms of this Amended and Restated Declaration of Trust, the Property Trustee shall deliver a notice to the Sponsor requesting written instructions of the Sponsor as to the course of action to be taken. The Property Trustee

shall take such action, or refrain from taking such action, as the Property Trustee shall be instructed in writing to take, or to refrain from taking, by the Sponsor; provided, however, that if the Property Trustee does not receive such instructions of the Sponsor within ten Business Days after it has delivered such notice, or such reasonably shorter period of time set forth in such notice (which to the extent practicable shall not be less than two Business Days), it may, but shall be under no duty to, take or refrain from taking such action not inconsistent with this Amended and Restated Declaration of Trust as it shall deem advisable and in the best interests of the Securityholders, in which event the Property Trustee shall have no liability except for its own bad faith, negligence or willful misconduct;

(iii) the Property Trustee may consult with counsel of its selection and the advice of such counsel or any Opinion of Counsel shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by it hereunder in good faith and in reliance thereon;

(iv) the Property Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Amended and Restated Declaration of Trust at the request or direction of any of the Securityholders pursuant to this Amended and Restated Declaration of Trust, unless such Securityholders shall have offered to the Property Trustee security or indemnity reasonably satisfactory to it against the costs, expenses and liabilities which might be incurred by it in compliance with such request or direction;

(v) the Property Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, approval, bond, note or other evidence of indebtedness or other document, unless requested in writing to do so by one or more Securityholders;

(vi) the Property Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through its agents or attorneys, and the Property Trustee shall not be liable for the action, default or misconduct of such agents or attorneys, provided that the Property Trustee shall be responsible for its own negligence or recklessness with respect to selection of any agent or attorney appointed by it hereunder; and

(vii) whenever in the administration of this Amended and Restated Declaration of Trust the Property Trustee shall deem it desirable that a matter, including the compliance of any covenant in connection therewith or condition thereto, be established before undertaking, suffering or omitting to take any action hereunder, the Property Trustee may (unless other evidence thereof is herein specifically prescribed), in the absence of bad faith on its part, request and conclusively rely upon an Officer's Certificate which, upon receipt of such request, shall be promptly delivered by the Sponsor or the Administrative Trustees.

#### Section 8.04 Not Responsible for Recitals or Issuance of Securities

The recitals contained herein and in the Trust Securities Certificates shall be taken as the statements of the Trust, and the Trustees do not assume any responsibility for their correctness. The Trustees shall not be accountable for the use or application by the Trust of the proceeds of the Trust Securities in accordance with Section 2.05.

The Property Trustee may conclusively assume that any funds held by it hereunder are legally available unless a Responsible Officer shall have received written notice from the Sponsor, any Holder or any other Trustee that such funds are not legally available.

Section 8.05 May Hold Securities

Except as provided in the definition of the term "Outstanding" in Article 1, any Trustee or any other agent of the Trustees or the Trust, in its individual or any other capacity, may become the owner or pledgee of Trust Securities and may otherwise deal with the Trust with the same rights it would have if it were not a Trustee or such other agent.

Section 8.06 Compensation; Fees; Indemnity.

The Sponsor agrees:

(1) to pay to the Trustees from time to time reasonable compensation for all services rendered by the Trustees hereunder (which compensation shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust);

(2) except as otherwise expressly provided herein, to reimburse the Trustees upon request for all reasonable expenses, disbursements and advances incurred or made by the Trustees in accordance with any provision of this Amended and Restated Declaration of Trust (including the reasonable compensation and the expenses and disbursements of their agents and counsel), except to the extent any such expense, disbursement or advance is attributable to their willful misconduct, gross negligence (ordinary negligence in the case of the Property Trustee) or bad faith;

(3) to indemnify each of the Trustees and the Bank for, and to hold each of the Trustees and the Bank harmless against, any and all loss, damage, claims, liability or expense of any kind whatsoever to the extent incurred without willful misconduct, gross negligence (ordinary negligence in the case of the Property Trustee) or bad faith on their part, arising out of or in connection with the acceptance or administration of this Amended and Restated Declaration of Trust, including the costs and expenses of defending themselves against any claim or liability in connection with the exercise or performance of any of their powers or duties hereunder; and

(4) to advance expenses (including legal fees) incurred by each of the Trustees and the Bank in defending any claim, demand, action, suit or proceeding, from time to time, prior to the final disposition of such claim, demand, action, suit or proceeding, upon receipt by the Sponsor of an undertaking by or on behalf of such Trustee or the Bank, as the case may be, to repay such amount if it shall be determined such Trustee or the Bank, as the case may be, is not entitled to be indemnified as authorized in this Section 8.06.

The provisions of this Section 8.06 shall survive the resignation or removal of any Trustee or the termination of this Amended and Restated Declaration of Trust.

Section 8.07 Trustees Required; Eligibility.

(a) There shall at all times be a Property Trustee hereunder with respect to the Trust Securities. The Property Trustee shall be a Person that has a combined capital and surplus of at least \$50,000,000. If any such Person publishes reports of condition at least annually, pursuant to law or to the requirements of its supervising or examining authority, then for the purposes of this Section 8.07, the combined capital and surplus of such Person shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. If at any time the Property Trustee with respect to the Trust Securities shall cease to be eligible in accordance with the provisions of this Section 8.07, it shall resign immediately in the manner and with the effect hereinafter specified in this Article 8.

(b) There shall at all times be one or more Administrative Trustees hereunder with respect to the Trust Securities. Each Administrative Trustee shall be either a natural person who is at least 21 years of age or a legal entity that shall act through one or more persons authorized to bind such entity.

(c) There shall at all times be a Delaware Trustee with respect to the Trust Securities. The Delaware Trustee shall either be (i) a natural person who is at least 21 years of age and a resident of the State of Delaware or (ii) a legal entity authorized to conduct a trust business and with its principal place of business in the State of Delaware that shall act through one or more persons authorized to bind such entity.

#### Section 8.08 Conflicting Interests.

If the Property Trustee has or shall acquire a conflicting interest within the meaning of the Trust Indenture Act, the Property Trustee shall either eliminate such interest or resign, to the extent and in the manner provided by, and subject to the provisions of, the Trust Indenture Act and this Amended and Restated Declaration of Trust. To the extent permitted by the Trust Indenture Act, the Property Trustee shall not be deemed to have a conflicting interest by virtue of being trustee under the Guarantee.

#### Section 8.09 Co-Trustees and Separate Trustee.

At any time or times, for the purpose of meeting the legal requirements of the Trust Indenture Act or of any jurisdiction in which any part of the Trust Property may at the time be located, the Holder of the Common Securities and the Property Trustee shall have power to appoint, and upon the written request of the Property Trustee, the Sponsor shall for such purpose join with the Property Trustee in the execution, delivery and performance of all instruments and agreements necessary or proper to appoint, one or more Persons approved by the Property Trustee either to act as co-trustee, jointly with the Property Trustee, of all or any part of such Trust Property, or to act as separate trustee of any such Trust Property, in either case with such powers as may be provided in the instrument of appointment, and to vest in such Person or Persons in the capacity aforesaid, any property, title, right or power deemed necessary or desirable, subject to the other provisions of this Section 8.09. If the Sponsor does not join in such appointment within 15 days after the receipt by it of a request so to do, or in case an Indenture Event of Default has occurred and is continuing, the Property Trustee alone shall have power to make such appointment. Any co-trustee or separate trustee appointed pursuant to this Section 8.09 shall satisfy the requirements of Section 8.07.

Should any written instrument from the Sponsor be required by any co-trustee or separate trustee so appointed for more fully confirming to such co-trustee or separate trustee such property, title, right, or power, any and all such instruments shall, on request, be executed, acknowledged, and delivered by the Sponsor.

Every co-trustee or separate trustee shall, to the extent permitted by law, but to such extent only, be appointed subject to the following terms, namely:

(i) The Trust Securities shall be executed, authenticated and delivered and all rights, powers, duties, and obligations hereunder in respect of the custody of securities, cash and other personal property held by, or required to be deposited or pledged with, the Trustees hereunder, shall be exercised, solely by the Trustees.

(ii) The rights, powers, duties, and obligations hereby conferred or imposed upon the Property Trustee in respect of any property covered by such appointment shall be conferred or imposed upon and exercised or performed by the Property Trustee or by the Property Trustee and such co-trustee or separate trustee jointly, as shall be

provided in the instrument appointing such co-trustee or separate trustee, except to the extent that under any law of any jurisdiction in which any particular act is to be performed, the Property Trustee shall be incompetent or unqualified to perform such act, in which event such rights, powers, duties, and obligations shall be exercised and performed by such co-trustee or separate trustee.

(iii) The Property Trustee at any time, by an instrument in writing executed by it, with the written concurrence of the Sponsor, may accept the resignation of or remove any co-trustee or separate trustee appointed under this Section 8.09, and, in case an Indenture Event of Default has occurred and is continuing, the Property Trustee shall have power to accept the resignation of, or remove, any such co-trustee or separate trustee without the concurrence of the Sponsor. Upon the written request of the Property Trustee, the Sponsor shall join with the Property Trustee in the execution, delivery, and performance of all instruments and agreements necessary or proper to effectuate such resignation or removal. A successor to any co-trustee or separate trustee so resigned or removed may be appointed in the manner provided in this Section 8.09.

(iv) No co-trustee or separate trustee hereunder shall be personally liable by reason of any act or omission of the Property Trustee, or any other such trustee hereunder.

(v) The Trustees shall not be liable by reason of any act of a co-trustee or separate trustee.

(vi) Any Act of Holders delivered to the Property Trustee shall be deemed to have been delivered to each such co-trustee and separate trustee.

#### Section 8.10 Resignation and Removal; Appointment of Successor

No resignation or removal of any Trustee (the "Relevant Trustee") and no appointment of a successor Relevant Trustee pursuant to this Article 8 shall become effective until the acceptance of appointment by the successor Relevant Trustee in accordance with the applicable requirements of Section 8.11.

If the Relevant Trustee is an Administrative Trustee, such Relevant Trustee may resign at any time by giving written notice thereof to the other Trustees and to the Sponsor. If the Relevant Trustee is a Trustee other than an Administrative Trustee, such Relevant Trustee may resign at any time by giving written notice thereof to the Securityholders. If the instrument of acceptance by a successor Relevant Trustee required by Section 8.11 shall not have been delivered to the Relevant Trustee within 30 days after the giving of such notice of resignation, the resigning Relevant Trustee may petition any court of competent jurisdiction for the appointment of a successor Relevant Trustee.

Unless an Indenture Event of Default shall have occurred and be continuing, the Relevant Trustee may be removed at any time by Act of the Holder of the Common Securities. If an Indenture Event of Default shall have occurred and be continuing, the Relevant Trustee may be removed at such time by Act of the Securityholders of a majority in Liquidation Amount of the Outstanding Preferred Securities, delivered to the Relevant Trustee (in its individual capacity and on behalf of the Trust); provided, however, that an Administrative Trustee may be appointed, removed or replaced only by an Act of the Holders of a majority in Liquidation Amount of the Common Securities.

If the Relevant Trustee shall resign, be removed or become incapable of continuing to act as Trustee at a time when no Indenture Event of Default shall have occurred and be continuing, the Holder of the Common Securities, by Act of the Holder of the Common Securities delivered to the retiring Relevant Trustee,

shall promptly appoint a successor Relevant Trustee or Trustees, and the retiring Relevant Trustee shall comply with the applicable requirements of Section 8.11. If the Relevant Trustee (other than an Administrative Trustee) shall resign, be removed or become incapable of continuing to act as the Relevant Trustee at a time when an Indenture Event of Default shall have occurred and be continuing, the Holders of Preferred Securities, by Act of the Securityholders of a majority in Liquidation Amount of the Preferred Securities then outstanding delivered to the retiring Relevant Trustee, shall promptly appoint a successor Relevant Trustee or Trustees, and the Relevant Trustee shall comply with the applicable requirements of Section 8.11. If no successor Relevant Trustee shall have been so appointed in accordance with this Section 8.10 and accepted appointment in the manner required by Section 8.11, any Securityholder who has been a Securityholder of Trust Securities for at least six months may, on behalf of himself and all others similarly situated, petition any court of competent jurisdiction for the appointment of a successor Relevant Trustee.

The retiring Relevant Trustee shall give notice of each resignation and each removal of the Relevant Trustee, and each appointment of a successor Trustee to all Securityholders in the manner provided in Section 10.08 and shall give notice to the Sponsor. Each notice shall include the name of the successor Relevant Trustee and the address of its Corporate Trust Office if it is the Property Trustee.

Notwithstanding the foregoing or any other provision of this Amended and Restated Declaration of Trust, in the event any Administrative Trustee or a Delaware Trustee who is a natural person dies or becomes incompetent or incapacitated or resigns, the vacancy created by such death, incompetence or incapacity or resignation may be filled by (i) the act of the remaining Administrative Trustee or (ii) otherwise by the Sponsor (with the successor in each case being an individual who satisfies the eligibility requirement for Administrative Trustees set forth in Section 8.07). Additionally, notwithstanding the foregoing or any other provision of this Amended and Restated Declaration of Trust, in the event the Sponsor believes that any Administrative Trustee has become incompetent or incapacitated, the Sponsor, by notice to the remaining Trustees, may terminate the status of such Person as an Administrative Trustee (in which case the vacancy so created will be filled in accordance with the preceding sentence).

#### Section 8.11 Acceptance of Appointment by Successor

In case of the appointment hereunder of a successor Relevant Trustee, every such successor Relevant Trustee so appointed shall execute, acknowledge and deliver to the Trust and to the retiring Relevant Trustee an instrument accepting such appointment, and thereupon the resignation or removal of the retiring Relevant Trustee shall become effective and such successor Relevant Trustee, without any further act, deed or conveyance, shall become vested with all the rights, powers, trusts and duties of the retiring Relevant Trustee; but, on the request of the Sponsor or the successor Relevant Trustee, such retiring Relevant Trustee shall, upon payment of its charges, execute and deliver an instrument transferring to such successor Relevant Trustee all the rights, powers and trusts of the retiring Relevant Trustee and shall duly assign, transfer and deliver to such successor Relevant Trustee all property and money held by such retiring Relevant Trustee hereunder.

Upon request of any such successor Relevant Trustee, the Trust shall execute any and all instruments for more fully and certainly vesting in and confirming to such successor Relevant Trustee all such rights, powers and trusts referred to in the preceding paragraph.

No successor Relevant Trustee shall accept its appointment unless at the time of such acceptance such successor Relevant Trustee shall be qualified and eligible under this Article 8.

Section 8.12 Merger, Conversion, Consolidation or Succession to Business

Any Person into which the Property Trustee, Delaware Trustee or any Administrative Trustee which is not a natural person may be merged or converted or with which it may be consolidated, or any Person resulting from any merger, conversion or consolidation to which such Relevant Trustee shall be a party, or any Person succeeding to all or substantially all the corporate trust business of such Relevant Trustee, shall be the successor of such Relevant Trustee hereunder, provided such Person shall be otherwise qualified and eligible under this Article 8, without the execution or filing of any paper or any further act on the part of any of the parties hereto.

Section 8.13 Preferential Collection of Claims Against Sponsor or Trust

If and when the Property Trustee shall be or become a creditor of the Sponsor or the Trust (or any other obligor upon the Debentures or the Trust Securities), the Property Trustee shall be subject to the provisions of the Trust Indenture Act regarding the collection of claims against the Sponsor or Trust (or any such other obligor). For purposes of Section 311(b)(4) and (6) of the Trust Indenture Act:

(a) "cash transaction" means any transaction in which full payment for goods or securities sold is made within seven days after delivery of the goods or securities in currency or in checks or other orders drawn upon banks or bankers and payable upon demand; and

(b) "self-liquidating paper" means any draft, bill of exchange, acceptance or obligation which is made, drawn, negotiated or incurred by the Sponsor or the Trust (or any such obligor) for the purpose of financing the purchase, processing, manufacturing, shipment, storage or sale of goods, wares or merchandise and which is secured by documents evidencing title to, possession of, or a lien upon, the goods, wares or merchandise or the receivables or proceeds arising from the sale of the goods, wares or merchandise previously constituting the security, provided the security is received by the Property Trustee simultaneously with the creation of the creditor relationship with the Sponsor or the Trust (or any such obligor) arising from the making, drawing, negotiating or incurring of the draft, bill of exchange, acceptance or obligation.

Section 8.14 Reports by Property Trustee.

(a) Within 60 days after May 15 of each year commencing with May 15, \_\_\_\_, if required by Section 313(a) of the Trust Indenture Act, the Property Trustee shall transmit a brief report dated as of such May 15 with respect to any of the events specified in such Section 313(a) that may have occurred since the later of the date of this Amended and Restated Declaration of Trust or the preceding May 15.

(b) The Property Trustee shall transmit to Securityholders the reports required by Section 313(b) of the Trust Indenture Act at the times specified therein.

(c) Reports pursuant to this Section 8.14 shall be transmitted in the manner and to the Persons required by Sections 313(c) and (d) of the Trust Indenture Act.

Section 8.15 Reports to the Property Trustee

The Sponsor and the Administrative Trustees on behalf of the Trust shall provide to the Property Trustee such documents, reports and information as required by Section 314 of the Trust Indenture Act (if any) and, within 120 days after the end of each fiscal year of the Sponsor, the compliance certificate



required by Section 314(a)(4) of the Trust Indenture Act in the form and in the manner required by Section 314 of the Trust Indenture Act.

#### Section 8.16 Evidence of Compliance with Conditions Precedent

Each of the Sponsor and the Administrative Trustees on behalf of the Trust shall provide to the Property Trustee such evidence of compliance with any conditions precedent, if any, provided for in this Amended and Restated Declaration of Trust that relate to any of the matters set forth in Section 314(c) of the Trust Indenture Act. Any certificate or opinion required to be given pursuant to Section 314(c)(1) of the Trust Indenture Act shall comply with Section 314(e) of the Trust Indenture Act.

#### Section 8.17 Number of Trustees.

(a) The number of Trustees shall initially be five, provided that the Sponsor by written instrument may increase or decrease the number of Administrative Trustees.

(b) If a Trustee ceases to hold office for any reason and the number of Administrative Trustees is not reduced pursuant to Section 8.17(a), or if the number of Trustees is increased pursuant to Section 8.17(a), a vacancy shall occur. The vacancy shall be filled with a Trustee appointed in accordance with Section 8.10.

(c) The death, resignation, retirement, removal, bankruptcy, incompetence or incapacity to perform the duties of a Trustee shall not operate to annul, dissolve or terminate the Trust. Whenever a vacancy in the number of Administrative Trustees shall occur, until such vacancy is filled by the appointment of an Administrative Trustee in accordance with Section 8.10, the Administrative Trustees in office, regardless of their number (and notwithstanding any other provision of this Amended and Restated Declaration of Trust), shall have all powers granted to the Administrative Trustees and shall discharge the duties imposed upon the Administrative Trustees by this Amended and Restated Declaration of Trust.

#### Section 8.18 Delegation of Power.

(a) Any Administrative Trustee may, by power of attorney consistent with applicable law, delegate to any other natural person over the age of 21 his or her power for the purpose of executing any documents contemplated in Section 2.07(A), including any registration statement or amendment thereto filed with the Commission, or making any other governmental filing; and

(b) The Administrative Trustees shall have power to delegate from time to time to such of their number the doing of such things and the execution of such instruments either in the name of the Trust or the names of the Administrative Trustees or otherwise as the Administrative Trustees may deem expedient, to the extent such delegation is not prohibited by applicable law or contrary to the provisions of the Trust, as set forth herein.

#### Section 8.19 Enforcement of Rights of Property Trustee by Securityholders

If (i) the Trust fails to pay Distributions in full on the Preferred Securities for more than \_\_\_ consecutive \_\_\_\_\_ distribution periods, or (ii) an Event of Default occurs and is continuing, then the Holders of Preferred Securities will rely on the enforcement by the Property Trustee of its rights against the Sponsor as the holder of the Debentures. In addition, the Holders of a majority in aggregate Liquidation Amount of the Preferred Securities will have the right to direct the time, method, and place of conducting any proceeding for any remedy available to the Property Trustee or to direct the exercise of any trust or power conferred upon the Property Trustee under this Amended and Restated Declaration of Trust, including the right to direct the Property Trustee to exercise the remedies available to it as a holder of the Debentures,

provided that such direction shall not be in conflict with any rule of law or with this Amended and Restated Declaration of Trust, and could not involve the Property Trustee in personal liability in circumstances where reasonable indemnity would not be adequate. If the Property Trustee fails to enforce its rights under the Debentures, a Holder of Preferred Securities may, to the fullest extent permitted by applicable law, institute a legal proceeding against the Sponsor to enforce such Holder's rights under this Amended and Restated Declaration of Trust without first instituting any legal proceeding against the Property Trustee or any other Person, including the Trust; it being understood and intended that no one or more of such Holders shall have any right in any manner whatsoever by virtue of, or by availing of, any provision of this Amended and Restated Declaration of Trust to affect, disturb or prejudice the rights of any other of such Holders or to obtain or to seek to obtain priority or preference over any other of such Holders or to enforce any right under this Amended and Restated Declaration of Trust, except in the manner herein provided and for the equal and ratable benefit of all such Holders. Notwithstanding the foregoing, to the fullest extent permitted by applicable law, a Holder of Preferred Securities may institute a legal proceeding directly against the Sponsor without first instituting a legal proceeding against or requesting or directing that action be taken by the Property Trustee or any other Person, for enforcement of payment to such Holder of principal of or interest on the Debentures having a principal amount equal to the aggregate stated Liquidation Amount of the Preferred Securities of such Holder on or after the due dates therefor specified or provided for in the Debentures. The Sponsor shall be subrogated to all rights of the Holders of Preferred Securities in respect of any amounts paid to such Holders by the Sponsor pursuant to this Section 8.19.

Article 9  
Termination and Liquidation

Section 9.01 Termination Upon Expiration Date

The Trust shall automatically dissolve on \_\_\_\_\_, \_\_\_\_ (the "Expiration Date") or earlier pursuant to Section 9.02.

Section 9.02 Early Termination

Upon the first to occur of any of the following events (such first occurrence, an "Early Termination Event"), the Trust shall be dissolved in accordance with the terms hereof:

(i) the occurrence of a Bankruptcy Event in respect of the Sponsor, dissolution or liquidation of the Sponsor, or the dissolution of the Trust pursuant to judicial decree;

(ii) the delivery of written direction to the Property Trustee by the Sponsor at any time (which direction is optional and wholly within the discretion of the Sponsor) to dissolve the Trust and distribute the Debentures to Securityholders as provided in Section 9.04; and

(iii) the payment at maturity or redemption of all of the Debentures, and the consequent payment of the Preferred Securities.

Section 9.03 Termination

The respective obligations and responsibilities of the Trust and the Trustees created hereby shall terminate upon the latest to occur of the following: (a) the distribution of the Debentures by the Property Trustee to Securityholders upon the liquidation of the Trust pursuant to Section 9.04, or,

upon the redemption of all of the Trust Securities pursuant to Section 4.02, the distribution of all amounts or instruments required to be distributed hereunder upon the final payment of the Trust Securities; (b) the satisfaction of any expenses owed by the Trust; (c) the discharge of all administrative duties of the Administrative Trustees, including the performance of any tax reporting obligations with respect to the Trust or the Securityholders; and (d) the filing of a certificate of cancellation pursuant to the Delaware Statutory Trust Act.

Section 9.04 Liquidation.

(a) If any Early Termination Event specified in clause (ii) of Section 9.02 occurs, the Trust shall be liquidated and the Property Trustee shall distribute the Debentures to the Securityholders as provided in this Section 9.04.

(b) In connection with a distribution of the Debentures, each Holder of Trust Securities shall be entitled to receive, after the satisfaction (whether by payment or reasonable provision for payment) of liabilities to creditors of the Trust (as evidenced by a certificate of the Administrative Trustees), a Like Amount of Debentures. Notice of liquidation shall be given by the Trustees by first-class mail, postage prepaid, mailed not later than 30 nor more than 60 days prior to the Liquidation Date to each Holder of Trust Securities at such Holder's address appearing in the Securities Register. All notices of liquidation shall:

(i) state the Liquidation Date;

(ii) state that from and after the Liquidation Date, the Trust Securities will no longer be deemed to be Outstanding and any Trust Securities Certificates not surrendered for exchange will be deemed to represent a Like Amount of Debentures; and

(iii) provide such information with respect to the mechanics by which Holders may exchange Trust Securities Certificates for Debentures as the Administrative Trustees or the Property Trustee shall deem appropriate.

(c) In order to effect the winding up of the Trust and distribution of the Debentures to Securityholders, the Property Trustee shall establish a record date for such distribution (which shall be not more than 45 days prior to the Liquidation Date) and, either itself acting as exchange agent or through the appointment of a separate exchange agent, shall establish such procedures as it shall deem appropriate to effect the distribution of Debentures in exchange for the Outstanding Trust Securities Certificates.

(d) After the Liquidation Date, (i) the Trust Securities will no longer be deemed to be Outstanding, (ii) certificates representing a Like Amount of Debentures will be issued to Holders of Trust Securities Certificates, upon surrender of such certificates to the Administrative Trustees or their agent for exchange, (iii) any Trust Securities Certificates not so surrendered for exchange will be deemed to represent a Like Amount of Debentures, accruing interest at the rate provided for in the Debentures from the last Distribution Date on which a Distribution was made on such Trust Certificates until such certificates are so surrendered (and until such certificates are so surrendered, no payments of interest or principal will be made to Holders of Trust Securities Certificates with respect to such Debentures) and (iv) all rights of Securityholders holding Trust Securities will cease, except the right of such Securityholders to receive Debentures upon surrender of Trust Securities Certificates.

(e) The Sponsor will use its commercially reasonable best efforts to have the Debentures that are distributed in exchange for the Preferred Securities listed on such securities exchange as the

Preferred Securities are then listed. The Sponsor may elect to have the Debentures issued in book-entry form to the Clearing Agency or its nominee.

#### Section 9.05 Bankruptcy

If an Early Termination Event specified in clause (i) of Section 9.02 has occurred, the Trust shall be liquidated. The Property Trustee shall distribute the Debentures to the Securityholders as provided in Section 9.04, unless such distribution is determined by the Administrative Trustees not to be practical, in which event the Holders will be entitled to receive out of the assets of the Trust available for distribution to Securityholders, after satisfaction of liabilities to creditors, an amount equal to the Liquidation Amount per Trust Security plus accrued and unpaid Distributions thereon to the date of payment (such amount being the "Liquidation Distribution"). If such Liquidation Distribution can be paid only in part because the Trust has insufficient assets available to pay in full the aggregate Liquidation Distribution, then, subject to the next succeeding sentence, the amounts payable by the Trust on the Trust Securities shall be paid on a pro rata basis (based upon Liquidation Amounts). The Holder of the Common Securities will be entitled to receive Liquidation Distributions upon any such winding-up pro rata (determined as aforesaid) with Holders of Preferred Securities, except that, if an Indenture Event of Default has occurred and is continuing, the Preferred Securities shall have a priority over the Common Securities.

### Article 10 Miscellaneous Provisions

#### Section 10.01 Expense Agreement

The Sponsor shall, contemporaneously with the execution and delivery of this Amended and Restated Declaration of Trust, execute and deliver the Expense Agreement.

#### Section 10.02 Limitation of Rights of Securityholders

The death or incapacity of any Person having an interest, beneficial or otherwise, in a Trust Security shall not operate to terminate this Amended and Restated Declaration of Trust, nor dissolve, terminate or annul the Trust, nor entitle the legal representatives or heirs of such Person or any Securityholder for such Person, to claim an accounting, take any action or bring any proceeding in and for a partition or winding up of the arrangements contemplated hereby, nor otherwise affect the rights, obligations and liabilities of the parties hereto or any of them.

#### Section 10.03 Amendment.

(a) This Amended and Restated Declaration of Trust may be amended from time to time by the Administrative Trustees and the Sponsor, without the consent of any Securityholders or the other Trustees, (i) to cure any ambiguity, correct or supplement any provision herein which may be inconsistent with any other provision herein, or to make any other provisions with respect to matters or questions arising under this Amended and Restated Declaration of Trust, which shall not be inconsistent with the other provisions of this Amended and Restated Declaration of Trust, provided, however, that any such amendment shall not adversely affect in any material respect the interests of any Securityholder, and provided further, that any such amendment shall not adversely affect in any material respect the rights, duties, immunities or liabilities of the other Trustees (without the consent of such Trustees), or (ii) to modify, eliminate or add to any provisions of this Amended and Restated Declaration of Trust to such extent as shall be necessary to ensure that the Trust will not be classified as other than a grantor trust for United States federal income tax purposes at any time that any Trust Securities are outstanding. Any amendments of this Amended and Restated Declaration of Trust pursuant to this Section 10.03(a) shall become effective when notice thereof is given to the

Securityholders. Except as provided in Section 10.03(c), any provision in this Amended and Restated Declaration of Trust may be amended by the Sponsor and the Administrative Trustees with (i) the consent of Trust Securityholders representing not less than 66 2/3% (based upon Liquidation Amounts) of the Outstanding Trust Securities (such consent being obtained in accordance with Section 6.03 or 6.06) and (ii) receipt by the Trustees of an Opinion of Counsel to the effect that such amendment or the exercise of any power granted to the Trustees in accordance with such amendment will not affect the Trust's status as a grantor trust for United States federal income tax purposes or the Trust's exemption from status of an "investment company" under the Investment Company Act of 1940, as amended, provided that any such amendment shall not adversely affect in any material respect the rights, duties, immunities or liabilities of the other Trustees (without the consent of such Trustees). The Sponsor and the Administrative Trustees shall provide the other Trustees with notice of any amendment made pursuant to this Section 10.03(a) without their consent.

(b) In addition to and notwithstanding any other provision in this Amended and Restated Declaration of Trust, without the consent of each affected Securityholder, this Amended and Restated Declaration of Trust may not be amended to (i) change the amount or timing of any Distribution on the Trust Securities or otherwise adversely affect the amount of any Distribution required to be made in respect of the Trust Securities as of a specified date, (ii) restrict the right of a Securityholder to institute suit for the enforcement of any such payment on or after such date, or (iii) change the consent required pursuant to this Section 10.03.

(c) Notwithstanding any other provisions of this Amended and Restated Declaration of Trust, the Trustees shall not enter into or consent to any amendment to this Amended and Restated Declaration of Trust which would cause the Trust (i) to fail or cease to qualify for exemption from status of an "investment company" under the Investment Company Act of 1940, as amended or (ii) not to be characterized for United States federal income tax purposes as a grantor trust and each Securityholder not to be treated as owning an undivided beneficial ownership interest in the Debentures.

(d) Without the consent of the Sponsor, this Amended and Restated Declaration of Trust may not be amended in a manner which imposes any additional obligation on the Sponsor. In executing any amendment permitted by this Amended and Restated Declaration of Trust, the Trustees shall be entitled to receive, and (subject to Section 8.03) shall be fully protected in relying upon an Opinion of Counsel and an Officer's Certificate stating that the execution of such amendment is authorized or permitted by this Amended and Restated Declaration of Trust. Any Trustee may, but shall not be obligated to, enter into any such amendment which affects such Trustee's own rights, duties, immunities or liabilities under this Amended and Restated Declaration of Trust or otherwise.

(e) In the event that any amendment to this Amended and Restated Declaration of Trust is made, the Administrative Trustees shall promptly provide to the Sponsor and the other Trustees a copy of such amendment.

#### Section 10.04 Separability

In case any provision in this Amended and Restated Declaration of Trust or in the Trust Securities Certificates shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

#### Section 10.05 Governing Law

THIS AMENDED AND RESTATED DECLARATION OF TRUST AND THE RIGHTS AND OBLIGATIONS OF EACH OF THE SECURITYHOLDERS, THE TRUST AND THE TRUSTEES WITH RESPECT TO THIS AMENDED AND RESTATED DECLARATION OF TRUST AND THE TRUST

SECURITIES SHALL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE INTERNAL LAWS OF THE STATE OF DELAWARE.

Section 10.06 Successors

This Amended and Restated Declaration of Trust shall be binding upon and shall inure to the benefit of any successor to the Trust, the Trustees and the Sponsor, including any successor by operation of law.

Section 10.07 Headings

The Article and Section headings are for convenience only and shall not affect the construction of this Amended and Restated Declaration of Trust.

Section 10.08 Notice and Demand

Any notice, demand or other communication which by any provision of this Amended and Restated Declaration of Trust is required or permitted to be given or served to or upon any Securityholder or the Sponsor may be given or served in writing by deposit thereof, first-class postage prepaid, in the United States mail, hand delivery or facsimile transmission, in each case, addressed, (i) in the case of a Preferred Securityholder, to such Preferred Securityholder as such Securityholder's name and address appear on the Securities Register and (ii) in the case of the Common Securityholder or the Sponsor, to Exelon Corporation, 10 South Dearborn Street - 37th Floor, P.O. Box 805379, Chicago, IL 60680, Attention: Treasurer, Facsimile No. (312) \_\_\_\_-\_\_\_\_. Such notice, demand or other communication to or upon a Securityholder shall be deemed to have been sufficiently given or made, for all purposes, upon hand delivery, mailing or transmission.

Any notice, demand or other communication which by any provision of this Amended and Restated Declaration of Trust is required or permitted to be given or served to or upon the Trust or the Trustees shall be given in writing addressed (until another address is published by the Trust) as follows: (i) with respect to the Property Trustee and the Delaware Trustee, Wachovia Trust Company, National Association, One Rodney Square, 920 King Street, Suite 102, Wilmington, DE 19801, Attention: Corporate Trust Administration/Delaware, Facsimile No: (302) 888-7544; and (ii) with respect to the Administrative Trustees, to them at the address above for notices to the Sponsor, marked Attention: Administrative Trustees of Exelon Capital Trust \_\_, c/o Secretary. Such notice, demand or other communication to or upon the Trust or the Trustees shall be deemed to have been sufficiently given or made only upon actual receipt of the writing by the applicable Trustee.

Section 10.09 Agreement Not to Petition

Each of the Trustees and the Sponsor agrees for the benefit of the Securityholders that, until at least one year and one day after the Trust has been terminated in accordance with Article 9, it shall not file, or join in the filing of, a petition against the Trust under any bankruptcy, reorganization, arrangement, insolvency, liquidation or other similar law (including, without limitation, the United States Bankruptcy Code) (collectively, "Bankruptcy Laws") or otherwise join in the commencement of any proceeding against the Trust under any Bankruptcy Law. In the event the Sponsor takes action in violation of this Section 10.09, the Property Trustee agrees, for the benefit of Securityholders, that it shall file an answer with the bankruptcy court or otherwise properly contest the filing of such petition by the Sponsor against the Trust or the commencement of such action and raise the defense that the Sponsor has agreed in writing not to take such action and should be stopped and precluded therefrom and such other defenses, if any, as counsel for the Trustees or the Trust may assert. The provisions of this Section 10.09 shall survive the termination of this Amended and Restated Declaration of Trust.

Section 10.10 Conflict with Trust Indenture Act.

(a) This Amended and Restated Declaration of Trust is subject to the provisions of the Trust Indenture Act that are required to be part of this Amended and Restated Declaration of Trust and shall, to the extent applicable, be governed by such provisions.

(b) The Property Trustee shall be the only Trustee which is a trustee for the purposes of the Trust Indenture Act.

(c) If any provision hereof limits, qualifies or conflicts with another provision hereof which is required to be included in this Amended and Restated Declaration of Trust by any of the provisions of the Trust Indenture Act, such required provision shall control.

(d) The application of the Trust Indenture Act to this Amended and Restated Declaration of Trust shall not affect the nature of the Trust Securities as equity securities representing undivided beneficial interests in the assets of the Trust.

Section 10.11 Counterparts

This Amended and Restated Declaration of Trust may contain more than one counterpart of the signature page and this Amended and Restated Declaration of Trust may be executed by the affixing of the signature of each of the Trustees to one of such counterpart signature pages. All of such counterpart signature pages shall be read as though one, and they shall have the same force and effect as though all of the signers had signed a single signature page.

Section 10.12 No Preemptive Rights

Holders of Trust Securities shall have no preemptive or similar rights to subscribe for any additional securities of the Trust.

THE RECEIPT AND ACCEPTANCE OF A TRUST SECURITY OR ANY INTEREST THEREIN BY OR ON BEHALF OF A SECURITYHOLDER OR ANY BENEFICIAL OWNER, WITHOUT ANY SIGNATURE OR FURTHER MANIFESTATION OF ASSENT, SHALL CONSTITUTE THE UNCONDITIONAL ACCEPTANCE BY THE SECURITYHOLDER AND ALL OTHERS HAVING A BENEFICIAL INTEREST IN SUCH TRUST SECURITY OF ALL THE TERMS AND PROVISIONS OF THIS AMENDED AND RESTATED DECLARATION OF TRUST AND AGREEMENT TO THE SUBORDINATION PROVISIONS AND OTHER TERMS OF THE GUARANTEE AND THE SUBORDINATED INDENTURE AND THE AGREEMENT OF THE TRUST, SUCH SECURITYHOLDER AND SUCH OTHERS THAT THOSE TERMS AND PROVISIONS SHALL BE BINDING, OPERATIVE AND EFFECTIVE AS BETWEEN THE TRUST AND SUCH SECURITYHOLDER AND SUCH OTHERS.

IN WITNESS WHEREOF, the parties hereto have executed this Amended and Restated Declaration of Trust or have caused this Amended and Restated Declaration of Trust to be executed on their behalf, all as of the day and year first above written.

EXELON CORPORATION,  
as Sponsor

By: \_\_\_\_\_  
Name:  
Title:

WACHOVIA TRUST COMPANY, NATIONAL  
ASSOCIATION,  
as Property Trustee and Delaware Trustee

By: \_\_\_\_\_  
Name:  
Title:

\_\_\_\_\_  
, as Administrative Trustee

\_\_\_\_\_  
, as Administrative Trustee

\_\_\_\_\_  
, as Administrative Trustee







Each Common Security will be entitled to receive cumulative Distributions at a rate of \_\_\_% per annum applied to the stated liquidation amount of \$\_\_\_\_\_ per Common Security, such rate being the rate of interest payable on the Debentures to be held by the Property Trustee. Distributions in arrears for more than one \_\_\_\_\_ period will bear interest thereon compounded \_\_\_\_\_ at a rate of \_\_\_% per annum (to the extent permitted by applicable law). Distributions shall be made and shall be deemed payable on each Distribution Date only to the extent that the Trust has legally and immediately available funds in the Payment Account for the payment of such Distributions. The amount of Distributions payable for any full \_\_\_\_\_ period will be computed on the basis of a 360-day year of twelve 30-day months, and for any period shorter than a full month for which Distributions are computed, Distributions will be computed on the basis of the actual number of days elapsed in such month.

Distributions on the Common Securities will be cumulative, will accrue from the Issue Date and, except in the event that the Sponsor exercises its right to extend the interest payment period for the Debentures pursuant to the Subordinated Indenture, will be payable \_\_\_\_\_ in arrears on \_\_\_\_\_ and \_\_\_\_\_ of each year, commencing on \_\_\_\_\_, 2003. Distributions, including Additional Amounts (as defined below), if any, on the Common Securities on each Distribution Date will be payable to the Holders thereof as they appear on the Securities Register for the Trust Securities on the relevant record dates. The relevant record dates for the Common Securities shall be the same record date as for the Preferred Securities, which shall be one Business Day prior to the relevant payment dates which payment dates correspond to the interest payment dates on the Debentures. If the interest payment period for the Debentures is extended by the Sponsor pursuant to the Subordinated Indenture (an "Extension Period"), no interest will be due and payable on the Debentures. Before the termination of any such Extension Period, the Sponsor may further defer payments of interest on the Debentures by further extending such Extension Period, provided, that such Extension Period, together with all such further extensions of such Extension Period, may not exceed \_\_\_\_\_ consecutive \_\_\_\_\_ periods or extend beyond the maturity date of the Debentures. As a consequence of an Extension Period, Distributions will also be deferred, provided that \_\_\_\_\_ Distributions will continue to accrue with interest thereon (to the extent permitted by applicable law) at a rate of \_\_\_% per annum, compounded \_\_\_\_\_ ("Additional Amounts") during any such Extension Period. The payment of such deferred interest, together with Additional Amounts, will be distributed to the Holders of the Trust Securities as received at the end of any Extension Period; provided, however, that the Trust may distribute such amounts earlier if the Sponsor prepays interest accrued on the Debentures prior to the end of any Extension Period as permitted by the Subordinated Indenture.

If on any Distribution Date or Redemption Date an Indenture Event of Default shall have occurred and be continuing, no payment of any Distribution (including Additional Amounts, if applicable) on, or the applicable Redemption Price of, any Common Security, and no other payment on account of the redemption, liquidation or other acquisition of Common Securities, shall be made unless payment in full in cash of all accumulated and unpaid Distributions (including Additional Amounts, if applicable) on all Outstanding Preferred Securities for all distribution periods terminating on or prior thereto, or in the case of payment of the applicable Redemption Price the full amount of such Redemption Price on all Outstanding Preferred Securities, shall have been made or provided for, and all funds immediately available to the Property Trustee shall first be applied to the payment in full in cash of all Distributions (including Additional Amounts, if applicable) on, or the applicable Redemption Price of, Preferred Securities then due and payable.

Subject to certain conditions set forth in the Amended and Restated Declaration of Trust and the Subordinated Indenture, the Property Trustee may, at the direction of the Sponsor, at any time dissolve the Trust and

cause, after the satisfaction of liabilities to creditors of the Trust, the Debentures to be distributed to the holders of the Trust Securities in liquidation of the Trust or, simultaneously with any redemption of the Debentures, cause a Like Amount of the Trust Securities to be redeemed by the Trust.

The Common Securities shall be redeemable as provided in the Amended and Restated Declaration of Trust.

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned assigns and transfers this Common Security to:

\_\_\_\_\_  
\_\_\_\_\_  
(Insert assignee's social security or tax identification number)  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
(Insert address and zip code of assignee)

and irrevocably appoints

\_\_\_\_\_  
\_\_\_\_\_  
agent to transfer this Common Securities Certificate on the books of the Trust. The agent may substitute another to act for him or her.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_  
(Sign exactly as your name appears on the other side of this Common Security Certificate)

EXHIBIT B

AGREEMENT AS TO EXPENSES AND LIABILITIES

THIS AGREEMENT AS TO EXPENSES AND LIABILITIES (this "Agreement") is made as of \_\_\_\_\_, 200\_, between Exelon Corporation, a Pennsylvania corporation (the "Company"), and Exelon Capital Trust \_\_, a Delaware statutory trust (the "Trust").

WHEREAS, the Trust intends to issue its Common Securities (the "Common Securities") to and receive Debentures from the Company, and to issue and sell to the public its \_\_\_% Preferred Securities (the "Preferred Securities") with such powers, preferences and special rights and restrictions as are set forth in the Amended and Restated Declaration of Trust of the Trust dated as of \_\_\_\_\_, 200\_, as the same may be amended from time to time (the "Amended and Restated Declaration of Trust"); and

WHEREAS, the Company is the guarantor of the Preferred Securities.

NOW, THEREFORE, in consideration of the purchase by each holder of the Preferred Securities, which purchase the Company hereby agrees shall benefit the Company and which purchase the Company acknowledges will be made in reliance upon the execution and delivery of this Agreement, the Company and the Trust hereby agree as follows:

ARTICLE I

Section 1.01. Guarantee by the Company. Subject to the terms and conditions hereof, the Company hereby irrevocably and unconditionally guarantees to each person or entity to whom the Trust is now or hereafter becomes indebted or liable (the "Beneficiaries") the full payment, when and as due, of any and all Obligations (as hereinafter defined) to such Beneficiaries. As used herein, "Obligations" means any indebtedness, expenses or liabilities of the Trust, other than obligations of the Trust to pay to holders of any Preferred Securities or other similar interests in the Trust the amounts due such holders pursuant to the terms of the Preferred Securities or such other similar interests, as the case may be. This Agreement is intended to be for the benefit of, and to be enforceable by, all such Beneficiaries, whether or not such Beneficiaries have received notice hereof.

Section 1.02. Term of Agreement. This Agreement shall terminate and be of no further force and effect upon the date on which there are no Beneficiaries remaining; provided, however, that this Agreement shall continue to be effective or shall be reinstated, as the case may be, if at any time any holder of Preferred Securities or any Beneficiary must restore payment of any sums paid under the Preferred Securities, under any Obligation, under the Preferred Securities Guarantee Agreement dated the date hereof between the Company and Wachovia Trust Company, National Association, as guarantee trustee, or under this Agreement for any reason whatsoever. This Agreement is continuing, irrevocable, unconditional and absolute.

Section 1.03. Waiver of Notice. The Company hereby waives notice of acceptance of this Agreement and of any Obligation to which it applies or may apply, and the Company hereby waives presentment, demand for payment, protest, notice of nonpayment, notice of dishonor, notice of redemption and all other notices and demands.

Section 1.04. No Impairment. The obligations, covenants, agreements and duties of the Company under this Agreement shall in no way be affected or impaired by reason of the happening from time to time of any of the following:

(a) the extension of time for the payment by the Trust of all or any portion of the Obligations or for the performance of any other obligation under, arising out of, or in connection with, the Obligations;

(b) any failure, omission, delay or lack of diligence on the part of the Beneficiaries to enforce, assert or exercise any right, privilege, power or remedy conferred on the Beneficiaries with respect to the Obligations or any action on the part of the Trust granting indulgence or extension of any kind; or

(c) the voluntary or involuntary liquidation, dissolution, sale of any collateral, receivership, insolvency, bankruptcy, assignment for the benefit of creditors, reorganization, arrangement, composition or readjustment of debt of, or other similar proceedings affecting, the Trust or any of the assets of the Trust.

There shall be no obligation of the Beneficiaries to give notice to, or obtain the consent of, the Company with respect to the happening of any of the foregoing.

Section 1.05. Enforcement. A Beneficiary may enforce this Agreement directly against the Company and the Company waives any right or remedy to require that any action be brought against the Trust or any other person or entity before proceeding against the Company.

## ARTICLE II

Section 2.01. Binding Effect. All guarantees and agreements contained in this Agreement shall bind the successors, assigns, receivers, trustees and representatives of the Company and shall inure to the benefit of the Beneficiaries.

Section 2.02. Amendment. So long as there remains any Beneficiary or any Preferred Securities of any series are outstanding, this Agreement shall not be modified or amended in any manner adverse to such Beneficiary or to the holders of the Preferred Securities.

Section 2.03. Notices. Any notice, request or other communication required or permitted to be given hereunder shall be given in writing by delivering the same against receipt therefor by facsimile transmission (confirmed by mail), telex or by registered or certified mail, addressed as follows (and if so given, shall be deemed given when mailed or upon receipt of an answer-back, if sent by telex):

If to the Company:

Exelon Corporation  
10 South Dearborn Street - 37th Floor  
P.O. Box 805379  
Chicago, Illinois 60680  
Attention: Treasurer

If to the Trust:

Exelon Capital Trust \_\_  
c/o Exelon Corporation  
P.O. Box 805379  
Chicago, Illinois 60680  
Attention: Treasurer

Section 2.04. THIS AGREEMENT SHALL BE GOVERNED BY AND  
CONSTRUED AND INTERPRETED IN ACCORDANCE WITH THE LAWS OF THE COMMONWEALTH OF  
PENNSYLVANIA.

THIS AGREEMENT is executed as of the date and year first above  
written.

EXELON CORPORATION

By: \_\_\_\_\_  
Name:  
Title:

EXELON CAPITAL TRUST \_\_\_

By: \_\_\_\_\_,  
as Administrative Trustee



EXHIBIT C

This Preferred Security is a Book-Entry Preferred Securities Certificate within the meaning of the Amended and Restated Declaration of Trust hereinafter referred to and is registered in the name of The Depository Trust Company (the "Depository") or a nominee of the Depository. This Preferred Security is exchangeable for Preferred Securities registered in the name of a person other than the Depository or its nominee only in the limited circumstances described in the Amended and Restated Declaration of Trust and no transfer of this Preferred Security (other than a transfer of this Preferred Security as a whole by the Depository to a nominee of the Depository or by a nominee of the Depository to the Depository or another nominee of the Depository) may be registered except in limited circumstances.

Unless this Preferred Security is presented by an authorized representative of The Depository Trust Company (55 Water Street, New York, New York) to the Trust or its agent for registration of transfer, exchange or payment, and any Preferred Security issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of The Depository Trust Company and any payment hereon is made to Cede & Co., ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE IS WRONGFUL since the registered owner hereof, Cede & Co., has an interest herein.

Certificate Number Number of Preferred Securities

P-1 \_\_\_\_\_

CUSIP NO. \_\_\_\_\_

Certificate Evidencing Preferred Securities  
of  
Exelon Capital Trust \_\_\_\_  
\_\_\_\_% Trust Preferred Securities  
(Liquidation amount \$\_\_\_\_\_ per Preferred Security)

Exelon Capital Trust \_\_, a statutory trust created under the laws of the State of Delaware (the "Trust"), hereby certifies that Cede & Co. (the "Holder") is the registered owner of One Hundred Thousand (\_\_\_\_\_) preferred securities of the Trust representing undivided beneficial interests in the assets of the Trust and designated the Exelon Capital Trust \_\_ \_\_\_\_% Trust Preferred Securities (liquidation amount \$\_\_\_\_\_ per Preferred Security) (the "Preferred Securities"). The Preferred Securities are transferable on the books and records of the Trust, in person or by a duly authorized attorney, upon surrender of this certificate duly endorsed and in proper form for transfer as provided in Section 5.04 of the Amended and Restated Declaration of Trust (as defined below). The designation, rights, privileges, restrictions, preferences and other terms and provisions of the Preferred Securities are set forth in, and this certificate and the Preferred Securities represented hereby are issued and shall in all respects be subject to the terms and provisions of, the Amended and Restated Declaration of Trust of the Trust, dated as of \_\_\_\_\_, 200\_, as the same may be amended from time to time (the "Amended and Restated Declaration of Trust"), including the designation of the terms of Preferred Securities as set forth therein. Capitalized terms used herein but not defined shall have the meaning given them in the Amended and Restated Declaration of Trust. The holder of this certificate is entitled to the benefits of the Guarantee to the extent provided therein. The Trust will furnish a copy of the Amended and Restated Declaration of Trust, the Guarantee and the Subordinated Indenture to the holder of this certificate without charge upon written request to the Trust at its principal place of business.



CERTIFICATE OF AUTHENTICATION

This is one of the Preferred Securities referred to in the within-mentioned Amended and Restated Declaration of Trust.

Dated: \_\_\_\_\_, 200\_

WACHOVIA TRUST COMPANY, NATIONAL  
ASSOCIATION,  
Not in its individual capacity but solely  
as Property Trustee

By: \_\_\_\_\_  
Name:  
Title:

[FORM OF REVERSE OF SECURITY]

Each Preferred Security will be entitled to receive cumulative Distributions at a rate of \_\_\_% per annum applied to the stated liquidation amount of \$\_\_\_\_\_ per Preferred Security, such rate being the rate of interest payable on the Debentures to be held by the Property Trustee. Distributions in arrears for more than one \_\_\_\_\_ period will bear interest thereon compounded \_\_\_\_\_ at a rate of \_\_\_% per annum (to the extent permitted by applicable law). Distributions shall be made and shall be deemed payable on each Distribution Date only to the extent that the Trust has legally and immediately available funds in the Payment Account for the payment of such Distributions. The amount of Distributions payable for any full \_\_\_\_\_ period will be computed on the basis of a 360-day year of twelve 30-day months, and for any period shorter than a full month for which Distributions are computed, Distributions will be computed on the basis of the actual number of days elapsed in such month.

Distributions on the Preferred Securities will be cumulative, will accrue from the Issue Date and, except in the event that the Sponsor exercises its right to extend the interest payment period for the Debentures pursuant to the Subordinated Indenture, will be payable \_\_\_\_\_ in arrears on \_\_\_\_\_ and \_\_\_\_\_ of each year, commencing on \_\_\_\_\_, 2003. Distributions, including Additional Amounts (as defined below), if any, on the Preferred Securities on each Distribution Date will be payable to the Holders thereof as they appear on the Securities Register for the Trust Securities on the relevant record dates, which shall be one Business Day prior to the relevant payment dates which payment dates correspond to the interest payment dates on the Debentures. If the interest payment period for the Debentures is extended by the Sponsor pursuant to the Subordinated Indenture (an "Extension Period"), no interest will be due and payable on the Debentures. Before the termination of any such Extension Period, the Sponsor may further defer payments of interest on the Debentures by further extending such Extension Period, provided, that such Extension Period, together with all such further extensions of such Extension Period, may not exceed \_\_\_\_\_ consecutive \_\_\_\_\_ periods or extend beyond the maturity date of the Debentures. As a consequence of an Extension Period, Distributions will also be deferred, provided that \_\_\_\_\_ Distributions will continue to accrue with interest thereon (to the extent permitted by applicable law) at a rate of \_\_\_% per annum, compounded \_\_\_\_\_ ("Additional Amounts") during any such Extension Period. The payment of such deferred interest, together with Additional Amounts, will be distributed to the Holders of the Trust Securities as received at the end of any Extension Period; provided, however, that the Trust may distribute such amounts earlier if the Sponsor prepays interest accrued on the Debentures prior to the end of any Extension Period as permitted by the Subordinated Indenture.

Subject to certain conditions set forth in the Amended and Restated Declaration of Trust and the Subordinated Indenture, the Property Trustee may, at the direction of the Sponsor, at any time dissolve the Trust and, after the satisfaction of the liabilities to creditors of the Trust, cause the Debentures to be distributed to the holders of the Trust Securities in liquidation of the Trust or, simultaneously with any redemption of the Debentures, cause a Like Amount of the Trust Securities to be redeemed by the Trust.

The Preferred Securities shall be redeemable as provided in the Amended and Restated Declaration of Trust.

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned assigns and transfers this Preferred Security to:

\_\_\_\_\_  
(Insert assignee's social security or tax identification number)

\_\_\_\_\_  
(Insert address and zip code of assignee)

and irrevocably appoints

\_\_\_\_\_  
agent to transfer this Preferred Securities Certificate on the books of the Trust. The agent may substitute another to act for him or her.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_  
(Sign exactly as your name appears on the other side of this Preferred Security Certificate)



PREFERRED SECURITIES GUARANTEE AGREEMENT

Between

Exelon Corporation

(as Guarantor)

and

Wachovia Trust Company, National Association

(as Trustee)

dated as of

\_\_\_\_\_, 200\_

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CROSS-REFERENCE TABLE\*

Section of Trust Indenture Act of 1939, as amended	Section of Guarantee Agreement
-----	-----
310(a)	4.01(a)
310(b)	4.01(c), 2.08
310(c)	Inapplicable
311(a)	2.02(b)
311(b)	2.02(b)
311(c)	Inapplicable
312(a)	2.02(a)
312(b)	2.02(b)
313	2.03
314(a)	2.04
314(b)	Inapplicable
314(c)	2.05
314(d)	Inapplicable
314(e)	1.01, 2.05, 3.02
314(f)	2.01, 3.02
315(a)	3.01(d)
315(b)	2.07
315(c)	3.01
315(d)	3.01(d)
316(a)	1.01, 2.06, 5.04
316(b)	5.03
316(c)	9.02
317(a)	Inapplicable
317(b)	Inapplicable
318(a)	2.01(b)
318(b)	2.01
318(c)	2.01(a)

\* This Cross-Reference Table does not constitute part of the Preferred Securities Guarantee Agreement and shall not affect the interpretation of any of its terms or provisions.

PREFERRED SECURITIES GUARANTEE AGREEMENT

This PREFERRED SECURITIES GUARANTEE AGREEMENT ("Guarantee Agreement"), dated as of \_\_\_\_\_, 200\_ between EXELON CORPORATION, a Pennsylvania corporation (the "Company"), as guarantor (the "Guarantor"), and WACHOVIA TRUST COMPANY, NATIONAL ASSOCIATION, a national banking association, as trustee (the "Trustee"), for the benefit of the Holders (as defined herein) from time to time of the Preferred Securities (as defined herein) of EXELON CAPITAL TRUST \_\_, a Delaware statutory trust (the "Trust").

WHEREAS, pursuant to an Amended and Restated Declaration of Trust (the "Declaration of Trust"), dated as of \_\_\_\_\_, 200\_, among Wachovia Trust Company, National Association, as Delaware Trustee and Property Trustee, the other Trustees named therein, the Company, as Sponsor, and the holders of undivided beneficial interests in the assets of the Trust, the Trust is issuing as of \_\_\_\_\_, 200\_ \$\_\_\_\_\_ aggregate liquidation amount of its \_\_\_% Trust Preferred Securities (the "Preferred Securities") representing preferred undivided beneficial interests in the assets of the Trust and having the terms set forth in the Declaration of Trust;

WHEREAS, the Preferred Securities will be issued by the Trust and the proceeds thereof will be used to purchase the Debentures of the Company, which will be held by the Trust as trust assets; and

WHEREAS, as incentive for the Holders to purchase the Preferred Securities, the Guarantor desires to irrevocably and unconditionally agree, to the extent set forth herein, to pay to the Holders the Guarantee Payments (as defined herein) and to make certain other payments on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the payment for Preferred Securities by each Holder thereof, which payment the Guarantor hereby agrees shall benefit the Guarantor, the Guarantor executes and delivers this Guarantee Agreement for the benefit of the Holders from time to time of the Preferred Securities.

Article I  
DEFINITIONS

Section 1.01 Definitions. As used in this Guarantee Agreement, the terms set forth below shall, unless the context otherwise requires, have the following meanings. Capitalized or otherwise defined terms used but not otherwise defined herein shall have the meanings assigned to such terms in the Declaration of Trust as in effect on the date hereof.

"Affiliate" of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For the purposes of this definition, "control" when used with respect to any specified Person means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms "controlling" and "controlled" have meanings correlative to the foregoing.

"Common Securities" means the securities representing common undivided beneficial interests in the assets of the Trust.

"Covered Person" means any Holder or beneficial owner of Preferred Securities.

"Debentures" means the series of Deferrable Interest Subordinated Debentures of the Guarantor designated the "\_\_\_% Deferrable Interest Subordinated Debentures due \_\_\_\_\_, 20\_\_" held by the Property Trustee (as defined in the Declaration of Trust) of the Trust.

"Event of Default" means a failure by the Guarantor to perform any of its payment or other obligations under this Guarantee Agreement.

"Guarantee Payments" means the following payments or distributions, without duplication, with respect to the Preferred Securities, to the extent not paid or made by or on behalf of the Trust: (i) any accrued and unpaid Distributions (as defined in the Declaration of Trust) that are required to be paid on such Preferred Securities to the extent the Trust has funds legally available therefor to make such payment; (ii) the redemption price, including all accrued and unpaid Distributions to the date of redemption (the "Redemption Price"), with respect to the Preferred Securities called for redemption by the Trust to the extent that the Trust has funds legally available therefor to make such payment; and (iii) upon a voluntary or involuntary dissolution, winding-up or termination of the Trust (other than in connection with the distribution of Debentures to the Holders), the lesser of (a) the aggregate of the liquidation amount and all accrued and unpaid distributions on the Preferred Securities to the date of payment, to the extent the Trust has funds legally available therefor, and (b) the amount of assets of the Trust remaining available for distribution to Holders in liquidation of the Trust (in either case, the "Liquidation Distribution").

"Holder" means any holder, as registered on the books and records of the Trust, of any Preferred Securities; provided, however, that in determining whether the holders of the requisite percentage of Preferred Securities have given any request, notice, consent or waiver hereunder, "Holder" shall not include the Guarantor or any Affiliate of the Guarantor.

"Indemnified Person" means the Trustee, any Affiliate of the Trustee, or any officers, directors, shareholders, members, partners, employees, representatives, nominees, custodians or agents of the Trustee.

"Indenture" means the Indenture, dated as of \_\_\_\_\_, 200\_, between the Company and Wachovia Bank, National Association, as trustee, as heretofore supplemented and as supplemented by the Section 2.01 Certificate.

"Majority in liquidation amount of the Preferred Securities" means, except as provided in the Trust Indenture Act, a vote by Holder(s) of Preferred Securities of more than 50% of the aggregate liquidation amount (including the stated amount that would be paid on redemption, liquidation or otherwise, plus accumulated and unpaid Distributions to the date upon which the voting percentages are determined) of all Preferred Securities outstanding at the time of determination.

"Officers' Certificate" means a certificate signed by the Chairman of the Board, the President or a Vice President, and by the Treasurer, an Assistant Treasurer, the Secretary or an Assistant Secretary, of the Guarantor, and delivered to the Trustee. Any Officers' Certificate delivered with respect to compliance with a condition or covenant provided for in this Guarantee Agreement (other than pursuant to Section 314(d)(4) of the Trust Indenture Act) shall include:

(a) a statement that each officer signing the Officers' Certificate has read the covenant or condition and the definitions relating thereto;

(b) a brief statement of the nature and scope of the examination or investigation undertaken by each officer in rendering the Officers' Certificate;

(c) a statement that each such officer has made such examination or investigation as, in such officer's opinion, is necessary to enable such officer to express an informed opinion as to whether or not such covenant or condition has been complied with; and

(d) a statement as to whether, in the opinion of each such officer, such condition or covenant has been complied with.

"Other Guarantees" means all guarantees issued, or to be issued, by the Guarantor with respect to the preferred or common securities similar to the Preferred Securities and the Common Securities (as defined in the Declaration of Trust), as the case may be, issued by other trusts established, or to be established, by the Guarantor, in each case similar to the Trust. "Other Guarantees" shall include: \_\_\_\_\_.

"Other Indebtedness" means all subordinated debentures, debentures or other indebtedness issued by the Guarantor from time to time and sold to trusts established, or to be established, by the Guarantor, in each case similar to the Trust. "Other Indebtedness" shall include \_\_\_\_\_.

"Person" means any individual, corporation, estate, partnership, limited liability company, joint venture, association, trust, unincorporated organization or government or any agency or political subdivision thereof or any other entity of whatever nature.

"Responsible Officer" means, with respect to the Trustee, any managing director, any vice president, any assistant vice president, any assistant secretary, any assistant treasurer, or any other officer of the Corporate Trust Office of the Trustee customarily performing functions similar to those performed by any of the above designated officers and also means, with respect to a particular corporate trust matter, any other officer to whom such matter is referred because of that officer's knowledge of and familiarity with the particular subject.

"Section 2.01 Certificate" means the officers' certificate of the Guarantor issued pursuant to Section 2.01 of the Indenture and establishing the Debentures.

"Successor Trustee" means a successor Trustee possessing the qualifications to act as Trustee under Section 4.01.

"Trust Indenture Act" means the Trust Indenture Act of 1939, as amended.

"Trustee" means Wachovia Trust Company, National Association until a Successor Trustee has been appointed and has accepted such appointment pursuant to the terms of this Guarantee Agreement and thereafter means each such Successor Trustee.

ARTICLE II  
TRUST INDENTURE ACT

Section 2.01 Trust Indenture Act; Application.

(a) This Guarantee Agreement is subject to the provisions of the Trust Indenture Act that are required to be part of this Guarantee Agreement and shall, to the extent applicable, be governed by such provisions.

(b) If and to the extent that any provision of this Guarantee Agreement limits, qualifies or conflicts with the duties imposed by Sections 310 to 317, inclusive, of the Trust Indenture Act, such imposed duties shall control.

Section 2.02 Lists of Holders of Securities.

(a) The Guarantor shall furnish or cause to be furnished to the Trustee a list, in such form as the Trustee may reasonably require, of the names and addresses of the Holders ("List of Holders") (i) semiannually, within 15 days before and not later than June 1 and December 1 in each year, and (ii) at such other times as the Trustee may request in writing, within 30 days after the receipt by the Guarantor of any such request, a List of Holders as of a date not more than 15 days prior to the time such list is furnished; provided that, the Guarantor shall not be obligated to provide such List of Holders at any time the List of Holders does not differ from the most recent List of Holders given to the Trustee by the Guarantor or at any time the Trustee is the Securities Registrar under the Declaration of Trust. The Trustee may destroy any List of Holders previously given to it on receipt of a new List of Holders.

(b) The Trustee shall comply with its obligations under Sections 311(a), 311(b) and 312(b) of the Trust Indenture Act.

Section 2.03 Reports by the Trustee. Within 60 days after May 15 of each year commencing May 15, 200\_, the Trustee shall provide to the Holders of the Preferred Securities such reports as are required by Section 313(a) of the Trust Indenture Act, if any, in the form and in the manner provided by Section 313 of the Trust Indenture Act. The Trustee shall also comply with the other requirements of Section 313 of the Trust Indenture Act.

Section 2.04 Periodic Reports to Trustee. The Guarantor shall provide to the Trustee such documents, reports and information as required by Section 314 of the Trust Indenture Act (if any) in the form, in the manner and at the times required by Section 314 of the Trust Indenture Act, and shall provide, within 120 days after the end of each of its fiscal years, the compliance certificate required by Section 314(a)(4) of the Trust Indenture Act in the form and in the manner required by such Section.

Section 2.05 Evidence of Compliance with Conditions Precedent. The Guarantor shall provide to the Trustee such evidence of compliance with the conditions precedent, if any, provided for in this Guarantee Agreement that relate to any of the matters set forth in Section 314(c) of the Trust Indenture Act. Any certificate or opinion required to be given by an officer pursuant to Section 314(c)(1) may be given in the form of an Officers' Certificate.

Section 2.06 Events of Default; Waiver. The Holders of a Majority in liquidation amount of the Preferred Securities may, by vote, on behalf of all of the Holders, waive any past Event of Default and its consequences. Upon such waiver, any such Event of Default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured, for every purpose of this

Guarantee Agreement, but no such waiver shall extend to any subsequent or other default or Event of Default or impair any right consequent thereon.

Section 2.07 Event of Default; Notice.

(a) The Trustee shall, within 90 days after the occurrence of an Event of Default, transmit by mail, first class postage prepaid, to the Holders, notices of all Events of Default actually known to a Responsible Officer of the Trustee, unless such defaults have been cured before the giving of such notice, provided that the Trustee shall be protected in withholding such notice if and so long as the board of directors, the executive committee, or a trust committee of directors and/or Responsible Officers of the Trustee in good faith determines that the withholding of such notice is in the interests of the Holders.

(b) The Trustee shall not be deemed to have knowledge of any Event of Default unless the Trustee shall have received written notice thereof from the Guarantor or a Holder, or a Responsible Officer charged with the administration of the Declaration of Trust shall have obtained actual knowledge, of such Event of Default.

Section 2.08 Conflicting Interests. The Declaration of Trust shall be deemed to be specifically described in this Guarantee Agreement for the purposes of clause (i) of the first proviso contained in Section 310(b) of the Trust Indenture Act.

ARTICLE III  
POWERS, DUTIES AND RIGHTS OF TRUSTEE

Section 3.01 Powers and Duties of the Trustee.

(a) This Guarantee Agreement shall be held by the Trustee for the benefit of the Holders, and the Trustee shall not transfer this Guarantee Agreement to any Person except the Trustee may assign rights hereunder to a Holder exercising his or her rights pursuant to Section 5.04(b) or to a Successor Trustee upon acceptance by such Successor Trustee of its appointment to act as Successor Trustee. The right, title and interest of the Trustee shall automatically vest in any Successor Trustee, and such vesting and cessation of title shall be effective whether or not conveyancing documents have been executed and delivered pursuant to the appointment of such Successor Trustee.

(b) If an Event of Default actually known to a Responsible Officer of the Trustee has occurred and is continuing, the Trustee shall enforce this Guarantee Agreement for the benefit of the Holders.

(c) The Trustee, before the occurrence of any Event of Default and after the curing or waiving of all Events of Default that may have occurred, shall undertake to perform only such duties as are specifically set forth in this Guarantee Agreement, and no implied covenants shall be read into this Guarantee Agreement against the Trustee. In case an Event of Default has occurred (that has not been cured or waived pursuant to Section 2.06) and is actually known to a Responsible Officer of the Trustee, the Trustee shall exercise such of the rights and powers vested in it by this Guarantee Agreement, and use the same degree of care and skill in its exercise thereof, as a prudent person would exercise or use under the circumstances in the conduct of his or her own affairs.

(d) No provision of this Guarantee Agreement shall be construed to relieve the Trustee from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that:

(i) prior to the occurrence of any Event of Default and after the curing or waiving of all such Events of Default that may have occurred:

(A) the duties and obligations of the Trustee shall be determined solely by the express provisions of this Guarantee Agreement, and the Trustee shall not be liable except for the performance of such duties and obligations as are specifically set forth in this Guarantee Agreement, and no implied covenants or obligations shall be read into this Guarantee Agreement against the Trustee; and

(B) in the absence of bad faith on the part of the Trustee, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon any certificates or opinions furnished to the Trustee and conforming to the requirements of this Guarantee Agreement; but in the case of any such certificates or opinions that by any provision hereof are specifically required to be furnished to the Trustee, the Trustee shall be under a duty to examine the same to determine whether or not on their face they conform to the requirements of this Guarantee Agreement;

(ii) the Trustee shall not be liable for any error of judgment made in good faith by a Responsible Officer of the Trustee, unless it shall be proved that the Trustee was negligent in ascertaining the pertinent facts upon which such judgment was made;

(iii) the Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Holders of not less than a Majority in liquidation amount of the Preferred Securities relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee under this Guarantee Agreement; and

(iv) no provision of this Guarantee Agreement shall require the Trustee to expend or risk its own funds or otherwise incur personal financial liability in the performance of any of its duties or in the exercise of any of its rights or powers, if the Trustee shall have reasonable grounds for believing that the repayment of such funds or liability is not reasonably assured to it under the terms of this Guarantee Agreement or adequate indemnity against such risk or liability is not reasonably assured to it.

#### Section 3.02 Certain Rights of Trustee.

(a) Subject to the provisions of Section 3.01:

(i) the Trustee may conclusively rely and shall be fully protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other paper or document believed by it to be genuine and to have been signed, sent or presented by the proper party or parties;

(ii) any direction or act of the Guarantor contemplated by this Guarantee Agreement shall be sufficiently evidenced by an Officers' Certificate;

(iii) whenever, in the administration of this Guarantee Agreement, the Trustee shall deem it desirable that a matter be proved or established before taking, suffering or omitting any action hereunder, the Trustee (unless other evidence is herein specifically prescribed) may, in the absence of bad faith on its part, request and

conclusively rely upon an Officers' Certificate which, upon receipt of such request, shall be promptly delivered by the Guarantor;

(iv) the Trustee shall have no duty to see to any recording, filing or registration of any instrument (or any rerecording, refiling or registration thereof);

(v) the Trustee may consult with counsel of its choice, and the advice or opinion of such counsel with respect to legal matters shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by it hereunder in good faith and in accordance with such advice or opinion; such counsel may be counsel to the Guarantor or any of its Affiliates and may include any of its employees; the Trustee shall have the right at any time to seek instructions concerning the administration of this Guarantee Agreement from any court of competent jurisdiction;

(vi) the Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Guarantee Agreement at the request or direction of any Holder, unless such Holder shall have provided to the Trustee reasonable security and indemnity satisfactory to the Trustee against the costs, expenses (including attorneys' fees and expenses) and liabilities that might be incurred by it in complying with such request or direction, including such reasonable advances as may be requested by the Trustee; provided that nothing contained in this Section 3.02(a)(vi) shall be taken to relieve the Trustee, upon the occurrence of an Event of Default, of its obligation to exercise the rights and powers vested in it by this Guarantee Agreement;

(vii) the Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other paper or document, but the Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit;

(viii) the Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents, nominees, custodians or attorneys, and the Trustee shall not be responsible for any misconduct or negligence on the part of any agent, nominee, custodian or attorney appointed with due care by it hereunder;

(ix) any action taken by the Trustee or its agents, nominees, custodians or attorneys hereunder shall bind the Holders, and the signature of the Trustee or its agents, nominees, custodians or attorneys alone shall be sufficient and effective to perform any such action; no third party shall be required to inquire as to the authority of the Trustee to so act or as to its compliance with any of the terms and provisions of this Guarantee Agreement, both of which shall be conclusively evidenced by the Trustee's or its agent's, nominee's, custodian's or attorney's taking such action;

(x) whenever in the administration of this Guarantee Agreement the Trustee shall deem it desirable to receive instructions with respect to enforcing any remedy or right or taking any other action hereunder, the Trustee (A) may request instructions from the Holders of a Majority in liquidation amount of the Preferred Securities, (B) may refrain from enforcing such remedy or right or taking such other action until such instructions are received, and (C) shall be protected in relying on or acting in accordance with such instructions; and



(xi) the Trustee shall not be liable for any action taken, suffered, or omitted to be taken by it in good faith, without negligence, and reasonably believed by it to be authorized or within the discretion or rights or powers conferred upon it by this Guarantee Agreement.

(b) No provision of this Guarantee Agreement shall be deemed to impose any duty or obligation on the Trustee to perform any act or acts or exercise any right, power, duty or obligation conferred or imposed on it in any jurisdiction in which it shall be illegal, or in which the Trustee shall be unqualified or incompetent in accordance with applicable law, to perform any such act or acts or to exercise any such right, power, duty or obligation. No permissive power or authority available to the Trustee shall be construed to be a duty.

Section 3.03 Not Responsible for Recitals or Issuance of Preferred Securities. The recitals contained in this Guarantee Agreement shall be taken as the statements of the Guarantor, and the Trustee does not assume any responsibility for their correctness. The Trustee makes no representation as to the validity or sufficiency of this Guarantee Agreement.

#### ARTICLE IV TRUSTEE

Section 4.01 Trustee; Eligibility.

(a) There shall at all times be a Trustee which shall:

(i) not be an Affiliate of the Guarantor; and

(ii) be a corporation organized and doing business under the laws of the United States of America or any State or Territory thereof or of the District of Columbia, or a corporation or Person permitted by the Securities and Exchange Commission to act as an institutional trustee under the Trust Indenture Act, authorized under such laws to exercise corporate trust powers, having a combined capital and surplus of at least Fifty Million U.S. dollars (\$50,000,000), and subject to supervision or examination by Federal, State, Territorial or District of Columbia authority. If such corporation publishes reports of condition at least annually, pursuant to law or to the requirements of the supervising or examining authority referred to above, then, for the purposes of this Section 4.01(a)(ii), the combined capital and surplus of such corporation shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published.

(b) If at any time the Trustee shall cease to be eligible to so act under Section 4.01(a), the Trustee shall immediately resign in the manner and with the effect set out in Section 4.02(c).

(c) If the Trustee has or shall acquire any "conflicting interest" within the meaning of Section 310(b) of the Trust Indenture Act, the Trustee and Guarantor shall in all respects comply with the provisions of Section 310(b) of the Trust Indenture Act, subject to the rights of the Trustee under the penultimate paragraph thereof.

Section 4.02 Appointment, Removal and Resignation of Trustee.

(a) Subject to Section 4.02(b), the Trustee may be appointed or removed without cause at any time by the Guarantor except during an Event of Default.

(b) The Trustee shall not be removed in accordance with Section 4.02(a) until a Successor Trustee has been appointed and has accepted such appointment by written instrument executed by such Successor Trustee and delivered to the Guarantor.

(c) The Trustee appointed to office shall hold office until a Successor Trustee shall have been appointed or until its removal or resignation. The Trustee may resign from office (without need for prior or subsequent accounting) by an instrument in writing executed by the Trustee and delivered to the Guarantor, which resignation shall not take effect until a Successor Trustee has been appointed and has accepted such appointment by instrument in writing executed by such Successor Trustee and delivered to the Guarantor and the resigning Trustee.

(d) If no Successor Trustee shall have been appointed and accepted appointment as provided in this Section 4.02 within 60 days after delivery to the Guarantor of an instrument of resignation, the resigning Trustee may petition any court of competent jurisdiction for appointment of a Successor Trustee. Such court may thereupon, after prescribing such notice, if any, as it may deem proper, appoint a Successor Trustee.

(e) No Trustee shall be liable for the acts or omissions to act of any Successor Trustee.

(f) Upon termination of this Guarantee Agreement or removal or resignation of the Trustee pursuant to this Section 4.02, the Guarantor shall pay to the Trustee all amounts due to the Trustee that have accrued to the date of such termination, removal or resignation and all other amounts then due to the Trustee hereunder.

#### ARTICLE V GUARANTEE

Section 5.01 Guarantee. The Guarantor irrevocably and unconditionally agrees to pay in full to the Holders the Guarantee Payments (without duplication of amounts theretofore paid by or on behalf of the Trust), as and when due, regardless of any defense, right of set-off or counterclaim which the Trust may have or assert against any Person. The Guarantor's obligation to make a Guarantee Payment may be satisfied by direct payment of the required amounts by the Guarantor to the Holders or by causing the Trust to pay such amounts to the Holders.

Section 5.02 Waiver of Notice and Demand. The Guarantor hereby waives notice of acceptance of this Guarantee Agreement and of any liability to which it applies or may apply, presentment, demand for payment, any right to require a proceeding first against the Trust or any other Person before proceeding against the Guarantor, protest, notice of nonpayment, notice of dishonor, notice of redemption and all other notices and demands.

Section 5.03 Obligations Not Affected. The obligations, covenants, agreements and duties of the Guarantor under this Guarantee Agreement shall in no way be affected or impaired by reason of the happening from time to time of any of the following:

(a) the release or waiver, by operation of law or otherwise, of the performance or observance by the Trust of any express or implied agreement, covenant, term or condition relating to the Preferred Securities to be performed or observed by the Trust;

(b) the extension of time for the payment by the Trust of all or any portion of the Distributions, Redemption Price, Liquidation Distribution or any other sums payable under the terms of the Preferred Securities or the extension of time for the performance of any other obligation under, arising out

of, or in connection with, the Preferred Securities (other than an extension of time for payment of Distributions, Redemption Price, Liquidation Distribution or other sum payable that results from the extension of any interest payment period on the Debentures permitted by the Indenture);

(c) any failure, omission, delay or lack of diligence on the part of the Holders to enforce, assert or exercise any right, privilege, power or remedy conferred on the Holders pursuant to the terms of the Preferred Securities, or any action on the part of the Trust granting indulgence or extension of any kind;

(d) the voluntary or involuntary liquidation, dissolution, sale of any collateral, receivership, insolvency, bankruptcy, assignment for the benefit of creditors, reorganization, arrangement, composition or readjustment of debt of, or other similar proceedings affecting, the Trust or any of the assets of the Trust;

(e) any invalidity of, or defect or deficiency in, the Preferred Securities;

(f) the settlement or compromise of any obligation guaranteed hereby or hereby incurred; or

(g) any other circumstance whatsoever that might otherwise constitute a legal or equitable discharge or defense of a guarantor, it being the intent of this Section 5.03 that the obligations of the Guarantor hereunder shall be absolute and unconditional under any and all circumstances.

There shall be no obligation of the Holders to give notice to, or obtain consent of, the Guarantor with respect to the happening of any of the foregoing.

Section 5.04 Rights of Holders. The Guarantor expressly acknowledges:

(a) The Guarantee Agreement will be deposited with the Trustee to be held for the benefit of the Holders. The Trustee has the right to enforce this Guarantee Agreement on behalf of the Holders. The Holders of a Majority in liquidation amount of the Preferred Securities have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Trustee in respect of this Guarantee Agreement or exercising any trust or power conferred upon the Trustee under this Guarantee Agreement; provided, however, that, subject to the duties and responsibilities of the Indenture Trustee pursuant to the Indenture, the Trustee shall have the right to decline to follow any such direction if the Trustee shall determine that the action so directed would be unjustly prejudicial to the Holders not taking part in such direction or if the Trustee being advised by counsel determines that the action or proceeding so directed may not lawfully be taken or if the Trustee in good faith by its board of directors or trustees, executive committee, or a trust committee of directors or trustees and/or Responsible Officers shall determine that the action or proceedings so directed would involve the Trustee in personal liability.

(b) If the Trustee fails to enforce this Guarantee Agreement, any Holder may institute a legal proceeding directly against the Guarantor to enforce the Trustee's rights under this Guarantee Agreement, without first instituting a legal proceeding against the Trust, the Trustee or any other Person. The Guarantor waives any right or remedy to require that any action be brought first against the Trust or any other Person before proceeding directly against the Guarantor; it being understood and intended that no one or more of such Holders shall have any right in any manner whatsoever by virtue of, or by availing of, any provision of this Guarantee Agreement to affect, disturb or prejudice the rights of any other of such Holders or to obtain or to seek to obtain priority or preference over any other of such Holders or to enforce any right under this Guarantee Agreement, except in the manner herein provided and for the equal and ratable benefit of all such Holders.

Section 5.05 Guarantee of Payment. This Guarantee Agreement creates a guarantee of payment and not of collection.

Section 5.06 Subrogation. The Guarantor shall be subrogated to all (if any) rights of the Holders against the Trust in respect of any amounts paid to the Holders by the Guarantor under this Guarantee Agreement; provided, however, that the Guarantor shall not (except to the extent required by mandatory provisions of law) be entitled to enforce or exercise any rights which it may acquire by way of subrogation or any indemnity, reimbursement or other agreement, in all cases as a result of payment under this Guarantee Agreement, if, at the time of any such payment, any amounts of Guarantee Payments are due and unpaid under this Guarantee Agreement. If any amount shall be paid to the Guarantor in violation of the preceding sentence, the Guarantor agrees to hold such amount in trust for the Holders and to pay over such amount to the Holders.

Section 5.07 Independent Obligations. The Guarantor acknowledges that its obligations hereunder are independent of the obligations of the Trust with respect to the Preferred Securities and that the Guarantor shall be liable as principal and as debtor hereunder to make Guarantee Payments pursuant to the terms of this Guarantee Agreement notwithstanding the occurrence of any event referred to in subsections (a) through (g), inclusive, of Section 5.03 hereof.

#### ARTICLE VI LIMITATION OF TRANSACTIONS; SUBORDINATION

Section 6.01 Limitation of Transactions. So long as any Preferred Securities remain outstanding, if the Guarantor shall be in default with respect to its payment of any obligations under this Guarantee Agreement, then the Guarantor shall not (i) declare or pay any dividend on, make any distributions with respect to, or redeem, purchase or make a liquidation payment with respect to, any of the Guarantor's capital stock, (ii) make any payment of principal, interest or premium, if any, on or repay or repurchase or redeem any debt securities (including guarantees) of the Guarantor that rank pari passu with or junior in right of payment to the Debentures or (iii) make any guarantee payments with respect to the foregoing (except with respect to this Guarantee Agreement).

Section 6.02 Subordination. The obligations of the Guarantor under this Guarantee Agreement will constitute unsecured obligations of the Guarantor and will rank (i) subordinate and junior in right of payment to the Senior Indebtedness (as defined in the Indenture) to the same extent and in the same manner as the Debentures are subordinated to Senior Indebtedness pursuant to the Section 2.01 Certificate, it being understood that the terms of Sections (o) through (v) of the Section 2.01 Certificate shall apply to the obligations of the Guarantor under this Guarantee Agreement as if such Sections (o) through (v) of the Section 2.01 Certificate were set forth herein in full and such obligations were substituted for the term "Debentures" appearing in such Article VI, (ii) subordinate and junior in right of payment to the Debentures and any Other Indebtedness, (iii) pari passu with any Other Guarantees and any guarantee in respect of any preferred stock of any affiliate of the Guarantor and (iv) senior to all preferred and common stock of the Guarantor.

#### ARTICLE VII TERMINATION

Section 7.01 Termination. This Guarantee Agreement shall terminate and be of no further force and effect upon: (i) full payment of the Redemption Price of all Preferred Securities, (ii) the distribution of Debentures to the Holders in exchange for all of the Preferred Securities, or (iii) full payment of the amounts payable in accordance with the Declaration of Trust upon liquidation of the Trust. Notwithstanding the foregoing, this Guarantee Agreement will continue to be effective or will be reinstated, as the case may be, if at any time any

Holder must restore payment of any sums paid with respect to Preferred Securities or under this Guarantee Agreement.

ARTICLE VIII  
INDEMNIFICATION

Section 8.01 Exculpation.

(a) No Indemnified Person shall be liable, responsible or accountable in damages or otherwise to the Guarantor or any Covered Person for any loss, damage or claim incurred by reason of any act or omission performed or omitted by such Indemnified Person in good faith in accordance with this Guarantee Agreement and in a manner that such Indemnified Person reasonably believed to be within the scope of the authority conferred on such Indemnified Person by this Guarantee Agreement or by law, except that an Indemnified Person shall be liable for any such loss, damage or claim to the extent incurred by reason of such Indemnified Person's negligence or willful misconduct with respect to such acts or omissions.

(b) An Indemnified Person shall be fully protected in relying in good faith upon the records of the Guarantor and upon such information, opinions, reports or statements presented to the Guarantor by any Person as to matters the Indemnified Person reasonably believes are within such other Person's professional or expert competence and who, if selected by such Indemnified Person, has been selected with reasonable care, including information, opinions, reports or statements as to the value and amount of the assets, liabilities, profits, losses, or any other facts pertinent to the existence and amount of assets from which Distributions to Holders might properly be paid.

Section 8.02 Indemnification. The Guarantor agrees to indemnify each Indemnified Person for, and to hold each Indemnified Person harmless against, any and all loss, liability, damage, claim or expense to the extent incurred without negligence or bad faith on its part, arising out of or in connection with the acceptance or administration of the trust or trusts hereunder, including the costs and expenses (including reasonable legal fees and expenses) of defending itself against, or investigating, any claim or liability in connection with the exercise or performance of any of its powers or duties hereunder. The obligation to indemnify and hold harmless as set forth in this Section 8.02 shall survive the termination of this Guarantee Agreement and the resignation or removal of the Trustee.

Section 8.03 Compensation and Fees.

The Guarantor agrees:

(a) to pay to the Trustee from time to time reasonable compensation for all services rendered by the Trustee hereunder in such amounts as the Guarantor and the Trustee shall agree from time to time (which compensation shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust); and

(b) except as otherwise expressly provided herein, to reimburse the Trustee upon request for all reasonable expenses, disbursements and advances incurred or made by the Trustee in accordance with any provision of this Guarantee Agreement (including the reasonable compensation and the expenses and disbursements of its agents and counsel), except any such expense, disbursement or advance determined to be attributable to its negligence or bad faith.

The provisions of this Section 8.03 shall survive the resignation or removal of the Trustee or the termination of this Guarantee Agreement.

To secure the Guarantor's payment obligations in this Section 8.03 and in Section 8.02, the Guarantor and the Holders agree that the Trustee shall have a lien prior to the Preferred Securities on all money or property held or collected by the Trustee. Such lien shall survive the termination of this Guarantee Agreement.

ARTICLE IX  
MISCELLANEOUS

Section 9.01 Successors and Assigns. All guarantees and agreements contained in this Guarantee Agreement shall bind the successors, assigns, receivers, trustees and representatives of the Guarantor and shall inure to the benefit of the Holders of the Preferred Securities then outstanding.

Section 9.02 Amendments. Except with respect to any changes which do not materially and adversely affect the rights of Holders (in which case no consent of Holders will be required), this Guarantee Agreement may only be amended with the prior approval of the Holders of 66-2/3 in liquidation amount of the Preferred Securities. The provisions of Article 6 of the Declaration of Trust concerning meetings of and voting by Holders shall apply to the giving of such approval. No amendment of this Guarantee Agreement that affects the rights, duties or immunities of the Trustee shall be binding on the Trustee without its prior written consent thereto.

Section 9.03 Notices. Any notice, request or other communication required or permitted to be given hereunder shall be in writing, duly signed by the party giving such notice, and delivered, telecopied or mailed by first class mail as follows:

(a) if given to the Trustee, to the address set forth below or such other address as the Trustee may give notice of to the Guarantor and the Holders:

Wachovia Trust Company, National Association  
One Rodney Square  
920 King Street, Suite 102  
Wilmington, Delaware 19801  
Attention: Rita Marie Ritrovato, Trust Officer  
Telecopy: (302) 888-7544

(b) if given to the Guarantor, to the address set forth below or such other address as the Guarantor may give notice of to the Trustee and the Holders:

Exelon Corporation  
10 South Dearborn Street -37th Floor  
P.O. Box 805379  
Chicago, Illinois 60680  
Attention: Treasurer  
Telecopy: (312) \_\_\_\_-\_\_\_\_

(c) if given to the Trust, in care of the Trustee, or to the Trustee at the Trust's (and the Trustee's) address set forth below (above) or such other address as the Trustee on behalf of the Trust may give notice to the Holders:

Exelon Capital Trust \_\_\_  
c/o Exelon Corporation  
10 South Dearborn Street -37th Floor  
P.O. Box 805379  
Chicago, Illinois 60680  
Attention: Treasurer  
Telecopy: (312) \_\_\_-\_\_\_\_

with a copy, in the case of a notice to the Trust (other than a notice from the Guarantor), to the Guarantor; and

(d) if given to any Holder, at the address set forth on the books and records of the Trust.

All notices hereunder shall be deemed to have been given when received in person, telecopied with receipt confirmed, or mailed by first class mail, postage prepaid except that if a notice or other document is refused delivery or cannot be delivered because of a changed address of which no notice was given, such notice or other document shall be deemed to have been delivered on the date of such refusal or inability to deliver.

Section 9.04 Benefit. This Guarantee Agreement is solely for the benefit of the Holders and, subject to Section 3.01(a), is not separately transferable from the Preferred Securities.

Section 9.05 Interpretation. In this Guarantee Agreement, unless the context otherwise requires:

(a) capitalized terms used in this Guarantee Agreement but not defined in the preamble hereto have the respective meanings assigned to them in Section 1.01;

(b) a term defined anywhere in this Guarantee Agreement has the same meaning throughout; all references to "the Guarantee Agreement" or "this Guarantee Agreement" are to this Guarantee Agreement as modified, supplemented or amended from time to time;

(c) all references in this Guarantee Agreement to Articles and Sections are to Articles and Sections of this Guarantee Agreement unless otherwise specified;

(d) a term defined in the Trust Indenture Act has the same meaning when used in this Guarantee Agreement unless otherwise defined in this Guarantee Agreement or unless the context otherwise requires;

(e) a reference to the singular includes the plural and vice versa; and

(f) the masculine, feminine or neuter genders used herein shall include the masculine, feminine and neuter genders.

Section 9.06 Governing Law. THIS GUARANTEE AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH THE INTERNAL LAWS OF THE COMMONWEALTH OF PENNSYLVANIA. THE GUARANTOR HEREBY IRREVOCABLY SUBMITS TO THE JURISDICTION OF THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA AND ANY COURT IN THE COMMONWEALTH OF PENNSYLVANIA LOCATED IN THE CITY AND COUNTY OF PHILADELPHIA IN ANY ACTION, SUIT OR PROCEEDING BROUGHT

AGAINST IT AND RELATED TO OR IN CONNECTION WITH THIS GUARANTEE AGREEMENT OR THE TRANSACTIONS CONTEMPLATED THEREBY, AND TO THE EXTENT PERMITTED BY APPLICABLE LAW, THE GUARANTOR HEREBY WAIVES AND AGREES NOT TO ASSERT BY WAY OF MOTION, AS A DEFENSE OR OTHERWISE IN ANY SUCH SUIT, ACTION OR PROCEEDING, ANY CLAIM THAT IT IS NOT PERSONALLY SUBJECT TO THE JURISDICTION OF SUCH COURTS, THAT THE SUIT, ACTION OR PROCEEDING IS BROUGHT IN AN INCONVENIENT FORUM, THAT THE VENUE OF THE SUIT, ACTION OR PROCEEDING IS IMPROPER, OR THAT THIS GUARANTEE AGREEMENT OR ANY DOCUMENT OR ANY INSTRUMENT REFERRED TO HEREIN OR THE SUBJECT MATTER HEREOF MAY NOT BE LITIGATED IN OR BY SUCH COURTS. THE GUARANTOR AGREES THAT SERVICE OF PROCESS MAY BE MADE UPON IT BY CERTIFIED OR REGISTERED MAIL TO THE ADDRESS FOR NOTICES SET FORTH IN THIS GUARANTEE AGREEMENT OR ANY METHOD AUTHORIZED BY THE LAWS OF PENNSYLVANIA.

Section 9.07 Counterparts. This instrument may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, but all such counterparts shall together constitute but one and the same instrument.



THIS PREFERRED SECURITIES GUARANTEE AGREEMENT is executed as of the day and year first above written.

EXELON CORPORATION

By: \_\_\_\_\_  
Name:  
Title:

WACHOVIA TRUST COMPANY, NATIONAL ASSOCIATION, as Trustee

By: \_\_\_\_\_  
Name:  
Title:

PENNSYLVANIA DEPARTMENT OF STATE  
CORPORATION BUREAU

Entity Number: \_\_\_\_\_

Statement with Respect to Shares  
Domestic Business Corporation  
(15 Pa.C.S. ss.1522)

Name

Exelon Corporation

Address

10 South Dearborn Street - 37th Floor,  
P.O. Box 805379

Document will be returned to the  
name and address you enter to  
the left.

<==

City State Zip Code

Chicago IL 60680

Fee: \$52

Filed in the Department of State on \_\_\_\_\_

Secretary of the Commonwealth

In compliance with the requirements of 15 Pa.C.S. ss. 1522(b) (relating to statement with respect to shares), the undersigned corporation, desiring to state the designation and voting rights, preferences, limitations, and special rights, if any, of a class or series of its shares, hereby states that:

1. The name of the corporation is:  
Exelon Corporation

2. Check and complete one of the following:

\_\_\_ The resolution amending the Articles under 15 Pa.C.S. ss. 1522(b) (relating to divisions and determinations by the board), set forth in full, is as follows:

X The resolution amending the Articles under 15 Pa.C.S. ss. 1522(b) is set forth in full in Exhibit A attached hereto and made a part hereof.

3. The aggregate number of shares of such class or series established and designated by (a) such resolution, (b) all prior statements, if any, filed under 15 Pa.C.S. ss. 1522 or corresponding provisions of prior law with respect thereto, and (c) any other provision of the Articles is \_\_\_\_\_ shares.

4. The resolution was adopted by the Board of Directors or an authorized committee thereon on:

5. Check, and if appropriate complete, one of the following:

\_\_\_ The resolution shall be effective upon the filing of this statement with respect to shares in the Department of State.

\_\_\_ The resolution shall be effective on: \_\_\_\_\_ at \_\_\_\_\_.

Date Hour

IN TESTIMONY WHEREOF, the undersigned corporation has caused this statement to be signed by a duly authorized officer thereof this

\_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Exelon Corporation

-----  
Name of Corporation

-----  
Signature

-----  
Title

[OBJECT OMITTED]  
Department of State  
Corporation Bureau  
P.O. Box 8722  
Harrisburg, PA 17105-8722  
(717) 787-1057  
web site: [www.dos.state.pa.us/corp.htm](http://www.dos.state.pa.us/corp.htm)

Instructions for Completion of Form:

- A. Typewritten is preferred. If not, the form shall be completed in black or blue-black ink in order to permit reproduction. The filing fee for this form is \$52 made payable to the Department of State.
- B. A separate form shall be submitted for each class or series of shares affected. If a number of classes or series of shares are affected at the same time, consideration should be given to filing form DSCB:15-1915/5915 (Articles of Amendment-Domestic Corporation).
- C. The effective date in Paragraph 5 may not be prior to the filing date, but the resolution may state a prior effective date "for accounting purposes only."
- D. If the corporation was incorporated on or after October 1, 1989, the words "or corresponding provisions of prior law" may be omitted from Paragraph 3.
- E. This form and all accompanying documents shall be mailed to the address stated above.
- F. To receive confirmation of the file date prior to receiving the microfilmed original, send either a self-addressed, stamped postcard with the filing information noted or a self-addressed, stamped envelope with a copy of the filing document.

EXHIBIT A

RESOLUTIONS OF BOARD OF DIRECTORS  
-----

RESOLVED, that the Company hereby establishes a series of Preferred Stock which shall be designated as "     % Preferred Stock", consisting of                      shares without par value.

RESOLVED, that the terms of the      % Preferred Stock, in the respect in which the shares of such series may vary from shares of the other series of the Preferred Stock shall be as follows:

(a) The dividend rate of      % Preferred Stock shall be      % per annum, and shall be the date from which dividends shall be cumulative on all shares issued prior to the record date for the dividend payable .

(b) The redemption price of the      % Preferred Stock shall be \$     per share if redeemed on or before                     , \$     per share if redeemed thereafter, but on or before     , \$     if redeemed thereafter but on or before     , and \$     per share if redeemed on or after                     , together, in each case, with a sum equal to accumulated and unpaid dividends, computed as provided in Section      of Article      of the Company's Articles of Incorporation.

(c) The amount per share for the      % Preferred Stock payable to the holders thereof upon any voluntary or involuntary liquidation, dissolution or winding-up of the Company, to which shall be added a sum equal to accumulated and unpaid dividends, computed as provided in Section      of the Company's Articles of Incorporation, shall be \$             .

LAW OFFICES

Ballard Spahr Andrews & Ingersoll, LLP  
1735 MARKET STREET, 51ST FLOOR  
PHILADELPHIA, PENNSYLVANIA 19103-7599  
215-665-8500  
FAX: 215-864-8999  
LAWYERS@BALLARDSPAHR.COM

BALTIMORE, MD  
DENVER, CO  
SALT LAKE CITY, UT  
VOORHEES, NJ  
WASHINGTON, DC  
WILMINGTON, DE

Exhibit 5-1

September 5, 2003

Exelon Corporation  
Exelon Capital Trust I  
Exelon Capital Trust II  
Exelon Capital Trust III  
10 South Dearborn Street - 37th Floor  
P.O. Box 805379  
Chicago, Illinois 60680

Re: Registration Statement on Form S-3

Ladies and Gentlemen:

We refer to the Registration Statement on Form S-3 (the "Registration Statement") being filed by Exelon Corporation, a Pennsylvania corporation (the "Company"), and Exelon Capital Trust I, Exelon Capital Trust II, and Exelon Capital Trust III, each a statutory trust created under the laws of the State of Delaware (each, a "Trust" and, collectively, the "Trusts"), with the Securities and Exchange Commission (the "Commission") under the Securities Act of 1933, as amended (the "Act"), relating to: (i) shares of common stock, no par value (the "Common Stock"), of the Company, (ii) Stock Purchase Contracts of the Company, (iii) Stock Purchase Units of the Company, (iv) unsecured debt securities of the Company (the "Debt Securities"), (v) unsecured subordinated debt securities of the Company (the "Subordinated Indebtedness"), (vi) shares of preferred stock, no par value (the "Preferred Stock"), of the Company, and (vii) trust preferred securities (the "Trust Preferred Securities") of the Trusts and the related guarantees (each, a "Guarantee" and, collectively, the "Guarantees") by the Company with respect to the obligations of the Trusts with respect to any issue of Trust Preferred Securities, in each case in amounts, at prices and on terms to be determined at the time of an offering (collectively, the "Securities").

The Debt Securities will be issued under an Indenture (the "Debt Indenture") between the Company and J.P. Morgan Trust Company, National Association, formerly Chase Manhattan Trust Company, N.A., as trustee (the "Debt Trustee"). The Subordinated Indebtedness will be issued under an Indenture (the "Subordinated Indenture") between the Company and Wachovia Bank, National Association, as trustee (the "Subordinated Trustee").

In rendering the opinions expressed below, we have examined originals or copies, certified or otherwise identified to our satisfaction, of the Registration Statement and all exhibits thereto and such corporate records and other agreements, documents and instruments, and such certificates or comparable documents of public officials and officers and representatives of the Company and have made such inquiries of such officers and representatives and have

Exelon Capital Trust I  
Exelon Capital Trust II  
Exelon Capital Trust III  
September 5, 2003  
Page 2 of 5

considered such matters of law as we have deemed appropriate as the basis for the opinion hereinafter set forth, including the Company's Restated Articles of Incorporation, Bylaws, as amended, certain resolutions adopted by the Board of Directors of the Company relating to the issuance of the Securities and statements from certain officers of the Company. We have also assumed the authenticity of all documents submitted to us as originals, the genuineness of all signatures, the legal capacity of all persons and the conformity with the original documents of any copies thereof submitted to us for examination.

Based on the foregoing, and subject to the qualifications and limitations hereinafter set forth, we are of the opinion that:

1. When (a) the Registration Statement has become effective under the Act, (b) the shares of Common Stock have been duly and properly authorized for issuance, and (c) the shares of Common Stock have been duly and properly issued, sold and delivered as contemplated in the Registration Statement and any prospectus supplement relating thereto, the shares of Common Stock (including any Common Stock duly issued pursuant to Stock Purchase Contracts), will be legally issued, fully paid and non-assessable.

2. When (a) the Registration Statement has become effective under the Act, (b) a Stock Purchase Contract Agreement relating to the Stock Purchase Contracts (the "Stock Purchase Contract Agreement") and such Stock Purchase Contracts have been duly and properly authorized, (c) the Stock Purchase Contract Agreement has been duly and properly executed and delivered, (d) the terms of the Stock Purchase Contracts and of their issuance and sale have been

duly and properly established in conformity with the Stock Purchase Contract Agreement so as not to violate any applicable law or result in a default under or breach of any agreement or instrument binding upon the Company and so as to comply with any requirement or restriction imposed by any court or governmental or regulatory body having jurisdiction over the Company, and (e) the Stock Purchase Contracts have been duly and properly executed and issued in accordance with the Stock Purchase Contract Agreement relating to such Stock Purchase Contracts and issued and sold in the form and in the manner contemplated in the Registration Statement and any prospectus supplement relating thereto, such Stock Purchase Contracts will constitute valid and binding obligations of the Company, enforceable in accordance with their terms, subject to (i) bankruptcy, insolvency, reorganization, fraudulent transfer, moratorium and other similar laws now or hereafter in effect relating to or affecting creditors' rights generally and (ii) general principles of equity (regardless of whether considered in a proceeding at law or in equity).

3. When (a) the Registration Statement has become effective under the Act, (b) the Stock Purchase Units, a Stock Purchase Contract Agreement relating to the Stock Purchase Contracts comprising a part of the Stock Purchase Units and such Stock Purchase Contracts have been duly and properly authorized, (c) the Stock Purchase Contract Agreement has been duly and properly executed and delivered, (d) the terms of the Stock Purchase Contracts and of their issuance and sale have been duly and properly established in conformity with the Stock Purchase Contract Agreement so as not to violate any applicable law or result in a default under or breach of any agreement or instrument binding upon the Company and so as to comply with any requirement or restriction imposed by any court or governmental or regulatory body having jurisdiction over the Company, (e) the terms of the collateral arrangements relating to such Stock Purchase Units have been duly and properly established and the agreement(s) relating thereto has been duly and properly executed and delivered, in each case so as not to violate any applicable law or result in a default under or breach of any

agreement or instrument binding upon the Company and so as to comply with any requirement or restriction imposed by any court or governmental or regulatory body having jurisdiction over the Company, and the collateral has been deposited with the collateral agent in accordance with such arrangements, and (f) the Stock Purchase Contracts have been duly and properly executed and issued in accordance with the Stock Purchase Contract Agreement relating to such Stock Purchase Contracts, and issued and sold in the form and in the manner contemplated in the Registration Statement and any prospectus supplement relating thereto, such Stock Purchase Units will constitute valid and binding obligations of the Company, enforceable in accordance with their terms, subject to (i) bankruptcy, insolvency, reorganization, fraudulent transfer, moratorium and other similar laws now or hereafter in effect relating to or affecting creditors' rights generally and (ii) general principles of equity (regardless of whether considered in a proceeding at law or in equity).

4. When (a) the Registration Statement has become effective under the Act, (b) a series of Preferred Stock has been duly and properly authorized for issuance and a Statement with Respect to Shares of the Company classifying the Preferred Stock and setting forth the terms thereof substantially in the form filed as an exhibit to the Registration Statement has been duly and properly authorized, executed and filed with the Secretary of the Commonwealth of Pennsylvania, Department of State, (c) a prospectus supplement with respect to such series of Preferred Stock shall have been filed with the Commission in compliance with the Act and the rules and regulations thereunder, and (d) the shares of Preferred Stock have been duly and properly issued and paid for in the manner contemplated in the Registration Statement and any prospectus supplement relating thereto, the shares of Preferred Stock will be legally issued, fully paid and non-assessable.

5. When (a) the Registration Statement has become effective under the Act, (b) a supplemental indenture, if utilized, has been duly and properly authorized, executed and delivered by the Company and the Debt Trustee and qualified under the Trust Indenture Act of 1939, as amended, (c) the terms of the Debt Securities and of their issuance and sale have been duly established in accordance with the Debt Indenture so as not to violate any applicable law or result in a default under or breach of any agreement or instrument binding upon the Company and so as to comply with any requirement or restriction imposed by any court or governmental or regulatory body having jurisdiction over the Company, (d) a prospectus supplement with respect to such series of Debt Securities shall have been filed with the Commission in compliance with the Act and the rules and regulations thereunder, and (e) such series of Debt Securities shall have been duly and properly executed and authenticated in accordance with the Debt Indenture and duly issued and delivered by the Company in the manner contemplated in the Registration Statement and any prospectus supplement relating thereto to the purchasers thereof against payment of the agreed consideration therefor, each series of Debt Securities will constitute valid and binding obligations of the Company, enforceable in accordance with their terms, subject to (i) bankruptcy, insolvency, reorganization, fraudulent transfer, moratorium and other similar laws now or hereafter in effect relating to or affecting creditors' rights generally and (ii) general principles of equity (regardless of whether considered in a proceeding at law or in equity).

6. When (a) the Registration Statement has become effective under the Act, (b) a supplemental indenture, if utilized, has been duly and properly authorized, executed and delivered by the Company and the Subordinated Trustee and qualified under the Trust Indenture Act of 1939, as amended, (c) the terms of the Subordinated Indebtedness and of their issuance and sale have been duly established in accordance with the Subordinated Indenture so as not to violate any applicable law or result in a default under or breach of any agreement or



instrument binding upon the Company and so as to comply with any requirement or restriction imposed by any court or governmental or regulatory body having jurisdiction over the Company, (d) a prospectus supplement with respect to such series of Subordinated Indebtedness shall have been filed with the Commission in compliance with the Act and the rules and regulations thereunder, and (e) such series of Subordinated Indebtedness shall have been duly and properly executed and authenticated in accordance with the Subordinated Indenture and duly and properly issued and delivered by the Company in the manner contemplated in the Registration Statement and any prospectus supplement relating thereto to the purchasers thereof against payment of the agreed consideration therefor, each series of Subordinated Indebtedness will constitute valid and binding obligations of the Company, enforceable in accordance with their terms, subject to (i) bankruptcy, insolvency, reorganization, fraudulent transfer, moratorium and other similar laws now or hereafter in effect relating to or affecting creditors' rights generally and (ii) general principles of equity (regardless of whether considered in a proceeding at law or in equity).

7. When (a) the Registration Statement has become effective under the Act, (b) a Guarantee Agreement between the Company and Wachovia Trust Company, National Association, as guarantee trustee (the "Guarantee Trustee"), substantially in the form filed as an exhibit to the Registration Statement has been duly and properly authorized, executed and delivered by the Company and the Guarantee Trustee and qualified under the Trust Indenture Act of 1939, as amended, (c) a prospectus supplement with respect to a Guarantee shall have been filed with the Commission in compliance with the Act and the rules and regulations thereunder, and (d) the Trust Preferred Securities in respect of which such Guarantee Agreement shall have been executed and delivered shall have been duly and properly authorized, issued and delivered to the purchasers thereof, as contemplated in the Registration Statement and such resolutions, against payment of the agreed consideration therefor, each Guarantee will constitute the valid and binding obligation of the Company, enforceable in accordance with its terms, subject to (i) bankruptcy, insolvency, reorganization, fraudulent transfer, moratorium and other similar laws now or hereafter in effect relating to or affecting creditors' rights generally and (ii) general principles of equity (regardless of whether considered in a proceeding at law or in equity).

For the purposes of this opinion letter, we have assumed that, at the time of the issuance, sale and delivery of the Securities at issue: (a) the authorization thereof by the Company will not have been modified or rescinded, and there will not have occurred any change in law affecting the validity, legally binding character or enforceability thereof; (b) in the case of the issue of the Debt Securities, Subordinated Indebtedness or a Guarantee, the Debt Indenture, the Subordinated Indenture or the Guarantee Agreement, as applicable, will not have been modified or amended; (c) the Amended and Restated Articles of Incorporation of the Company, as currently in effect, will not have been modified or amended and will be in full force and effect; and (d) the Company will have any approval required under the Public Utility Holding Company Act of 1935.

We note that an opinion letter of Richards, Layton & Finger, P.A., Delaware counsel to the Company, dated and delivered to you concurrently herewith, addresses, among other things, the legality of the Trust Preferred Securities covered by the Registration Statement.

We express no opinion as to the law of any jurisdiction other than the law of the Commonwealth of Pennsylvania.

We consent to the filing of this opinion as an Exhibit to the Registration Statement and to the references to this firm under the heading "Legal Matters" in the Prospectus included in the Registration Statement. This opinion is not to be used, circulated, quoted, referred to or relied upon by any other person or for any other purpose without our prior written consent.

Very truly yours,

/s/ Ballard Spahr Andrews & Ingersoll, LLP

[Letterhead of Richards, Layton & Finger, P.A.]

September 5, 2003

Exelon Corporation  
Exelon Capital Trust I  
Exelon Capital Trust II  
Exelon Capital Trust III  
10 South Dearborn Street - 37th Floor  
P.O. Box 805379  
Chicago, IL 60680-5379

Re: Exelon Capital Trust I, Exelon Capital Trust II  
and Exelon Capital Trust III  
-----

Ladies and Gentlemen:

We have acted as special Delaware counsel for Exelon Corporation, a Pennsylvania corporation (the "Company"), and Exelon Capital Trust I, Exelon Capital Trust II and Exelon Capital Trust III, each a Delaware statutory trust (each, a "Trust," and collectively, the "Trusts"), in connection with the matters set forth herein. At your request, this opinion is being furnished to you.

For purposes of giving the opinions hereinafter set forth, our examination of documents has been limited to the examination of originals or copies of the following:

(a) The Certificate of Trust of each Trust, each dated August 25, 2003 (collectively, the "Certificates"), as filed with the office of the Secretary of State of the State of Delaware (the "Secretary of State") on August 25, 2003;

(b) The Declaration of Trust of each Trust, each dated as of August 25, 2003, among the Company and the trustees of the Trust named therein;

(c) The Registration Statement (the "Registration Statement") on Form S-3, including a preliminary prospectus (the "Prospectus"), relating to, among

Exelon Capital Trust I  
Exelon Capital Trust II  
Exelon Capital Trust III  
September 5, 2003  
Page 2 of 3

other things, the trust preferred securities of the Trusts representing undivided beneficial interests in the assets of each Trust (each, a "Preferred Security" and collectively, the "Preferred Securities"), as proposed to be filed by the Company and the Trusts with the Securities and Exchange Commission on or about September 5, 2003;

(d) A form of Amended and Restated Declaration of Trust for the Trusts (including Exhibits A and C thereto) (each, a "Declaration," and collectively, the "Declarations"), to be entered into with respect to each Trust among the Company, as sponsor, the trustees of such Trust named therein, and the holders, from time to time, of undivided beneficial interests in the assets of such Trust, attached as an exhibit to the Registration Statement; and

(e) A Certificate of Good Standing for each Trust, each dated September 4, 2003, obtained from the Secretary of State.

Initially capitalized terms used herein and not otherwise defined are used as defined in the Declarations.

For purposes of this opinion, we have not reviewed any documents other than the documents listed in paragraphs (a) through (e) above. In particular, we have not reviewed any document (other than the documents listed in paragraphs (a) through (e) above) that is referred to in or incorporated by reference into the documents reviewed by us. We have assumed that there exists no provision in any document that we have not reviewed that is inconsistent with the opinions stated herein. We have conducted no independent factual investigation of our own but rather have relied solely upon the foregoing documents, the statements and information set forth therein and the additional matters recited or assumed herein, all of which we have assumed to be true, complete and accurate in all material respects.

With respect to all documents examined by us, we have assumed (i) the authenticity of all documents submitted to us as authentic originals, (ii) the conformity with the originals of all documents submitted to us as copies or forms, and (iii) the genuineness of all signatures.

For purposes of this opinion, we have assumed (i) that the Declarations and the Certificates are in full force and effect and have not been amended, (ii) except to the extent provided in paragraph 1 below, that each of the parties to the documents examined by us has been duly created, organized or formed, as the case may be, and is validly existing in good standing under the laws of the jurisdiction governing its creation, organization or formation, (iii) the legal capacity of natural persons who are parties to the documents examined by us, (iv) that each of the parties to the documents examined by us has the power and authority to execute and deliver, and to perform its obligations under, such documents, (v) that each of the parties to the documents examined by us has duly authorized, executed and delivered such documents, (vi) the receipt by each Person to whom a Preferred Security is to be issued by a Trust (collectively, the "Preferred Security Holders") of a Preferred Securities

Certificate for such Preferred Security and the payment for the Preferred Security acquired by it, in accordance with the applicable Declaration and the Registration Statement, and (vii) that the Preferred Securities are issued and sold to the Preferred Security Holders in accordance with the applicable Declaration and the Registration Statement. We have not participated in the preparation of the Registration Statement and assume no responsibility for its contents.

This opinion is limited to the laws of the State of Delaware (excluding the securities laws of the State of Delaware), and we have not considered and express no opinion on the laws of any other jurisdiction, including federal laws and rules and regulations relating thereto. Our opinions are rendered only with respect to Delaware laws and rules, regulations and orders thereunder that are currently in effect.

Based upon the foregoing, and upon our examination of such questions of law and statutes of the State of Delaware as we have considered necessary or appropriate, and subject to the assumptions, qualifications, limitations and exceptions set forth herein, we are of the opinion that:

1. Each Trust has been duly created and is validly existing in good standing as a statutory trust under the Delaware Statutory Trust Act (12 Del.C. ss. 3801, et seq.).

2. The Preferred Securities of each Trust will represent valid and, subject to the qualifications set forth in paragraph 3 below, fully paid and nonassessable undivided beneficial interests in the assets of such Trust.

3. The Preferred Security Holders of a Trust, as beneficial owners of such Trust, will be entitled to the same limitation of personal liability extended to stockholders of private corporations for profit organized under the General Corporation Law of the State of Delaware. We note that the Preferred Security Holders of a Trust may be obligated to make payments as set forth in the Declaration of such Trust.

We consent to the filing of this opinion with the Securities and Exchange Commission as an exhibit to the Registration Statement. We hereby consent to the use of our name under the heading "Legal Matters" in the Prospectus. In giving the foregoing consents, we do not thereby admit that we come within the category of Persons whose consent is required under Section 7 of the Securities Act of 1933, as amended, or the rules and regulations of the Securities and Exchange Commission thereunder.

Very truly yours,

/s/ Richards, Layton & Finger, P.A.

BJK/EJE

September 5, 2003

Exelon Corporation  
Exelon Capital Trust I  
Exelon Capital Trust II  
Exelon Capital Trust III  
10 South Dearborn Street - 37th Floor  
P.O. Box 805379  
Chicago, Illinois 60680

Dear Ladies and Gentlemen:

We have acted as United States tax counsel to Exelon Corporation, a Pennsylvania corporation (the "Company"), and Exelon Capital Trust I, Exelon Capital Trust II and Exelon Capital Trust III, each a statutory trust formed under the laws of the State of Delaware (each a "Trust" and, collectively, the "Trusts"), in connection with the preparation of a Registration Statement on Form S-3 (such Registration Statement, including the prospectus supplement relating to the Trusts' trust preferred securities that was a part thereof, is referred to herein as the "Registration Statement") which was filed by the Company and the Trust with the Securities and Exchange Commission (the "Commission") on September 5, 2003, under the Securities Act of 1933, as amended (the "Securities Act"), relating to the registration of (i) debt securities, common stock, stock purchase contracts and stock purchase units, preferred stock and subordinated debt securities of the Company and (ii) trust preferred securities of the Trusts and related guarantees of the Company.

We are familiar with the proceedings to date with respect to the Registration Statement and have examined such records, documents and questions of law, and satisfied ourselves as to such matters of fact, as we have considered relevant and necessary as a basis for this opinion. In addition, we have assumed that there will be no change in the laws currently applicable to the Company and the Trusts and that such laws will be the only laws applicable to the Company and the Trusts.

Based upon and subject to the foregoing, the statements set forth in the Registration Statement under the headings "Description of Trust Preferred Securities - Certain United States Federal Income Tax Consequences," to the extent they constitute matters of federal income tax law or legal conclusions with respect thereto, represent our opinion.

In giving the foregoing opinion, we express no opinion as to the laws of any jurisdiction other than the law of the United States of America.

This opinion letter is limited to the matters stated herein and no opinion is implied or may be inferred beyond the matters expressly stated herein. This opinion is rendered as of the date hereof based on the law and facts in existence on the date hereof, and we do not undertake, and hereby

Exelon Capital Trust I  
Exelon Capital Trust II  
Exelon Capital Trust III  
September 5, 2003  
Page 2 of 2

disclaim, any obligation to advise you of any changes in law or fact, whether or not material, which may be brought to our attention at a later date.

We hereby consent to the filing of this opinion with the Commission as Exhibit 8-1 to the Registration Statement. We also consent to the use of our name under the heading "Legal Matters" in the Registration Statement. In giving this consent, we do not hereby admit that we are within the category of persons whose consent is required under Section 7 of the Securities Act of 1933, as amended, or the rules or regulations of the Commission promulgated thereunder.

Very truly yours,

/s/ Ballard Spahr Andrews & Ingersoll, LLP

Exelon Corporation  
 Ratio of Earnings to Fixed Charges  
 (amounts in million of dollars)

	1998	Years Ended December 31,			2002	Six Months Ended June 30, 2003
	----	----	----	----	----	----
Pre-tax income from continuing operations before adjustment for income or loss from equity investees and minority interest	840	965	901	2,347	2,668	991
Plus: Amortization of capitalized interest (a) (Income) or loss from equity investees	-	-	-	-	-	-
Minority interest	54	38	41	(62)	(79)	(33)
	-	-	-	-	5	3
Less: Interest capitalized	(15)	(8)	(6)	(25)	(30)	(14)
Preference security dividend requirements of consolidated subsidiaries	(22)	(20)	(17)	(16)	(14)	(6)
	-----	-----	-----	-----	-----	-----
Pre-tax income from continuing operations after adjustment for income or loss from equity investees, minority interest, capitalized interest and preference security dividend requirements	857	975	919	2,244	2,550	941
	-----	-----	-----	-----	-----	-----
Fixed charges:						
Interest expensed and capitalized, amortization of debt discount and premium on all indebtedness	338	402	616	1,124	986	457
Interest component of rental expense	23	18	14	25	28	11
Distributions on mandatorily redeemable preferred securities	31	21	14	39	37	19
Preference security dividend requirements of consolidated subsidiaries	22	20	17	16	14	6
	-----	-----	-----	-----	-----	-----
Total fixed charges	414	461	661	1,204	1,065	493
	-----	-----	-----	-----	-----	-----
Pre-tax income from continuing operations after adjustment for income or loss from equity investees, minority interest, capitalized interest and preference security dividend requirements plus fixed charges	1,271	1,436	1,580	3,448	3,615	1,434
	-----	-----	-----	-----	-----	-----
Ratio of earnings to fixed charges	3.07	3.11	2.39	2.86	3.39	2.91
	=====	=====	=====	=====	=====	=====

(a) Not included pursuant to Section 503(d)1(C) of Regulation S-K.

CONSENT OF INDEPENDENT ACCOUNTANTS

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We hereby consent to the incorporation by reference in this Registration Statement on Form S-3 of our report dated January 29, 2003, except for Note 23 for which the date is February 20, 2003, relating to the financial statements, which appears in the 2002 Annual Report to Shareholders, which is incorporated by reference in Exelon Corporation's Annual Report on Form 10-K for the year ended December 31, 2002. We also consent to the incorporation by reference of our report dated January 29, 2003, except for Note 23 for which the date is February 20, 2003, relating to the financial statement schedule, which appears in such Annual Report on Form 10-K. We also consent to the references to us under the heading "Experts" in such Registration Statement.

PricewaterhouseCoopers LLP

September 4, 2003



SECURITIES AND EXCHANGE COMMISSION  
Washington, D. C. 20549

-----  
FORM T-1

STATEMENT OF ELIGIBILITY  
UNDER THE TRUST INDENTURE ACT OF 1939 OF  
A CORPORATION DESIGNATED TO ACT AS TRUSTEE

-----  
CHECK IF AN APPLICATION TO DETERMINE ELIGIBILITY OF  
A TRUSTEE PURSUANT TO SECTION 305(b)(2) \_\_\_\_\_

-----  
J. P. MORGAN TRUST COMPANY, NATIONAL  
ASSOCIATION (Exact name of trustee as  
specified in its charter)

(State of incorporation  
if not a national bank) 95-4655078  
(I.R.S. employer  
identification No.)

101 California Street, Floor 38 94111  
San Francisco, California (Zip Code)  
(Address of principal executive offices)

William H. McDavid  
General Counsel  
270 Park Avenue  
New York, New York 10017  
Tel: (212) 270-2611  
(Name, address and telephone number of agent for service)

-----  
EXELON CORPORATION  
(Exact name of obligor as specified in its charter)

PENNSYLVANIA 23-2990190  
(State or other jurisdiction of  
incorporation or organization) (I.R.S. employer  
identification No.)

10 South Dearborn Street - 37th Floor  
P.O. Box 805379 60680-5379  
Chicago, IL (Zip Code)  
(Address of principal executive offices)

% UNSECURED SENIOR DEBT SECURITIES DUE  
(Title of the indenture securities)

-----  
Item 1. General Information.

Furnish the following information as to the trustee:

- (a) Name and address of each examining or supervising authority to which it is subject.

Comptroller of the Currency, Washington, D.C. Board of Governors of the Federal Reserve System, Washington, D.C.

- (b) Whether it is authorized to exercise corporate trust powers.

Yes.

Item 2. Affiliations with Obligor.

If the Obligor is an affiliate of the trustee, describe each such affiliation.

None.

No responses are included for Items 3 through 15 of this form T-1 because the Obligor is not in default as provided under Item 13.

Item 16. List of Exhibits.

List below all exhibits filed as part of this statement of eligibility.

Exhibit 1. Articles of Association of the Trustee as Now in Effect (see Exhibit 1 to Form T-1 filed in connection with Form 8K of the Southern California Water Company filing, dated December 7, 2001, which is incorporated by reference).

Exhibit 2. Certificate of Authority of the Trustee to Commence Business (see Exhibit 2 to Form T-1 filed in connection with Registration Statement No. 333-41329, which is incorporated by reference).

- Exhibit 3. Authorization of the Trustee to Exercise Corporate Trust Powers (contained in Exhibit 2).
- Exhibit 4. Existing By-Laws of the Trustee (see Exhibit 4 to Form T-1 filed in connection with Form 8K of the Southern California Water Company filing, dated December 7, 2001, which is incorporated by reference).
- Exhibit 5. Not Applicable
- Exhibit 6. The consent of the Trustee required by Section 321 (b) of the Act (see Exhibit 6 to Form T-1 filed in connection with Registration Statement No. 333-41329, which is incorporated by reference).
- Exhibit 7. A copy of the latest report of condition of the Trustee, published pursuant to law or the requirements of its supervising or examining authority.
- Exhibit 8. Not Applicable
- Exhibit 9. Not Applicable

SIGNATURE

Pursuant to the requirements of the Trust Indenture Act of 1939, the Trustee, J. P. Morgan Trust Company, National Association, has duly caused this statement of eligibility and qualification to be signed on its behalf by the undersigned, thereunto duly authorized, all in the City of Cleveland, and State of Ohio, on the 5th day of September, 2003.

J. P. Morgan Trust Company, National Association

By /s/ :Lisa J. Garrett

-----  
Lisa J. Garrett  
Vice President

Exhibit 7. Report of Condition of the Trustee.

Consolidated Report of Condition of J.P. Morgan Trust Company, N.A.,  
(formerly Chase Manhattan Bank and Trust Company, N.A.)

(Legal Title)

Located at 1800 Century Park East, Ste. 400 Los Angeles, CA 90067  
(Street) (City) (State) (Zip)

as of close of business on June 30, 2003

=====  
ASSETS DOLLAR AMOUNTS IN THOUSANDS

J. P. Morgan Trust Company, National Association  
Statement of Condition  
June 30, 2003

	(\$000)
Assets	
Cash and Due From Banks	\$ 30,669
Securities	106,073
Loans and Leases	41,488
Premises and Fixed Assets	9,168
Intangible Assets	162,542
Other Assets	17,245
	-----
Total Assets	\$ 367,185
	=====

Liabilities

Deposits	\$ 97,653
Other Liabilities	47,491
	-----
Total Liabilities	145,144

Equity Capital

Common Stock	600
Surplus	181,587
Retained Earnings	39,854
	-----
Total Equity Capital	222,041
	-----
Total Liabilities and Equity Capital	\$ 367,185
	=====



SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

FORM T-1

STATEMENT OF ELIGIBILITY UNDER THE TRUST INDENTURE ACT OF 1939 OF A CORPORATION  
DESIGNATED TO ACT AS TRUSTEECHECK IF AN APPLICATION TO DETERMINE ELIGIBILITY OF A TRUSTEE PURSUANT TO  
SECTION 305(b)(2) [ ]WACHOVIA TRUST COMPANY, NATIONAL ASSOCIATION  
(Exact Name of Trustee as Specified in its Charter)56-1989961  
(I.R.S. Employer Identification No.)One Rodney Square, 920 King Street, Suite 102, Wilmington, Delaware  
(Address of Principal Executive Offices)19801  
(Zip Code)WACHOVIA TRUST COMPANY, NATIONAL ASSOCIATION  
ONE RODNEY SQUARE  
920 KING STREET, SUITE 102  
WILMINGTON, DE 19801ATTENTION: CORPORATE TRUST ADMINISTRATION  
(302) 888-7539  
(Name, address and telephone number of Agent for Service)EXELON CAPITAL TRUST I  
(Exact Name of Obligor as Specified in its Charter)Delaware  
(State or other jurisdiction of Incorporation or Organization)[ ]  
(I.R.S. Employer Identification  
No.)10 South Dearborn Street  
37th Floor  
P.O. Box 805379  
Chicago, IL 60680  
(Address of Principal Executive Offices)60680  
(Zip Code)Trust Preferred Securities of  
Exelon Capital Trust I  
(Title of Indenture Securities)

## 1. General information.

Furnish the following information as to the trustee:

a) Name and address of each examining or supervisory authority to which it is  
subject:Comptroller of the Currency  
United States Department of the Treasury  
Washington, D.C. 20219Federal Reserve Bank  
Richmond, Virginia 23219Federal Deposit Insurance Corporation  
Washington, D.C. 20429

b) Whether it is authorized to exercise corporate trust powers.

Yes.

## 2. Affiliations with obligor.

If the obligor is an affiliate of the trustee, describe each such affiliation.

None.

## 3. Voting securities of the trustee.

Furnish the following information as to each class of voting securities of the  
trustee:

Not applicable - see answer to Item 13.

## 4. Trusteeships under other indentures.

If the trustee is a trustee under another indenture under which any other  
securities, or certificates of interest or participation in any other  
securities, of the obligor are outstanding, furnish the following information:

(a) Title of the securities outstanding under each such other indenture.

Trust Preferred Securities

- (b) A brief statement of the facts relied upon as a basis for the claim that no conflicting interest within the meaning of Section 310(b)(1) of the Act arises as a result of the trusteeship under any such other indenture, including a statement as to how the indenture securities will rank as compared with the securities issued under such other indenture.



The indenture securities are not in default. The indenture securities rank equal to the securities named in Item 4(a).

5. Interlocking directorates and similar relationships with the obligor or underwriters.

If the trustee or any of the directors or executive officers of the trustee is a director, officer, partner, employee, appointee, or representative of the obligor or of any underwriter for the obligor, identify each such person having any such connection and state the nature of each such connection.

Not applicable - see answer to Item 13.

6. Voting securities of the trustee owned by the obligor or its officials.

Furnish the following information as to the voting securities of the trustee owned beneficially by the obligor and each director, partner, and executive officer of the obligor:

Not applicable - see answer to Item 13.

7. Voting securities of the trustee owned by underwriters or their officials.

Furnish the following information as to the voting securities of the trustee owned beneficially by each underwriter for the obligor and each director, partner, and executive officer of each such underwriter:

Not applicable - see answer to Item 13.

8. Securities of the obligor owned or held by the trustee.

Furnish the following information as to securities of the obligor owned beneficially or held as collateral security for obligations in default by the trustee:

Not applicable - see answer to Item 13.

9. Securities of underwriters owned or held by the trustee.

If the trustee owns beneficially or holds as collateral security for obligations in default any securities of an underwriter for the obligor, furnish the following information as to each class of securities of such underwriter any of which are so owned or held by the trustee:

Not applicable - see answer to Item 13.

10. Ownership or holdings by the trustee of voting securities of certain affiliates or security holders of the obligor.

If the trustee owns beneficially or holds as collateral security for obligations in default voting securities of a person who, to the knowledge of the trustee (1) owns 10 percent or more of the

voting stock of the obligor or (2) is an affiliate, other than a subsidiary, of the obligor, furnish the following information as to the voting securities of such person:

Not applicable - see answer to Item 13.

11. Ownership or holdings by the trustee of any securities of a person owning 50 percent or more of the voting securities of the obligor.

If the trustee owns beneficially or holds as collateral security for obligations in default any securities of a person who, to the knowledge of the trustee, owns 50 percent or more of the voting securities of the obligor, furnish the following information as to each class of securities of such person any of which are so owned or held by the trustee:

Not applicable - see answer to Item 13.

12. Indebtedness of the obligor to the trustee.

Except as noted in the instructions, if the obligor is indebted to the trustee, furnish the following information:

Not applicable - see answer to Item 13.

13. Defaults by the obligor.

a) State whether there is or has been a default with respect to the securities under this indenture. Explain the nature of any such default.

None.

b) If the trustee is a trustee under another indenture under which any other securities, or certificates of interest or participation in any other securities, of the obligor are outstanding, or is trustee for more than one outstanding series of securities under the indenture, state whether there has been a default under any such indenture or series, identify the indenture or series affected, and explain the nature of any such default.

None

14. Affiliations with the underwriters.

If any underwriter is an affiliate of the trustee, describe each such affiliation.

Not applicable - see answer to Item 13.

15. Foreign trustee.

Identify the order or rule pursuant to which the trustee is authorized to act as sole trustee under indentures qualified or to be qualified under the Act.

Not applicable - trustee is a national banking association organized under the laws of the United States.

16. List of Exhibits.

List below all exhibits filed as part of this statement of eligibility.

X 1. Copy of Articles of Association of the trustee as now in effect.

- --  
X 2. Copy of the Certificate of the Comptroller of the Currency dated April 4, 2002, evidencing the authority of the trustee to transact business.

X 3. Copy of the Certification of Fiduciary Powers of the trustee by the Office of the Comptroller of the Currency dated April 4, 2002.

X 4. Copy of existing by-laws of the trustee.

\_\_ 5. Copy of each indenture referred to in Item 4, if the obligor is in default.

Not Applicable.

X 6. Consent of the trustee required by Section 321(b) of the Act.

- --  
X 7. Copy of report of condition of the trustee at the close of business on December 31, 2002, published pursuant to the requirements of its supervising authority.

\_\_ 8. Copy of any order pursuant to which the foreign trustee is authorized to act as sole trustee under indentures qualified or to be qualified under the Act.

Not Applicable

\_\_ 9. Consent to service of process required of foreign trustees pursuant to Rule 10a-4 under the Act.

Not Applicable

- - - - -

NOTE

The trustee disclaims responsibility for the accuracy or completeness of information contained in this Statement of Eligibility and Qualification not known to the trustee and not obtainable by it through reasonable investigation and as to which information it has obtained from the obligor and has had to rely or will obtain from the principal underwriters and will have to rely.

SIGNATURE

Pursuant to the requirements of the Trust Indenture Act of 1939, the trustee, Wachovia Trust Company, National Association, a national banking association organized and existing under the laws of the United States of America, has duly caused this Statement of Eligibility and Qualification to be signed on its behalf by the undersigned, thereunto duly authorized, all in the City of Wilmington and the State of Delaware, on the 5th day of September, 2003.

Wachovia Trust Company, National  
Association

By: /s/ Rita Marie Ritrovato  
-----  
Rita Marie Ritrovato  
Trust Officer

CONSENT OF THE TRUSTEE

Pursuant to the requirements of Section 321(b) of the Trust Indenture Act of 1939, and in connection with the proposed issue of Exelon Capital Trust I, II, and III Trust Preferred Securities, Wachovia Trust Company, National Association, hereby consents that reports of examinations by Federal, State, Territorial or District authorities may be furnished by such authorities to the Securities and Exchange Commission upon request therefor.

WACHOVIA TRUST COMPANY,  
NATIONAL ASSOCIATION

By: /s/ Rita Marie Ritrovato  
-----  
Rita Marie Ritrovato  
Trust Officer

Wilmington, Delaware

September 5, 2003

## EXHIBIT T-7

## REPORT OF CONDITION

Consolidating domestic and foreign subsidiaries of Wachovia Trust Company, N.A., at the close of business on March 31, 2003, published in response to call made by Comptroller of the Currency, under title 12, United States Code, Section 161. Charter Number 1 Comptroller of the Currency.

## Statement of Resources and Liabilities

ASSETS  
 Thousand of Dollars  
 -----

Cash and balance due from depository institutions:	
Noninterest-bearing balances and currency and coin.....	14,130,000
Interest-bearing balances.....	2,142,000
Securities.....	////////
Held-to-maturity securities (from Schedule RC-B, column A).....	0
Available-for-sale securities (from schedule RC-B, column D).....	69,552,000
Federal funds sold and securities purchased under agreements to resell.....	0
Federal funds sold in domestic offices.....	1,833,000
Securities purchased under agreements to resell(3).....	4,293,000
Loans and lease financing receivables (from Schedule RC-C):	
Loan and leases held for sale.....	8,101,000
Loan and leases, net of unearned income.....	161,553,000
LESS: Allowance for loan and lease losses.....	2,716,000
LESS: Allocated transfer risk reserve.....	0
Loans and leases, net of unearned income and allowance (item.4.b misus 4.c).....	158,837,000
Trading assets (from Schedule RC-D).....	26,199,000
Premises and fixed assets (including capitalized leases).....	4,255,000
Other real estate owned (from Schedule RC-M).....	143,000
Investment in unconsolidated subsidiaries and associated companies (from Schedule RC-M)...	669,000
Customer's liability to this bank on acceptances outstanding.....	1,485,000
Intangible assets.....	9,499,000
Goodwill.....	
Other intangible assets (from Schedule RC-M).....	1,698,000
Other assets (from Schedule RC-F).....	20,947,000
 Total assets.....	 323,783,000

LIABILITIES

Deposits:	
In domestic offices.....	188,964,000
Noninterest-bearing.....	32,609,000
Interest-bearing.....	156,355,000
In foreign offices, Edge and Agreement subsidiaries, and IBFs (from Schedule RC-E, partII).....	12,591,000
Noninterest-bearing.....	21,000
Interest-bearing.....	12,570,000
Federal funds purchased in domestic offices(2).....	3,342,000
Securities sold under agreements to repurchase(3).....	26,168,000
Trading liabilities(from Schedule RC-D).....	18,156,000
Other borrowed money (includes mortgage indebtedness and obligations under Capitalized leases)(from Schedule RC-M).....	21,041,000
Bank's liability on acceptances executed and outstanding.....	1,492,000
Subordinated notes and debentures.....	8,149,000
Other liabilities.....	11,156,000
Total liabilities.....	291,059,000
Minority Interest in consolidated subsidiaries.....	1,327,000

EQUITY CAPITAL

Perpetual preferred stock and related surplus.....	0
Common Stock.....	455,000
Surplus.....	24,194,000
Retained Earnings.....	4,660,000
Accumulated other comprehensive income.....	2,088,000
Other Equity Capital components.....	0
Total equity capital (sum of item 23 through 27).....	31,397,000
Total liabilities and equity capital (sum of items 21,22, and 28.....	323,783,000

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

FORM T-1

STATEMENT OF ELIGIBILITY UNDER THE TRUST INDENTURE ACT OF 1939 OF A  
CORPORATION DESIGNATED TO ACT AS TRUSTEE CHECK IF AN  
APPLICATION TO DETERMINE ELIGIBILITY OF A TRUSTEE PURSUANT  
TO SECTION 305(b)(2) [ ]

WACHOVIA TRUST COMPANY, NATIONAL ASSOCIATION  
(Exact Name of Trustee as Specified in its Charter)

56-1989961  
(I.R.S. Employer Identification No.)

One Rodney Square, 920 King Street, Suite 102, Wilmington, Delaware  
(Address of Principal Executive Offices)

19801  
(Zip Code)

WACHOVIA TRUST COMPANY, NATIONAL ASSOCIATION  
ONE RODNEY SQUARE  
920 KING STREET, SUITE 102  
WILMINGTON, DE 19801  
ATTENTION: CORPORATE TRUST ADMINISTRATION  
(302) 888-7539

(Name, address and telephone number of Agent for Service)

EXELON CAPITAL TRUST II

(Exact Name of Obligor as Specified in its Charter)

Delaware

(State or other jurisdiction of Incorporation or Organization)

[ ]

(I.R.S. Employer Identification No.)

10 South Dearborn Street  
37th Floor  
P.O. Box 805379  
Chicago, IL 60680

(Address of Principal Executive Offices)

60680  
(Zip Code)

Trust Preferred Securities of  
Exelon Capital Trust II  
(Title of Indenture Securities)



1. General information.

Furnish the following information as to the trustee:

a) Name and address of each examining or supervisory authority to which it is subject:

Comptroller of the Currency  
United States Department of the Treasury  
Washington, D.C. 20219  
Federal Reserve Bank  
Richmond, Virginia 23219  
Federal Deposit Insurance Corporation  
Washington, D.C. 20429

b) Whether it is authorized to exercise corporate trust powers.  
Yes.

2. Affiliations with obligor.

If the obligor is an affiliate of the trustee, describe each such affiliation.

None.

3. Voting securities of the trustee.

Furnish the following information as to each class of voting securities of the trustee:

Not applicable - see answer to Item 13.

4. Trusteeships under other indentures.

If the trustee is a trustee under another indenture under which any other securities, or certificates of interest or participation in any other securities, of the obligor are outstanding, furnish the following information:

a) Title of the securities outstanding under each such other indenture.  
Trust Preferred Securities

b) A brief statement of the facts relied upon as a basis for the claim that no conflicting interest within the meaning of Section 310(b)(1) of the Act arises as a result of the trusteeship under any such other indenture, including a statement as to how the indenture securities will rank as compared with the securities issued under such other indenture.

The indenture securities are not in default. The indenture securities rank equal to the securities named in Item 4(a).

5. Interlocking directorates and similar relationships with the obligor or underwriters.

If the trustee or any of the directors or executive officers of the trustee is a director, officer, partner, employee, appointee, or representative of the obligor or of any underwriter for the obligor, identify each such person having any such connection and state the nature of each such connection.

Not applicable - see answer to Item 13.

6. Voting securities of the trustee owned by the obligor or its officials.

Furnish the following information as to the voting securities of the trustee owned beneficially by the obligor and each director, partner, and executive officer of the obligor:

Not applicable - see answer to Item 13.

7. Voting securities of the trustee owned by underwriters or their officials.

Furnish the following information as to the voting securities of the trustee owned beneficially by each underwriter for the obligor and each director, partner, and executive officer of each such underwriter:

Not applicable - see answer to Item 13.

8. Securities of the obligor owned or held by the trustee.

Furnish the following information as to securities of the obligor owned beneficially or held as collateral security for obligations in default by the trustee:

Not applicable - see answer to Item 13.

9. Securities of underwriters owned or held by the trustee.

If the trustee owns beneficially or holds as collateral security for obligations in default any securities of an underwriter for the obligor, furnish the following information as to each class of securities of such underwriter any of which are so owned or held by the trustee:

Not applicable - see answer to Item 13.

10. Ownership or holdings by the trustee of voting securities of certain affiliates or security holders of the obligor.

If the trustee owns beneficially or holds as collateral security for obligations in default voting securities of a person who, to the knowledge of the trustee (1) owns 10 percent or more of the voting stock of the obligor or (2) is an affiliate, other than a subsidiary, of the obligor, furnish the following information as to the voting securities of such person:

Not applicable - see answer to Item 13.

11. Ownership or holdings by the trustee of any securities of a person owning 50 percent or more of the voting securities of the obligor.

If the trustee owns beneficially or holds as collateral security for obligations in default any securities of a person who, to the knowledge of the trustee, owns 50 percent or more of the voting securities of the obligor, furnish the following information as to each class of securities of such person any of which are so owned or held by the trustee:

Not applicable - see answer to Item 13.

12. Indebtedness of the obligor to the trustee.

Except as noted in the instructions, if the obligor is indebted to the trustee, furnish the following information:

Not applicable - see answer to Item 13.

13. Defaults by the obligor.

a) State whether there is or has been a default with respect to the securities under this indenture. Explain the nature of any such default.

None.

b) If the trustee is a trustee under another indenture under which any other securities, or certificates of interest or participation in any other securities, of the obligor are outstanding, or is trustee for more than one outstanding series of securities under the indenture, state whether there has been a default under any such indenture or series, identify the indenture or series affected, and explain the nature of any such default.

None

14. Affiliations with the underwriters.

If any underwriter is an affiliate of the trustee, describe each such affiliation.

Not applicable - see answer to Item 13.

15. Foreign trustee.

Identify the order or rule pursuant to which the trustee is authorized to act as sole trustee under indentures qualified or to be qualified under the Act.

Not applicable - trustee is a national banking association organized under the laws of the United States.

16. List of Exhibits.

List below all exhibits filed as part of this statement of eligibility.

- (a) Copy of Articles of Association of the trustee as now in effect.
- (b) Copy of the Certificate of the Comptroller of the Currency dated April 4, 2002, evidencing the authority of the trustee to transact business.
- (c) Copy of the Certification of Fiduciary Powers of the trustee by the Office of the Comptroller of the Currency dated April 4, 2002.
- (d) Copy of existing by-laws of the trustee.
- (e) Copy of each indenture referred to in Item 4, if the obligor is in default.  
- Not Applicable.
- (f) Consent of the trustee required by Section 321(b) of the Act.
- (g) Copy of report of condition of the trustee at the close of business on December 31, 2002, published pursuant to the requirements of its supervising authority.
- (h) Copy of any order pursuant to which the foreign trustee is authorized to act as sole trustee under indentures qualified or to be qualified under the Act.  
- Not Applicable
- (i) Consent to service of process required of foreign trustees pursuant to Rule 10a-4 under the Act.  
- Not Applicable

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NOTE

The trustee disclaims responsibility for the accuracy or completeness of information contained in this Statement of Eligibility and Qualification not known to the trustee and not obtainable by it through reasonable investigation and as to which information it has obtained from the obligor and has had to rely or will obtain from the principal underwriters and will have to rely.

SIGNATURE

Pursuant to the requirements of the Trust Indenture Act of 1939, the trustee, Wachovia Trust Company, National Association, a national banking association organized and existing under the laws of the United States of America, has duly caused this Statement of Eligibility and Qualification to be signed on its behalf by the undersigned, thereunto duly authorized, all in the City of Wilmington and the State of Delaware, on the 5th day of September, 2003.

WACHOVIA TRUST COMPANY,  
NATIONAL ASSOCIATION

By: /s/ Rita Marie Ritrovato

-----  
Rita Marie Ritrovato  
Trust Officer

CONSENT OF THE TRUSTEE

Pursuant to the requirements of Section 321(b) of the Trust Indenture Act of 1939, and in connection with the proposed issue of Exelon Capital Trust I, II, and III Trust Preferred Securities, Wachovia Trust Company, National Association, hereby consents that reports of examinations by Federal, State, Territorial or District authorities may be furnished by such authorities to the Securities and Exchange Commission upon request therefor.

WACHOVIA TRUST COMPANY,  
NATIONAL ASSOCIATION

By: /s/ Rita Marie Ritrovato

-----  
Rita Marie Ritrovato  
Trust Officer

Wilmington, Delaware

September 5, 2003

## REPORT OF CONDITION

Consolidating domestic and foreign subsidiaries of Wachovia Trust Company, N.A., at the close of business on March 31, 2003, published in response to call made by Comptroller of the Currency, under title 12, United States Code, Section 161. Charter Number 1 Comptroller of the Currency.

## Statement of Resources and Liabilities

## ASSETS

Thousand of Dollars  
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Cash and balance due from depository institutions:	
Noninterest-bearing balances and currency and coin.....	14,130,000
Interest-bearing balances.....	2,142,000
Securities.....	////////
Held-to-maturity securities (from Schedule RC-B, column A).....	0
Available-for-sale securities (from schedule RC-B, column D).....	69,552,000
Federal funds sold and securities purchased under agreements to resell.....	0
Federal funds sold in domestic offices.....	1,833,000
Securities purchased under agreements to resell(3).....	4,293,000
Loans and lease financing receivables (from Schedule RC-C):	
Loan and leases held for sale.....	8,101,000
Loan and leases, net of unearned income.....	161,553,000
LESS: Allowance for loan and lease losses.....	2,716,000
LESS: Allocated transfer risk reserve.....	0
Loans and leases, net of unearned income and allowance (item.4.b misus 4.c).....	158,837,000
Trading assets (from Schedule RC-D).....	26,199,000
Premises and fixed assets (including capitalized leases).....	4,255,000
Other real estate owned (from Schedule RC-M).....	143,000
Investment in unconsolidated subsidiaries and associated companies (from Schedule RC-M)...	669,000
Customer's liability to this bank on acceptances outstanding.....	1,485,000
Intangible assets.....	9,499,000
Goodwill.....	
Other intangible assets (from Schedule RC-M).....	1,698,000
Other assets (from Schedule RC-F).....	20,947,000
Total assets.....	323,783,000

## LIABILITIES

Deposits:	
In domestic offices.....	188,964,000
Noninterest-bearing.....	32,609,000
Interest-bearing.....	156,355,000
In foreign offices, Edge and Agreement subsidiaries, and IBFs (from Schedule RC-E, partII).....	12,591,000
Noninterest-bearing.....	21,000
Interest-bearing.....	12,570,000
Federal funds purchased in domestic offices(2).....	3,342,000
Securities sold under agreements to repurchase(3).....	26,168,000
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Other borrowed money (includes mortgage indebtedness and obligations under Capitalized leases)(from Schedule RC-M).....	21,041,000
Bank's liability on acceptances executed and outstanding.....	1,492,000
Subordinated notes and debentures.....	8,149,000
Other liabilities.....	11,156,000
Total liabilities.....	291,059,000
Minority Interest in consolidated subsidiaries.....	1,327,000

## EQUITY CAPITAL

Perpetual preferred stock and related surplus.....	0
Common Stock.....	455,000
Surplus.....	24,194,000
Retained Earnings.....	4,660,000
Accumulated other comprehensive income.....	2,088,000
Other Equity Capital components.....	0
Total equity capital (sum of item 23 through 27).....	31,397,000
Total liabilities and equity capital (sum of items 21,22, and 28.....	323,783,000

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

FORM T-1

STATEMENT OF ELIGIBILITY UNDER THE TRUST INDENTURE ACT OF 1939 OF A CORPORATION  
DESIGNATED TO ACT AS TRUSTEE

CHECK IF AN APPLICATION TO DETERMINE ELIGIBILITY OF A TRUSTEE PURSUANT TO  
SECTION 305(b)(2)

WACHOVIA TRUST COMPANY, NATIONAL ASSOCIATION  
(Exact Name of Trustee as Specified in its Charter)

56-1989961  
(I.R.S. Employer Identification No.)

One Rodney Square, 920 King Street, Suite 102, Wilmington, Delaware  
(Address of Principal Executive Offices)

19801  
(Zip Code)

WACHOVIA TRUST COMPANY, NATIONAL ASSOCIATION  
ONE RODNEY SQUARE  
920 KING STREET, SUITE 102  
WILMINGTON, DE 19801  
ATTENTION: CORPORATE TRUST ADMINISTRATION  
(302) 888-7539  
(Name, address and telephone number of Agent for Service)

EXELON CAPITAL TRUST III  
(Exact Name of Obligor as Specified in its Charter)

Delaware  
(State or other jurisdiction of Incorporation or Organization)

(I.R.S. Employer Identification No.)

10 South Dearborn Street  
37th Floor  
P.O. Box 805379  
Chicago, IL 60680  
(Address of Principal Executive Offices)

60680  
(Zip Code)

Trust Preferred Securities of  
Exelon Capital Trust III  
(Title of Indenture Securities)



1. General information.

Furnish the following information as to the trustee:

a) Name and address of each examining or supervisory authority to which it is subject:

Comptroller of the Currency  
United States Department of the Treasury  
Washington, D.C. 20219

Federal Reserve Bank  
Richmond, Virginia 23219

Federal Deposit Insurance Corporation  
Washington, D.C. 20429

b) Whether it is authorized to exercise corporate trust powers.

Yes.

2. Affiliations with obligor.

If the obligor is an affiliate of the trustee, describe each such affiliation.

None.

3. Voting securities of the trustee.

Furnish the following information as to each class of voting securities of the trustee:

Not applicable - see answer to Item 13.

4. Trusteeships under other indentures.

If the trustee is a trustee under another indenture under which any other securities, or certificates of interest or participation in any other securities, of the obligor are outstanding, furnish the following information:

a) Title of the securities outstanding under each such other indenture.  
Trust Preferred Securities

b) A brief statement of the facts relied upon as a basis for the claim that no conflicting interest within the meaning of Section 310(b)(1) of the Act arises as a result of the trusteeship under any such other indenture, including a statement as to how the indenture securities will rank as compared with the securities issued under such other indenture.

The indenture securities are not in default. The indenture securities rank equal to the securities named in Item 4(a).

5. Interlocking directorates and similar relationships with the obligor or underwriters.

If the trustee or any of the directors or executive officers of the trustee is a director, officer, partner, employee, appointee, or representative of the obligor or of any underwriter for the obligor, identify each such person having any such connection and state the nature of each such connection.

Not applicable - see answer to Item 13.

6. Voting securities of the trustee owned by the obligor or its officials.

Furnish the following information as to the voting securities of the trustee owned beneficially by the obligor and each director, partner, and executive officer of the obligor:

Not applicable - see answer to Item 13.

7. Voting securities of the trustee owned by underwriters or their officials.

Furnish the following information as to the voting securities of the trustee owned beneficially by each underwriter for the obligor and each director, partner, and executive officer of each such underwriter:

Not applicable - see answer to Item 13.

8. Securities of the obligor owned or held by the trustee.

Furnish the following information as to securities of the obligor owned beneficially or held as collateral security for obligations in default by the trustee:

Not applicable - see answer to Item 13.

9. Securities of underwriters owned or held by the trustee.

If the trustee owns beneficially or holds as collateral security for obligations in default any securities of an underwriter for the obligor, furnish the following information as to each class of securities of such underwriter any of which are so owned or held by the trustee:

Not applicable - see answer to Item 13.

10. Ownership or holdings by the trustee of voting securities of certain affiliates or security holders of the obligor.

If the trustee owns beneficially or holds as collateral security for obligations in default voting securities of a person who, to the knowledge of the trustee (1) owns 10 percent or more of the voting stock of the obligor or (2) is an affiliate, other than a subsidiary, of the obligor, furnish the following information as to the voting securities of such person:

Not applicable - see answer to Item 13.

11. Ownership or holdings by the trustee of any securities of a person owning 50 percent or more of the voting securities of the obligor.

If the trustee owns beneficially or holds as collateral security for obligations in default any securities of a person who, to the knowledge of the trustee, owns 50 percent or more of the voting securities of the obligor, furnish the following information as to each class of securities of such person any of which are so owned or held by the trustee:

Not applicable - see answer to Item 13.

12. Indebtedness of the obligor to the trustee.

Except as noted in the instructions, if the obligor is indebted to the trustee, furnish the following information:

Not applicable - see answer to Item 13.

13. Defaults by the obligor.

a) State whether there is or has been a default with respect to the securities under this indenture. Explain the nature of any such default.

None.

b) If the trustee is a trustee under another indenture under which any other securities, or certificates of interest or participation in any other securities, of the obligor are outstanding, or is trustee for more than one outstanding series of securities under the indenture, state whether there has been a default under any such indenture or series, identify the indenture or series affected, and explain the nature of any such default.

None

14. Affiliations with the underwriters.

If any underwriter is an affiliate of the trustee, describe each such affiliation.

Not applicable - see answer to Item 13.

15. Foreign trustee.

Identify the order or rule pursuant to which the trustee is authorized to act as sole trustee under indentures qualified or to be qualified under the Act.

Not applicable - trustee is a national banking association organized under the laws of the United States.

16. List of Exhibits.

List below all exhibits filed as part of this statement of eligibility.

- (a) Copy of Articles of Association of the trustee as now in effect.
- (b) Copy of the Certificate of the Comptroller of the Currency dated April 4, 2002, evidencing the authority of the trustee to transact business.
- (c) Copy of the Certification of Fiduciary Powers of the trustee by the Office of the Comptroller of the Currency dated April 4, 2002.
- (d) Copy of existing by-laws of the trustee.
- (e) Copy of each indenture referred to in Item 4, if the obligor is in default.  
- Not Applicable.
- (f) Consent of the trustee required by Section 321(b) of the Act.
- (g) Copy of report of condition of the trustee at the close of business on December 31, 2002, published pursuant to the requirements of its supervising authority.
- (h) Copy of any order pursuant to which the foreign trustee is authorized to act as sole trustee under indentures qualified or to be qualified under the Act.  
- Not Applicable
- (i) Consent to service of process required of foreign trustees pursuant to Rule 10a-4 under the Act.  
- Not Applicable

- - - - -

NOTE

The trustee disclaims responsibility for the accuracy or completeness of information contained in this Statement of Eligibility and Qualification not known to the trustee and not obtainable by it through reasonable investigation and as to which information it has obtained from the obligor and has had to rely or will obtain from the principal underwriters and will have to rely.

SIGNATURE

Pursuant to the requirements of the Trust Indenture Act of 1939, the trustee, Wachovia Trust Company, National Association, a national banking association organized and existing under the laws of the United States of America, has duly caused this Statement of Eligibility and Qualification to be signed on its behalf by the undersigned, thereunto duly authorized, all in the City of Wilmington and the State of Delaware, on the 5th day of September, 2003.

WACHOVIA TRUST COMPANY,  
NATIONAL ASSOCIATION

By: /s/ Rita Marie Ritrovato

-----

Rita Marie Ritrovato  
Trust Officer

CONSENT OF THE TRUSTEE

Pursuant to the requirements of Section 321(b) of the Trust Indenture Act of 1939, and in connection with the proposed issue of Exelon Capital Trust I, II, and III Trust Preferred Securities, Wachovia Trust Company, National Association, hereby consents that reports of examinations by Federal, State, Territorial or District authorities may be furnished by such authorities to the Securities and Exchange Commission upon request therefor.

WACHOVIA TRUST COMPANY,  
NATIONAL ASSOCIATION

By: /s/ Rita Marie Ritrovato

-----  
Rita Marie Ritrovato  
Trust Officer

Wilmington, Delaware

September 5, 2003

## EXHIBIT T-7

## REPORT OF CONDITION

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## Statement of Resources and Liabilities

## ASSETS

Thousand of Dollars  
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Loan and leases, net of unearned income.....	161,553,000
LESS: Allowance for loan and lease losses.....	2,716,000
LESS: Allocated transfer risk reserve.....	0
Loans and leases, net of unearned income and allowance (item.4.b misus 4.c).....	158,837,000
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Premises and fixed assets (including capitalized leases).....	4,255,000
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Investment in unconsolidated subsidiaries and associated companies (from Schedule RC-M)...	669,000
Customer's liability to this bank on acceptances outstanding.....	1,485,000
Intangible assets.....	9,499,000
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Other assets (from Schedule RC-F).....	20,947,000
<b>Total assets.....</b>	<b>323,783,000</b>

## LIABILITIES

Deposits:	
In domestic offices.....	188,964,000
Noninterest-bearing.....	32,609,000
Interest-bearing.....	156,355,000
In foreign offices, Edge and Agreement subsidiaries, and IBFs (from Schedule RC-E, partII).....	12,591,000
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Subordinated notes and debentures.....	8,149,000
Other liabilities.....	11,156,000
<b>Total liabilities.....</b>	<b>291,059,000</b>
Minority Interest in consolidated subsidiaries.....	1,327,000

## EQUITY CAPITAL

Perpetual preferred stock and related surplus.....	0
Common Stock.....	455,000
Surplus.....	24,194,000
Retained Earnings.....	4,660,000
Accumulated other comprehensive income.....	2,088,000
Other Equity Capital components.....	0
<b>Total equity capital (sum of item 23 through 27).....</b>	<b>31,397,000</b>
<b>Total liabilities and equity capital (sum of items 21,22, and 28).....</b>	<b>323,783,000</b>

WACHOVIA TRUST COMPANY, NATIONAL ASSOCIATION

ARTICLES OF ASSOCIATION

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AMENDED AND RESTATED AS OF APRIL 1, 2002

For the purpose of organizing an association to carry on the business of banking under the laws of the United States, the undersigned do enter into the following Articles of Association:

FIRST. The title of this association shall be WACHOVIA TRUST COMPANY, NATIONAL ASSOCIATION.

SECOND. The main office of this association shall be in Wilmington, Delaware. The business, of this association will be limited to that of a national trust bank. This association must obtain the prior written approval of the Office of the Comptroller of the Currency ("OCC") before amending its Articles of Association to expand the scope of its activities and services. Transfers of this association's stock are subject to prior approval of a federal depository institution regulatory agency. If no other agency approval is required, the OCC's approval must be obtained before the transfers. In such cases where OCC approval is required, the OCC will apply the definitions and standards of the Change in Bank Control Act and the OCC's implementing regulation to ownership changes in this association.

THIRD. The Board of Directors of this association shall consist of not less than five nor more than twenty-five shareholders, the exact number to be fixed and determined from time to time by resolution of a majority of the full Board of Directors or by resolution of the shareholders at any annual or special meeting thereof. Each director, during the full term of his directorship, shall own a minimum of \$1,000 aggregate par value of stock of this association or a minimum par market value or equity interest of \$1,000 of stock in the bank holding company controlling this association. Any vacancy in the Board of Directors may be filled by action of the Board of Directors.

FOURTH. There shall be an annual meeting of the shareholders to elect directors and transact whatever other business may be brought before the meeting. It shall be held at the main office or any other convenient place the Board of Directors may designate, on the day of each year specified thereby in the bylaws, but if no election is held on that day, it may be held on any subsequent day according to such lawful rules as may be prescribed by the Board of Directors.

Nominations for election to the Board of Directors may be made by the Board of Directors or by any shareholder of any outstanding class of capital stock of this association entitled to vote for election of directors. Nominations other than those made by or on behalf of the existing bank management shall be made in writing and be delivered or mailed to the president of this association and to the OCC, Washington, D.C., not less than 14 days nor more than 50 days prior to any meeting of shareholders called for the election of directors, provided, however, that if less than 21 days notice of the meeting is given to shareholders, such nomination shall be mailed or delivered to the president of this association and to the Comptroller of the Currency not later



than the close of business on the seventh day following the day on which the notice of meeting was mailed.

Such notification shall contain the following information to the extent known to the notifying shareholder:

- o The name and address of each proposed nominee.
- o The principal occupation of each proposed nominee.
- o The total number of shares of capital stock of this association that will be voted for each proposed nominee.
- o The name and residence address of the notifying shareholder.
- o The number of shares of capital stock of this association owned by the notifying shareholder. Nominations not made in accordance herewith may, in his discretion, be disregarded by the chairperson of the meeting, and upon his instructions, the vote tellers may disregard all votes cast for each such nominee.

FIFTH. The authorized amount of capital stock of this association shall be 2,000 shares of common stock of the par value of one hundred dollars (\$100.00) each; but said capital stock may be increased or decreased from time to time, according to the provisions of the laws of the United States.

If the capital stock is increased by the sale of additional shares thereof, each shareholder shall be entitled to subscribe for such additional shares in proportion to the number of shares of said capital stock owned by him at the time the increase is authorized by the shareholders, unless another time subsequent to the date of the shareholders' meeting is specified in a resolution by the shareholders at the time the increase is authorized. The Board of Directors will have the power to prescribe a reasonable period of time within which the preemptive rights to subscribe to the new shares of capital stock must be exercised.

This association, at any time and from time to time, may authorize and issue debt obligations, whether or not subordinated, without the approval of the shareholders.

SIXTH. The Board of Directors shall appoint one of its members president of this association, who shall be chairperson of the Board of Directors, unless the Board of Directors appoints in other director to be the chairperson. The Board of Directors shall have the power to appoint one or more vice presidents and to appoint a cashier and such other officers and employees as may be required to transact the business of this association.

The Board of Directors shall have the power to:

- o Define the duties of the officers and employees of this association.
- o Fix the salaries to be paid to the officers and employees.

- o Dismiss officers and employees.
- o Require bonds from officers and employees and to fix the penalty thereof.
- o Regulate the manner in which any increase of the capital of this association shall be made.
- o Manage and administer the business and affairs of this association.
- o Make all bylaws that it may be lawful for the Board of Directors to make.
- o Generally to perform all acts that are legal for a Board of Directors to perform.

SEVENTH. The Board of Directors shall have the power to change the location of the main office to any other place within the limits of Wilmington, Delaware, without the approval of the shareholders, and shall have the power to establish or change the location of any branch or branches of the association to any other location, without the approval of the shareholders.

EIGHTH. The corporate existence of this association shall continue until terminated according to the laws of the United States.

NINTH. The Board of Directors of this association, or any three or more shareholders owning, in the aggregate, not less than 10 percent of the stock of this association, may call a special meeting if shareholders at any time. Unless otherwise provided by the laws of the United States, a notice of the time, place and purpose of every annual and special meeting of the shareholders shall be given by first-class mail, postage prepaid, mailed at least 10 days prior to the date of the meeting to each shareholder of record at his address as shown upon the books of this association.

TENTH. Each director and executive officer of this association shall be indemnified by the association against liability in any proceeding (including without limitation a proceeding brought by or on behalf of this association itself) arising out of his status as such or his activities in either of the foregoing capacities, except for any liability incurred on account of activities which were at the time taken known or believed by such person to be clearly in conflict with the best interests of this association. Liabilities incurred by a director or executive officer of this association in defending a proceeding shall be paid by this association in advance of the final disposition of such proceeding upon receipt of an undertaking by the director or executive officer to repay such amount if it shall be determined, as provided in the last paragraph of this Article Tenth, that he is not entitled to be indemnified by this association against such liabilities.

The indemnity against liability in the preceding paragraph of this Article Tenth, including liabilities incurred in defending a proceeding, shall be automatic and self-operative.

Any director, officer or employee of this association who serves at the request of this association as a director, officer, employee or agent of a charitable, not-for-profit, religious, educational or hospital corporation, partnership, joint venture, trust or other enterprise, or a trade association, or as a trustee or administrator under an employee benefit plan, or who serves at the request of this association as a director, officer or employee of a business corporation in connection with the administration of an estate or trust

by this association, shall have the right to be indemnified by this association, subject to the provisions set forth in the following paragraph of this Article Tenth, against liabilities in any manner arising out of or attributable to such status or activities in any such capacity, except for any liability incurred on account of activities which were at the time taken known or believed by such person to be clearly in conflict with the best interests of this association, or of the corporation, partnership, joint venture, trust, enterprise, association or plan being served by such person.

In the case of all persons except the directors and executive officers of this association, the determination of whether a person is entitled to indemnification under the preceding paragraph of this Article Tenth shall be made by and in the sole discretion of the Chief Executive Officer of this association. In the case of the directors and executive officers of this association, the indemnity against liability in the preceding paragraph of this Article Tenth shall be automatic and self-operative.

For purposes of this Article Tenth of these Articles of Association only, the following terms shall have the meanings indicated:

- (a) "association" means Wachovia Trust Company, National Association and its direct and indirect wholly-owned subsidiaries.
- (b) "director" means an individual who is or was a director of this association.
- (c) "executive officer" means an officer of this association who by resolution of the Board of Directors of this association has been determined to be an executive officer of this association for purposes of Regulation 0 of the Federal Reserve Board.
- (d) "liability" means the obligation to pay a judgment, settlement, penalty, fine (including an excise tax assessed with respect to an employee benefit plan), or reasonable expenses, including counsel fees and expenses, incurred with respect to a proceeding.
- (e) "party" includes an individual who was, is, or is threatened to be made a named defendant or respondent in a proceeding.
- (f) "proceeding" means any threatened, pending, or completed claim, action, suit, or proceeding, whether civil, criminal, administrative, or investigative and whether formal or informal.

This association shall have no obligation to indemnify any person for an amount paid in settlement of a proceeding unless this association consents in writing to such settlement.

The right to indemnification herein provided for shall apply to persons who are directors, officers, or employees of banks or other entities that are hereafter merged or otherwise combined with this association only after the effective date of such merger or other combination and only as to their status and activities after such date.

The right to indemnification herein provided for shall inure to the benefit of the heirs and legal representatives of any person entitled to such right.

No revocation of, change in, or adoption of any resolution or provision in the Articles of Association or Bylaws of this association inconsistent with, this Article Tenth shall adversely affect the rights of any director, officer, or employee of this association with respect to (i) any proceeding commenced or threatened prior to such revocation, change, or adoption, or (ii) any proceeding arising out of any act or omission occurring prior to such revocation, change, or adoption, in either case, without the written consent of such director, officer, or employee.

The rights hereunder shall be in addition to and not exclusive of any other rights to which a director, officer, or employee of this association may be entitled under any statute, agreement, insurance policy, or otherwise.

This association shall have the power to purchase and maintain insurance on behalf of any person who is or was a director, officer, or employee of this association, or is or was serving at the request of this association as a director, officer, employee, or agent of another corporation, partnership, joint venture, trust, trade association, employee benefit plan, or other enterprise, against any liability asserted against such director, officer, or employee in any such capacity, or arising out of their status as such, whether or not this association would have the power to indemnify such director, officer, or employee against such liability, excluding insurance coverage for a formal order assessing civil money penalties against a director, officer or employee of this association.

Notwithstanding anything to the contrary provided herein, no person shall have a right to indemnification with respect to any liability (i) incurred in an administrative proceeding or action instituted by an appropriate bank regulatory agency which proceeding or action results in a final order assessing civil money penalties or requiring affirmative action by an individual or individuals in the form of payments to this association, (ii) to the extent such person is entitled to receive payment therefor under any insurance policy or from any corporation, partnership, joint venture, trust, trade association, employee benefit plan, or other enterprise other than this association, or (iii) to the extent that a court of competent jurisdiction determines that such indemnification is void or prohibited under state or federal law.

ELEVENTH. These Articles of Association may be amended at any regular or special meeting of the shareholders by the affirmative vote of the holders of a majority of the stock of this association, unless the vote of the holders of a greater amount of stock is required by law, and in that case by the vote of the holders of such greater amount.

CHARTER CERTIFICATE

Whereas, satisfactory evidence has been presented to the Office of the Comptroller of the Currency that First Union Trust Company, National Association, located in Wilmington, State of Delaware, has complied with all provisions of the statutes of the United States required to be complied with before being authorized to commence the business of banking as a National Banking Association;

Now, therefore, I hereby certify that the above-named association is authorized to commence the business of banking as a National Banking Association.

In testimony whereof witness my signature  
and seal of office this fifteenth day of January 1997.

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Deputy Comptroller for Multinational Banking

Charter Number 23201

CERTIFICATE OF FIDUCIARY POWERS

I, John D. Hawke, Jr., Comptroller of the Currency, do hereby certify that:

1. The Comptroller of the Currency, pursuant to Revised Statutes 324, et seq., as amended, 12 U.S.C. 1, et seq., as amended, has possession, custody and control of all records pertaining to the chartering of all National Banking Associations.

2. "Wachovia Trust Company, National Association," Wilmington, Delaware, (Charter No. 23201) was granted, under the hand and seal of the Comptroller, the right to act in all fiduciary capacities authorized under the provisions of the Act of Congress approved September 28, 1962, 76 Stat. 668, 12 U.S.C. 92a, and that the authority so granted remains in full force and effect on the date of this Certificate.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and caused my seal of office to be affixed to these presents at the Treasury Department in the City of Washington and District of Columbia, this June 19, 2003

/s/ John D. Hawke, Jr.

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Comptroller of the Currency

WACHOVIA TRUST COMPANY, NATIONAL ASSOCIATION

BYLAWS

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AS AMENDED AND RESTATED APRIL 1, 2002  
AS AMENDED OCTOBER 24, 2002

ARTICLE I

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Meetings of Shareholders  
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Section 1.1 Annual Meeting. The regular annual meeting of the shareholders for the election of directors and transaction of whatever other business may properly come before the meeting, shall be held at the Main Office of the Association, or such other place as the Board of Directors may designate, at 10:00 A.M. on the third Tuesday of April in each year, or such other time within 90 days as may be set by the Board of Directors. If, from any cause, an election of directors is not made on the said day, the Board of Directors shall order the election to be held on some subsequent day, as soon thereafter as practicable, according to the provisions of the law; and notice thereof shall be given in the manner herein.

Section 1.2 Special Meetings. Except as otherwise specifically provided by statute, special meetings of the shareholders may be called for any purpose at any time by the Board of Directors or by any one or more shareholders owning, in the aggregate, not less than twenty-five percent of the stock of the Association.

Section 1.3 Notice of Meetings. Notice of Annual and Special meetings shall be mailed, postage prepaid, at least ten days prior to the date thereof provided for the annual meeting, addressed to each shareholder at his address appearing on the books of the Association; but any failure to mail such notice, or any irregularity therein, shall not affect the validity of such meeting, or of any of the proceedings thereat. A shareholder may waive any such notice.

Section 1.4 Organization of Meetings. The Chairman shall preside at all meetings of shareholders. In his absence, the President, or a director designated by the Chairman shall preside at such meeting.

Section 1.5 Proxies. Shareholders may vote at any meeting of the shareholders by proxies duly authorized in writing. Proxies shall be valid only for one meeting to be specified therein, and any adjournments of such meeting. Proxies shall be dated and shall be filed with the records of the meeting.

Section 1.6 Quorum. A majority of the outstanding capital stock, represented in person or by proxy, shall constitute a quorum at any meeting of shareholders, unless otherwise provided by law. A majority of the votes cast shall decide every question or matter submitted to the shareholders at any meeting, unless otherwise provided by law or by the Articles of Association.

ARTICLE II

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Directors  
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Section 2.1 Board of Directors. The Board of Directors (hereinafter referred to as the "Board"), shall have power to manage and administer the business and affairs of the Association. Except as expressly limited by law, all corporate powers of the Association shall be vested in and may be exercised by said Board.

Section 2.2 Number. The Board shall consist of not less than five nor more than twenty-five persons, the exact number within such minimum and maximum limits to be fixed and determined from time to time by resolution of a majority of the full Board or by resolution of the shareholders at any meeting thereof; provided, however, that a majority of the full Board may not increase the number of directors to a number which: (a) exceeds by more than two the number of directors last elected by shareholders where such number was fifteen or less; and (b) to a number which exceeds by more than four the number of directors last



elected by shareholders where such number was sixteen or more, but in no event shall the number of directors exceed twenty-five.

Section 2.3 Organization Meeting. A meeting shall be held for the purpose of organizing the new Board and electing and appointing officers of the Association for the succeeding year on the day of the Annual Meeting of Shareholders or as soon thereafter as practicable, and, in any event, within thirty days thereof. If, at the time fixed for such meeting, there shall not be a quorum present, the directors present may adjourn the meeting, from time to time, until a quorum is obtained.

Section 2.4 Regular Meetings. The regular meetings of the Board shall be held on such days and time as the directors may, by resolution, designate; and written notice of any change thereof shall be sent to each member. When any regular meeting of the Board falls upon a legal holiday, the meeting shall be held on such other day as the Board may designate.

Section 2.5 Special Meetings. Special meetings of the Board may be called by the Chairman of the Board, or President, or at the request of three or more directors. Each director shall be given notice of each special meeting, except the organization meeting, at least one day before it is to be held by facsimile, telephone, telegram, letter or in person. Any director may waive any such notice.

Section 2.6 Quorum. A majority of the directors shall constitute a quorum at any meeting, except when otherwise provided by law; but a less number may adjourn any meeting, from time to time, and the meeting may be held, as adjourned without further notice.

Section 2.7 Term of Office and Vacancy. Directors shall hold office for one year and until their successors are elected and have qualified. No person shall stand for election as a director of this Association if at the date of his election he will have passed his seventieth birthday; provided, however, this prohibition shall not apply to persons who are active officers of this Association, an affiliate bank, or its parent corporation, or a former chief executive officer of the Association. No person, who is not an officer or former

officer of this Association, an affiliate bank, or its parent corporation and who has discontinued the principal position or activity the person held when initially elected, shall be recommended to the shareholders for reelection; provided, however, that exceptions may be made because of a change in principal position or activity which would be compatible with continued service to this Association. No person elected as a director may exercise any of the powers of his office until he has taken the oath of office as prescribed by law. When any vacancy occurs among the directors, the remaining members of the Board, in accordance with the laws of the United States, may appoint a director to fill such vacancy at any regular meeting of the Board, or at a special meeting called for that purpose.

Section 2.8 Nominations. Nominations for election to the Board may be made by the Executive Committee or by any stockholder of any outstanding class of capital stock of the Association entitled to vote for the election of directors.

Section 2.9 Communications Equipment. Any or all directors may participate in a meeting of the Board by means of conference telephone or any means of communication by which all persons participating in the meeting are able to hear each other.

Section 2.10 Action Without Meeting. Any action required or permitted to be taken by the Board or committee thereof by law, the Association's Articles of Association, or these Bylaws may be taken without a meeting, if, prior or subsequent to the action, all members of the Board or committee shall individually or collectively consent in writing to the action. Each written consent or consents shall be filed with the minutes of the proceedings of the Board or committee. Action by written consent shall have the same force and effect as a unanimous vote of the directors, for all purposes. Any certificate or other documents that relates to action so taken shall state that the action was taken by unanimous written consent of the Board or committee without a meeting.

ARTICLE III  
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Committees of the Board  
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Section 3.1 Executive Committee. The Board may by resolution adopted by a majority of the entire Board designate an Executive Committee consisting of the Chairman of the Board, the President, and not less than two other directors. Subject to the national banking laws and the Association's Articles of Association, the Executive Committee may exercise all the powers of the Board of Directors with respect to the affairs of the Association, except that the Executive Committee may not:

1. (a) exercise such powers while a quorum of the Board of Directors is actually convened for the conduct of business,
- (b) exercise any power specifically required to be exercised by at least a majority of all the directors,
- (c) act on matters committed by the Bylaws or resolution of the Board of Directors to another committee of the board, or
- (d) amend or repeal any resolution theretofore adopted by the Board of Directors which by its terms is amendable or repealable only by the Board;
2. amend the Articles of Association or make, alter or repeal any Bylaw of the Association;
3. elect or appoint any director, create or fill any vacancies in the Board of Directors or remove any director, or authorize or approve any change in the compensation of any officer of the Association who is also a director of the Association;

4. authorize or approve issuance or sale or contract for sale of shares of stock of the Association, or determine the designation and relative rights, preferences and limitations of a class or series of shares;
5. adopt an agreement of merger or consolidation, or submit to shareholders any action that requires shareholder approval, including any recommendation to the shareholders concerning the sale, lease or exchange of all or substantially all the Association's property and assets, a dissolution of the Association or a revocation of a previously approved dissolution; or
6. authorize an expenditure by the Association in excess of \$ 10 million for any one item or group of related items.

The committee shall hold regular meetings at such times as the members shall agree and whenever called by the chairman of the committee. A majority of the committee shall constitute a quorum for the transaction of business. The committee shall keep a record of its proceedings and shall report these proceedings to the Board at the regular meetings thereof. The committee shall serve as the nominating committee for nominations to the Board.

Section 3.2 Chairman of the Executive Committee. The Board may designate one of its members to be Chairman of the Executive Committee who shall preside at the meetings thereof and shall perform such duties as the Board shall assign to him from time to time.

Section 3.3 Audit Committee. The Board shall appoint a committee of three or more persons exclusive of the officers of this Association which committee shall be known as the Audit Committee. It shall be the duty of this committee at least once in every twelve months to examine the affairs of the Association, and determine whether it is in a sound and solvent condition and to recommend to the Board such changes in the manner of doing business, etc., as may seem to be

desirable. The committee may cause such examination to be made in its behalf and under its supervision by outside accountants and may also use the services of any other persons either inside or outside the Association to assist in its work. The results of each examination shall be reported in writing to the Board.

Section 3.4 Audit of Trust Department. The Audit Committee shall, at least once during each calendar year and within fifteen months of the last such audit make suitable audits of the Trust Department or cause suitable audits to be made by auditors responsible only to the Board, and at such time shall ascertain whether the department has been administered in accordance with law, Part 9 of the Regulations of the Comptroller of the Currency, and sound fiduciary principles. In lieu of such periodic audit the Audit Committee, at the election of the Board, may conduct or cause to be conducted by auditors responsible only to the Board an adequate continuous audit system adopted by the Board. A written report of such periodic or continuous audit shall be made to the Board.

Section 3.5 Other Committees. The Board may appoint from time to time other committees composed of one or more persons each, for such purposes and with such powers as the Board may determine. The Chairman of the Board shall have the power to designate another person to serve on any committee during the absence or inability of any member thereof so to serve.

Section 3.6 Directors' Emeritus. The Board may designate one or more persons to serve as Director Emeritus. Such Director Emeritus shall have the right to attend any and all meetings of the Board, but shall have no vote at such meetings. A person designated as Director Emeritus may serve in that capacity for a period of three years.

Section 3.7 Alternate Committee Members. The Board may, from time to time, appoint one or more, but no more than three persons to serve as alternate members of a committee, each of whom shall be empowered to serve in that committee in place of a regular committee member in the event of the absence or

disability of that committee member. An alternate committee member shall, when serving on a committee, have all of the powers of a regular committee member. Alternate committee members shall be notified of, and requested to serve at, a particular meeting or meetings, or for particular periods of time, by or at the direction of the chairman of the committee or the Chairman of the Board.

ARTICLE IV

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Officers  
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Section 4.1 Officers. The officers of the Association may be a Chairman of the Board, a Vice Chairman of the Board, one or more Chairmen or Vice Chairmen (who shall not be required to be directors of the Association), a President, one or more Vice Presidents, a Secretary, a Cashier or Treasurer, and such other officers, including officers holding similar or equivalent titles to the above in regions, divisions or functional units of the Association, as may be appointed by the Board of Directors. The Chairman of the Board and the President shall be members of the Board of Directors. Any two or more offices may be held by one person, but no officer shall sign or execute any document in more than one capacity.

Section 4.2 Term of Office. The officers who are required by the articles of association or the bylaws to be members of the Board shall hold their respective offices until the Organization meeting of the Board following the annual meeting of shareholders or until their respective successors shall have been elected, unless they shall resign, become disqualified or be removed from office. Each other officer shall hold office at the pleasure of the Board. Any officer may be removed at any time by the Board.

Section 4.3 Chairman of the Board. The chairman of the board shall be designated as Chairman of the Board. He shall preside at all meetings of the stockholders and directors and he shall be a member of all committees of the Board except the Audit Committee. He shall have such other powers and perform

such other duties as may be prescribed from time to time by the Board. He shall be subject only to the direction and control of the Board.

Section 4.4 President. The president shall be the chief executive officer of the Association and he shall be designated as President and Chief Executive Officer. In the absence of the Chairman the President shall preside at all meetings of the Board. The President shall be a member of each committee of the Board except the Audit Committee. He shall have the powers and perform the duties conferred or imposed upon the President by the national banking laws, and he shall have such other powers and perform such other duties as may from time to time be imposed upon or assigned to him by the Board.

Section 4.5 Chief Financial Officer. The Chief Financial officer shall have such title as may be designated by the Board and he shall be responsible for all monies, funds and valuables of this Association, provide for the keeping of proper records of all transactions of the Association, report to the Board at each regular meeting the condition of the Association, submit to the Board, when requested, a detailed statement of the income and expenses, be responsible for the conduct and efficiency of all persons employed under him, and perform such other duties as may be from time to time assigned to him by the Board.

Section 4.6 Other Officers. All other officers shall respectively exercise such powers and perform such duties as generally pertain to their several offices, or as may be conferred upon or assigned to them by the Board, the Chairman of the Board or the President.

Section 4.7 Bond. Each officer and employee, if so required by the Board, shall give bond with surety to be approved by the Board, conditioning for the honest discharge of his duties as such officer or employee. In the discretion of the Board, such bonds may be individual, schedule or blanket form, and the premiums may be paid by the Association.

Section 4.8 Officers Acting as Assistant Secretary. Notwithstanding Section 4.1 of this Article IV, any Senior Vice President, Vice President or Assistant Vice President shall have, by virtue of his office, and by authority of the Bylaws, the authority from time to time to act as an Assistant Secretary of the Association, and to such extent, said officers are appointed to the office of Assistant Secretary.

ARTICLE V  
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Fiduciary Powers  
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Section 5.1 Trust Services Division. There shall be divisions of this Association known as the Capital Management Group and the Wealth Management Group which shall be responsible for the exercise of the fiduciary activities of this Association.

Section 5.2 Trust Officers. There shall be one or more Officers of this Association whose duties in Delaware shall be to manage, supervise and direct all the fiduciary activities of the Capital Management and Wealth Management Groups in Delaware. Further, there shall be one or more Senior Trust Officers designated to assist the Officers in the performance of their duties. They shall do or cause to be done all things necessary or proper in carrying out the business of the Capital Management and Wealth Management Groups in accordance with provisions of applicable laws and regulations.

Section 5.3 General Trust Committee. The Association appoints, as its General Trust Committee, the General Trust Committee of Wachovia Bank, National Association. The General Trust Committee is composed of not fewer than four (4) members of the Wachovia Bank, National Association Board of Directors or officers of that Association who shall be appointed annually, or from time to time, by the Board of Directors of that Association. Each member shall serve until his successor is appointed. The Board of Directors or the Chairman of the



Board may change the membership of the General Trust Committee at any time, fill any vacancies therein, or discharge any member thereof with or without cause at any time. The General Trust Committee shall counsel and advise on all matters relating to the fiduciary business or affairs of the Capital Management and Wealth Management Groups and shall adopt overall policies for the conduct of the fiduciary business of the Capital Management and Wealth Management Groups, including, but not limited to: general administration, investment policies, new business development, and review for approval of major assignments of functional responsibilities. The General Trust Committee shall assign the administration and performance of any of its fiduciary powers or duties to any subcommittee as it may designate such subcommittee to consist of officers of this Association. The General Trust Committee shall appoint the members of any such subcommittees and shall determine the number of members which constitutes a quorum at meetings of such subcommittees. The General Trust Committee shall meet at least quarterly or as called for by its Chairman or any three (3) members of the Committee. A quorum shall consist of three (3) members. In carrying out its responsibilities, the General Trust Committee shall review the actions of all officers, employees and committees utilized by this Association in connection with the fiduciary activities of the Capital Management and Wealth Management Groups and may assign the administration and performance of any fiduciary powers or duties to any officers or employees of the Capital Management Group or Wealth Management Group or to any committee it may designate. One of the methods to be used in the review process will be the scrutiny of the Reports of Examination by the Office of the Comptroller of the Currency and the reports of the Audit Division of Wachovia Corporation, as they relate to the activities of the Capital Management and Wealth Management Groups. These reviews shall be in addition to reviews of such reports by the Audit Committee of the Board of Directors. The General Trust Committee shall make its minutes available to the Board of Directors at its next regularly scheduled meeting following a meeting of the General Trust Committee.

As required by Section 9.4 of Regulation 9 of the Comptroller of the Currency, the Board of Directors retains responsibility for the proper exercise of this Association's fiduciary powers.

Members of the General Trust Committee will abide by the Association's Code of Conduct as it applies to the Capital Management and Wealth Management Groups.

ARTICLE VI

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Stock Certificates and Transfers  
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Section 6.1 Stock Certificates. Ownership of capital stock of the Association shall be evidenced by certificates of stock signed by the Chairman or President, and the Secretary, or an Assistant Secretary. Each certificate shall state upon its face that the stock is transferable only upon the books of the Association by the holder thereof, or by duly authorized attorney, upon the surrender of such certificate, and shall meet the requirements of Section 5139, United States Revised Statutes, as amended.

Section 6.2 Transfers. The stock of this Association shall be assignable and transferable only on the books of this Association, subject to the restrictions and provisions of the national banking laws; and a transfer book shall be provided in which all assignments and transfers of stock shall be made. When stock is transferred, the certificates thereof shall be returned to the Association, canceled, preserved and new certificates issued.

Section 6.3 Dividends. Dividends shall be paid to the shareholders in whose names the stock shall stand at the close of business on the day next preceding the date when the dividends are payable, provided, however, that the directors may fix another date as a record date for the determination of the shareholders entitled to receive payment thereof.

ARTICLE VII  
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Increase of Stock  
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Section 7.1 Capital Stock. Shares of the capital stock of the Association, which have been authorized but not issued, may be issued from time to time for such consideration, not less than the par value thereof, as may be determined by the Board.

ARTICLE VIII  
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Corporate Seal  
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Section 8.1 Seal. The seal, an impression of which appears below, is the seal of the Association adopted by the Board of Directors:

[Seal]

The Chairman of the Board, the Vice Chairman, the President, Senior Executive Vice President, Executive Vice President, Senior Vice President, Vice President, each Assistant Vice President, the Chief Financial Officer, the Secretary, each Assistant Secretary, each Trust Officer, each Assistant Trust Officer or each Assistant Cashier, shall have the authority to affix the corporate seal of this Association and to attest to the same.

ARTICLE IX  
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Miscellaneous Provisions  
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Section 9.1 Fiscal Year. The fiscal year of the Association shall be the calendar year.

Section 9.2 Execution of Instruments. All agreements, indentures, mortgages, deeds, conveyances, transfers, certificates, declarations, receipts,

discharges, releases, satisfactions, settlements, petitions, notices, applications, schedules, accounts, affidavits, bonds, undertakings, proxies, and other instruments or documents may be signed, executed, acknowledged, verified, delivered or accepted in behalf of the Association by the Chairman of the Board, the Vice Chairman of the Board, any Chairman or Vice Chairman, the President, any Senior Executive Vice President, Executive Vice President, Vice President or Assistant Vice President, the Secretary, the Cashier or Treasurer, or any officer holding similar or equivalent titles to the above in any regions, divisions or functional units of the Association, or, if in connection with the exercise of fiduciary powers of the Association, by any of said officers or by any Trust Officer or Assistant Trust Officer (or equivalent titles), and if so required by applicable law or regulation, attested or countersigned by the Secretary or Assistant Secretary; provided, however, that were required, any such instrument shall be attested by one of said officers other than the officer executing such instrument. Any such instruments may also be executed, acknowledged, verified, delivered, or accepted in behalf of the Association in such other manner and by such other officers as the Board of Directors may from time to time direct. The provisions of this Section 9.2 are supplementary to any other provision of these By-laws.

Section 9.3 Records. The organization papers of this Association, the articles of association, the bylaws and any amendments thereto, the proceedings of all regular and special meetings of the shareholders and of the directors, the returns of the judges of elections, and the reports of the committees of directors shall be recorded in an appropriate minute book, and the minutes of each meeting shall be signed by the Secretary or any other officer appointed to act as secretary of the meeting.

Section 9.4 Banking Hours. This Association and its branch offices shall be open on such days and during such hours as shall be fixed from time to time by the Board.

Section 9.5 Voting Shares of Other Corporations. The Chairman, any Vice Chairman, the President, or any Vice President is authorized to vote, represent and exercise on behalf of this Association all rights incident to any and all shares of stock of any other corporation standing in the name of the Association. The authority granted herein may be exercised by such officers in person or by proxy or by power of attorney duly executed by said officer.

ARTICLE X  
-----  
Bylaws  
-----

Section 10.1 Inspection. A copy of the Bylaws, with all amendments thereto, shall at all times be kept in a convenient place at the Head Office of the Association, and shall be open for inspection to all shareholders, during banking hours.

Section 10.2 Amendments. These Bylaws may be changed or amended at any regular or special meeting of the Board by the vote of a majority of the Directors.



SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

FORM T-1

STATEMENT OF ELIGIBILITY UNDER THE TRUST INDENTURE ACT OF 1939 OF A CORPORATION  
DESIGNATED TO ACT AS TRUSTEE

CHECK IF AN APPLICATION TO DETERMINE ELIGIBILITY OF A TRUSTEE PURSUANT TO  
SECTION 305(b)(2)

WACHOVIA BANK, NATIONAL ASSOCIATION  
(Exact Name of Trustee as Specified in its Charter)

22-1147033  
(I.R.S. Employer Identification No.)

301 S. COLLEGE STREET, CHARLOTTE, NORTH CAROLINA  
(Address of Principal Executive Offices)

28288-0630  
(Zip Code)

WACHOVIA BANK, NATIONAL ASSOCIATION  
123 SOUTH BROAD STREET  
PHILADELPHIA, PA 19109  
ATTENTION: CORPORATE TRUST ADMINISTRATION  
(215) 670-6300  
(Name, address and telephone number of Agent for Service)

EXELON CORPORATION

(Exact Name of Obligor as Specified in its Charter)

PENNSYLVANIA

State or other jurisdiction of Incorporation or Organization)

23-2990190

(I.R.S. Employer Identification No.)

10 SOUTH DEARBORN STREET-37th FLOOR  
P.O. BOX 805379  
CHICAGO, ILLINOIS

(Address of Principal Executive Offices)  
60680-5379  
(Zip Code)

% SUBORDINATED DEBT SECURITIES DUE  
(Title of Indenture Securities)

1. General information.

Furnish the following information as to the trustee:

a) Name and address of each examining or supervisory authority to which it is  
subject: Comptroller of the Currency United States Department of the Treasury  
Washington, D.C. 20219

Federal Reserve Bank  
Richmond, Virginia 23219

Federal Deposit Insurance Corporation  
Washington, D.C. 20429

b) Whether it is authorized to exercise corporate trust powers.

Yes.

2. Affiliations with obligor.

If the obligor is an affiliate of the trustee, describe each such  
affiliation.

None.

3. Voting securities of the trustee.

Furnish the following information as to each class of voting securities of  
the trustee:

Not applicable - see answer to Item 13.

4. Trusteeships under other indentures.

If the trustee is a trustee under another indenture under which any other  
securities, or certificates of interest or participation in any other  
securities, of the obligor are outstanding, furnish the following information:

Not applicable - see answer to Item 13.

5. Interlocking directorates and similar relationships with the obligor or underwriters.

If the trustee or any of the directors or executive officers of the trustee is a director, officer, partner, employee, appointee, or representative of the obligor or of any underwriter for the obligor, identify each such person having any such connection and state the nature of each such connection.



Not applicable - see answer to Item 13.

6. Voting securities of the trustee owned by the obligor or its officials.

Furnish the following information as to the voting securities of the trustee owned beneficially by the obligor and each director, partner, and executive officer of the obligor:

Not applicable - see answer to Item 13.

7. Voting securities of the trustee owned by underwriters or their officials.

Furnish the following information as to the voting securities of the trustee owned beneficially by each underwriter for the obligor and each director, partner, and executive officer of each such underwriter:

Not applicable - see answer to Item 13.

8. Securities of the obligor owned or held by the trustee.

Furnish the following information as to securities of the obligor owned beneficially or held as collateral security for obligations in default by the trustee:

Not applicable - see answer to Item 13.

9. Securities of underwriters owned or held by the trustee.

If the trustee owns beneficially or holds as collateral security for obligations in default any securities of an underwriter for the obligor, furnish the following information as to each class of securities of such underwriter any of which are so owned or held by the trustee:

Not applicable - see answer to Item 13.

10. Ownership or holdings by the trustee of voting securities of certain affiliates or security holders of the obligor.

If the trustee owns beneficially or holds as collateral security for obligations in default voting securities of a person who, to the knowledge of the trustee (1) owns 10 percent or more of the voting stock of the obligor or (2) is an affiliate, other than a subsidiary, of the obligor, furnish the following information as to the voting securities of such person:

Not applicable - see answer to Item 13.

11. Ownership or holdings by the trustee of any securities of a person owning

50 percent or more of the voting securities of the obligor.

If the trustee owns beneficially or holds as collateral security for obligations in default any securities of a person who, to the knowledge of the trustee, owns 50 percent or more of the voting securities of the obligor, furnish the following information as to each class of securities of such person any of which are so owned or held by the trustee:

Not applicable - see answer to Item 13.

12. Indebtedness of the obligor to the trustee.

Except as noted in the instructions, if the obligor is indebted to the trustee, furnish the following information:

Not applicable - see answer to Item 13.

13. Defaults by the obligor.

(a) State whether there is or has been a default with respect to the securities under this indenture. Explain the nature of any such default.

None.

(b) If the trustee is a trustee under another indenture under which any other securities, or certificates of interest or participation in any other securities, of the obligor are outstanding, or is trustee for more than one outstanding series of securities under the indenture, state whether there has been a default under any such indenture or series, identify the indenture or series affected, and explain the nature of any such default. None 14. Affiliations with the underwriters.

If any underwriter is an affiliate of the trustee, describe each such affiliation.

Not applicable - see answer to Item 13.

15. Foreign trustee.

Identify the order or rule pursuant to which the trustee is authorized to act as sole trustee under indentures qualified or to be qualified under the Act.

Not applicable - trustee is a national banking association organized under the laws of the United States.

16. List of Exhibits.

List below all exhibits filed as part of this statement of eligibility.

1. Copy of Articles of Association of the trustee as now in effect\*

2. Copy of the Certificate of the Comptroller of the Currency dated March 27, 2002, evidencing the authority of the trustee to transact business\*

3. Copy of the Certification of Fiduciary Powers of the trustee by the Office of the Comptroller of the Currency dated March 27, 2002\*

4. Copy of existing by-laws of the trustee\*\*

5. Copy of each indenture referred to in Item 4, if the obligor is in default. -Not Applicable.

6. Consent of the trustee required by Section 321(b) of the Act.

- --

7. Copy of report of condition of the trustee published pursuant to the requirements of its supervising authority

8. Copy of any order pursuant to which the foreign trustee is authorized to act as sole trustee under indentures qualified or to be qualified under the Act.  
- Not Applicable

9. Consent to service of process required of foreign trustees pursuant to Rule 10a-4 under the Act.  
- Not Applicable

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\*Previously filed with the Securities and Exchange Commission on April 11, 2002 as an Exhibit to Form T-1 in connection with Registration Statement Number 333-86036. \*\*Previously filed with the Securities and Exchange Commission on May 13, 2003 as an Exhibit to Form T-1 (in connection with Registration Statement File No. 333-105207) and is incorporated by reference herein.

NOTE

The trustee disclaims responsibility for the accuracy or completeness of information contained in this Statement of Eligibility and Qualification not known to the trustee and not obtainable by it through reasonable investigation and as to which information it has obtained from the obligor and has had to rely or will obtain from the principal underwriters and will have to rely.

SIGNATURE

Pursuant to the requirements of the Trust Indenture Act of 1939, the trustee, Wachovia Bank, National Association, a national banking association organized and existing under the laws of the United States of America, has duly caused this Statement of Eligibility and Qualification to be signed on its behalf by the undersigned, thereunto duly authorized, all in the City of Philadelphia and the Commonwealth of Pennsylvania, on the 5th day of September, 2003.

Wachovia Bank, National Association

By: /s/George J. Rayzis

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George J. Rayzis  
Vice President

CONSENT OF THE TRUSTEE

Pursuant to the requirements of Section 321(b) of the Trust Indenture Act of 1939, and in connection with the proposed issue of Exelon Corporation Subordinated Debt Securities, Wachovia Bank, National Association, hereby consents that reports of examinations by Federal, State, Territorial or District authorities may be furnished by such authorities to the Securities and Exchange Commission upon request therefore.

WACHOVIA BANK, NATIONAL ASSOCIATION

By: /s/ George J. Rayzis

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George J. Rayzis  
Vice President

Philadelphia, Pennsylvania

September 5, 2003

EXHIBIT T-7

REPORT OF CONDITION

Consolidating domestic and foreign subsidiaries of Wachovia Bank, N.A., at the close of business on June 30, 2003, published in response to call made by Comptroller of the Currency, under title 12, United States Code, Section 161. Charter Number 1 Comptroller of the Currency.

Statement of Resources and Liabilities

ASSETS

Thousand of Dollars

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Cash and balance due from depository institutions:

Noninterest-bearing balances and currency and coin.....	14,108,000
Interest-bearing balances.....	4,283,000
Securities.....	////////
Held-to-maturity securities (from Schedule RC-B, column A).....	0
Available-for-sale securities (from schedule RC-B, column D).....	70,107,000
Federal funds sold and securities purchased under agreements to resell.....	0
Federal funds sold in domestic offices.....	2,060,000
Securities purchased under agreements to resell.....	4,782,000
Loans and lease financing receivables (from Schedule RC-C):	
Loan and leases held for sale.....	10,391,000
Loan and leases, net of unearned income.....	160,238,000
LESS: Allowance for loan and lease losses.....	2,655,000
LESS: Allocated transfer risk reserve.....	0
Loans and leases, net of unearned income and allowance (item.4.b misus 4.c).....	157,583,000
Trading assets (from Schedule RC-D).....	26,931,000
Premises and fixed assets (including capitalized leases).....	3,823,000
Other real estate owned (from Schedule RC-M).....	163,000
Investment in unconsolidated subsidiaries and associated companies (from Schedule RC-M)...	689,000
Customer's liability to this bank on acceptances outstanding.....	1,074,000
Intangible assets.....	
Goodwill.....	9,519,000
Other intangible assets (from Schedule RC-M).....	1,608,000
Other assets (from Schedule RC-F).....	24,500,000
 Total assets.....	 331,621,000

LIABILITIES

Deposits:	
In domestic offices.....	195,313,000
Noninterest-bearing.....	29,821,000
Interest-bearing.....	165,492,000
In foreign offices, Edge and Agreement subsidiaries, and IBFs (from Schedule RC-E, partII).....	11,457,000

Noninterest-bearing.....	21,000
Interest-bearing.....	11,436,000
Federal funds purchased in domestic offices(2).....	3,871,000
Securities sold under agreements to repurchase(3).....	25,005,000
Trading liabilities(from Schedule RC-D).....	20,648,000
Other borrowed money (includes mortgage indebtedness and obligations under Capitalized leases)(from Schedule RC-M).....	19,665,000
Bank's liability on acceptances executed and outstanding.....	1,078,000
Subordinated notes and debentures.....	8,049,000
Other liabilities.....	13,250,000
Total liabilities.....	298,336,000
Minority Interest in consolidated subsidiaries.....	1,658,000

EQUITY CAPITAL

Perpetual preferred stock and related surplus.....	0
Common Stock.....	455,000
Surplus.....	24,184,000
Retained Earnings.....	4,879,000
Accumulated other comprehensive income.....	2,109,000
Other Equity Capital components.....	0
Total equity capital (sum of item 23 through 27).....	31,627,000
Total liabilities and equity capital (sum of items 21,22, and 28.....	331,621,000





SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

FORM T-1

STATEMENT OF ELIGIBILITY UNDER THE TRUST INDENTURE ACT OF 1939 OF A CORPORATION  
DESIGNATED TO ACT AS TRUSTEE

CHECK IF AN APPLICATION TO DETERMINE ELIGIBILITY OF A TRUSTEE PURSUANT  
TO SECTION 305(b)(2) [ ]

WACHOVIA TRUST COMPANY, NATIONAL ASSOCIATION  
(Exact Name of Trustee as Specified in its Charter)

56-1989961  
(I.R.S. Employer Identification No.)

One Rodney Square, 920 King Street, Suite 102, Wilmington, Delaware  
(Address of Principal Executive Offices)

19801  
(Zip Code)

WACHOVIA TRUST COMPANY, NATIONAL ASSOCIATION  
ONE RODNEY SQUARE  
920 KING STREET, SUITE 102  
WILMINGTON, DE 19801

ATTENTION: CORPORATE TRUST ADMINISTRATION  
(302) 888-7539  
(Name, address and telephone number of Agent for Service)

EXELON CORPORATION

(Exact Name of Obligor as Specified in its Charter)

Pennsylvania  
(State or other jurisdiction of Incorporation or Organization)

23-2990190  
(I.R.S. Employer Identification No.)

10 South Dearborn Street  
37th Floor  
P.O. Box 805379  
Chicago, IL  
(Address of Principal Executive Offices)

60680-5379  
(Zip Code)

Guarantee of Trust Preferred Securities of  
Exelon Capital Trust [ ]  
(Title of Indenture Securities)

1. General information.

Furnish the following information as to the trustee:

- a) Name and address of each examining or supervisory authority to which it is subject:  
Comptroller of the Currency  
United States Department of the Treasury  
Washington, D.C. 20219
- Federal Reserve Bank  
Richmond, Virginia 23219
- Federal Deposit Insurance Corporation  
Washington, D.C. 20429
- b) Whether it is authorized to exercise corporate trust powers.  
Yes.

2. Affiliations with obligor.

If the obligor is an affiliate of the trustee, describe each such affiliation.

None.

3. Voting securities of the trustee.

Furnish the following information as to each class of voting securities of the trustee:

Not applicable - see answer to Item 13.

4. Trusteeships under other indentures.

If the trustee is a trustee under another indenture under which any other securities, or certificates of interest or participation in any other securities, of the obligor are outstanding, furnish the following information:

- a)  
Title of the securities outstanding under each such other indenture.  
Trust Preferred Securities

- (b)  
A brief statement of the facts relied upon as a basis for the claim that no conflicting interest within the meaning of Section 310(b)(1) of the Act arises as a result of the trusteeship under any such other indenture, including a statement as to how the indenture securities will rank as compared with the securities issued under such other indenture.

The indenture securities are not in default. The indenture securities rank equal to the securities named in Item 4(a).

5. Interlocking directorates and similar relationships with the obligor or underwriters.

If the trustee or any of the directors or executive officers of the trustee is a director, officer, partner, employee, appointee, or representative of the obligor or of any underwriter for the obligor, identify each such person having any such connection and state the nature of each such connection.

Not applicable - see answer to Item 13.

6. Voting securities of the trustee owned by the obligor or its officials.

Furnish the following information as to the voting securities of the trustee owned beneficially by the obligor and each director, partner, and executive officer of the obligor:

Not applicable - see answer to Item 13.

7. Voting securities of the trustee owned by underwriters or their officials.

Furnish the following information as to the voting securities of the trustee owned beneficially by each underwriter for the obligor and each director, partner, and executive officer of each such underwriter:

Not applicable - see answer to Item 13.

8. Securities of the obligor owned or held by the trustee.

Furnish the following information as to securities of the obligor owned beneficially or held as collateral security for obligations in default by the trustee:

Not applicable - see answer to Item 13.

9. Securities of underwriters owned or held by the trustee.

If the trustee owns beneficially or holds as collateral security for obligations in default any securities of an underwriter for the obligor, furnish the following information as to each class of securities of such underwriter any of which are so owned or held by the trustee:

Not applicable - see answer to Item 13.

10. Ownership or holdings by the trustee of voting securities of certain affiliates or security holders of the obligor.

If the trustee owns beneficially or holds as collateral security for obligations in default voting securities of a person who, to the knowledge of the trustee (1) owns 10 percent or more of the voting stock of the obligor or (2) is an affiliate, other than a subsidiary, of the obligor, furnish the following information as to the voting securities of such person:

Not applicable - see answer to Item 13.

11. Ownership or holdings by the trustee of any securities of a person owning 50 percent or more of the voting securities of the obligor.

If the trustee owns beneficially or holds as collateral security for obligations in default any securities of a person who, to the knowledge of the trustee, owns 50 percent or more of the voting securities of the obligor, furnish the following information as to each class of securities of such person any of which are so owned or held by the trustee:

Not applicable - see answer to Item 13.

12. Indebtedness of the obligor to the trustee.

Except as noted in the instructions, if the obligor is indebted to the trustee, furnish the following information:

Not applicable - see answer to Item 13.

13. Defaults by the obligor.

a) State whether there is or has been a default with respect to the securities under this indenture. Explain the nature of any such default.

None.

b) If the trustee is a trustee under another indenture under which any other securities, or certificates of interest or participation in any other securities, of the obligor are outstanding, or is trustee for more than one outstanding series of securities under the indenture, state whether there has been a default under any such indenture or series, identify the indenture or series affected, and explain the nature of any such default.

None

14. Affiliations with the underwriters.

If any underwriter is an affiliate of the trustee, describe each such affiliation.

Not applicable - see answer to Item 13.

15. Foreign trustee.

Identify the order or rule pursuant to which the trustee is authorized to act as sole trustee under indentures qualified or to be qualified under the Act.

Not applicable - trustee is a national banking association organized under the laws of the United States.

16. List of Exhibits.

List below all exhibits filed as part of this statement of eligibility.

X 1. Copy of Articles of Association of the trustee as now in effect.\*

- --  
X 2. Copy of the Certificate of the Comptroller of the Currency dated April 4,  
- --2002, evidencing the authority of the trustee to transact business.\*

X 3. Copy of the Certification of Fiduciary Powers of the trustee by the Office  
- --of the Comptroller of the Currency dated April 4, 2002.\*

X 4. Copy of existing by-laws of the trustee.\*

- --  
\_\_ 5. Copy of each indenture referred to in Item 4, if the obligor is in default.  
-Not Applicable.

X 6. Consent of the trustee required by Section 321(b) of the Act.

- --  
X 7. Copy of report of condition of the trustee at the close of business on  
- --December 31, 2002, published pursuant to the requirements of its supervising  
authority.

\_\_ 8. Copy of any order pursuant to which the foreign trustee is authorized to  
act as sole trustee under indentures qualified or to be qualified under the Act.  
Not Applicable

\_\_ 9. Consent to service of process required of foreign trustees pursuant to  
Rule 10a-4 under the Act.  
Not Applicable

- -----

\* Previously filed with Exhibit 25.2 to the Registration Statement of Exelon  
Corporation to which this Form T-1 is an exhibit.

NOTE

The trustee disclaims responsibility for the accuracy or completeness  
of information contained in this Statement of Eligibility and Qualification not  
known to the trustee and not obtainable by it through reasonable investigation  
and as to which information it has obtained from the obligor and has had to rely  
or will obtain from the principal underwriters and will have to rely.

SIGNATURE

Pursuant to the requirements of the Trust Indenture Act of 1939, the trustee, Wachovia Trust Company, National Association, a national banking association organized and existing under the laws of the United States of America, has duly caused this Statement of Eligibility and Qualification to be signed on its behalf by the undersigned, thereunto duly authorized, all in the City of Wilmington and the State of Delaware, on the 5th day of September, 2003.

Wachovia Trust company,  
National Association

By:       /s/ Rita Marie Ritrovato  
-----  
Rita Marie Ritrovato  
Trust Officer

CONSENT OF THE TRUSTEE

Pursuant to the requirements of Section 321(b) of the Trust Indenture Act of 1939, and in connection with the proposed issue of Exelon Capital Trust I, II, and III, Wachovia Trust Company, National Association, hereby consents that reports of examinations by Federal, State, Territorial or District authorities may be furnished by such authorities to the Securities and Exchange Commission upon request therefor.

WACHOVIA TRUST COMPANY,  
NATIONAL ASSOCIATION

By:       /s/ Rita Marie Ritrovato  
          -----  
          Rita Marie Ritrovato  
          Trust Officer

Wilmington, Delaware  
September 5, 2003



## EXHIBIT T-7

## REPORT OF CONDITION

Consolidating domestic and foreign subsidiaries of Wachovia Trust Company, N.A., at the close of business on March 31, 2003, published in response to call made by Comptroller of the Currency, under title 12, United States Code, Section 161. Charter Number 1 Comptroller of the Currency.

## Statement of Resources and Liabilities

## ASSETS

Thousand of Dollars  
-----

Cash and balance due from depository institutions:	
Noninterest-bearing balances and currency and coin.....	14,130,000
Interest-bearing balances.....	2,142,000
Securities.....	////////
Held-to-maturity securities (from Schedule RC-B, column A).....	0
Available-for-sale securities (from schedule RC-B, column D).....	69,552,000
Federal funds sold and securities purchased under agreements to resell.....	0
Federal funds sold in domestic offices.....	1,833,000
Securities purchased under agreements to resell(3).....	4,293,000
Loans and lease financing receivables (from Schedule RC-C):	
Loan and leases held for sale.....	8,101,000
Loan and leases, net of unearned income.....	161,553,000
LESS: Allowance for loan and lease losses.....	2,716,000
LESS: Allocated transfer risk reserve.....	0
Loans and leases, net of unearned income and allowance (item 4.b misus 4.c).....	158,837,000
Trading assets (from Schedule RC-D).....	26,199,000
Premises and fixed assets (including capitalized leases).....	4,255,000
Other real estate owned (from Schedule RC-M).....	143,000
Investment in unconsolidated subsidiaries and associated companies (from Schedule RC-M)...	669,000
Customer's liability to this bank on acceptances outstanding.....	1,485,000
Intangible assets.....	9,499,000
Goodwill.....	
Other intangible assets (from Schedule RC-M).....	1,698,000
Other assets (from Schedule RC-F).....	20,947,000
 Total assets.....	 323,783,000

## LIABILITIES

Deposits:	
In domestic offices.....	188,964,000
Noninterest-bearing.....	32,609,000
Interest-bearing.....	156,355,000
In foreign offices, Edge and Agreement subsidiaries, and IBFs (from Schedule RC-E, part II).....	12,591,000
Noninterest-bearing.....	21,000
Interest-bearing.....	12,570,000
Federal funds purchased in domestic offices(2).....	3,342,000
Securities sold under agreements to repurchase(3).....	26,168,000
Trading liabilities(from Schedule RC-D).....	18,156,000
Other borrowed money (includes mortgage indebtedness and obligations under Capitalized leases)(from Schedule RC-M).....	21,041,000
Bank's liability on acceptances executed and outstanding.....	1,492,000
Subordinated notes and debentures.....	8,149,000
Other liabilities.....	11,156,000
Total liabilities.....	291,059,000
Minority Interest in consolidated subsidiaries.....	1,327,000

## EQUITY CAPITAL

Perpetual preferred stock and related surplus.....	0
Common Stock.....	455,000
Surplus.....	24,194,000
Retained Earnings.....	4,660,000
Accumulated other comprehensive income.....	2,088,000
Other Equity Capital components.....	0
Total equity capital (sum of item 23 through 27).....	31,397,000
Total liabilities and equity capital (sum of items 21,22, and 28.....	323,783,000

