

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

AMENDMENT NO. 1
TO
FORM U-1 APPLICATION-DECLARATION
UNDER
THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

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TABLE OF CONTENTS

Item 1.	Description of Proposed Transaction.....	2
A.	Introduction -- Benefits of the Merger.....	2
B.	Overview of the Transaction.....	3
C.	Description of the Parties to the Merger.....	4
	1. Exelon Corporation.....	4
	2. Unicom and its Subsidiaries.....	5
	3. PECO and its Subsidiaries.....	7
D.	Exelon Services.....	12
E.	Exelon Ventures, Exelon Enterprises and Exelon Energy Delivery.....	12
F.	Description of the Merger.....	13
Item 2.	Fees, Commissions and Expenses.....	14
Item 3.	Applicable Statutory Provisions.....	15
A.	Application of the Act in Light of the Evolving "State of the Art" of the Electric Utility Industry.....	16
B.	Section by Section Analysis.....	23
	1. Section 9(a)(2) -- Acquisition of Utility Stock.....	24
	2. Section 10(b) -- Commission to Approve if Three Requirements Met.....	25
	(a) Section 10(b)(1) -- Interlocking Relations/Concentration of Control.....	25
	(b) Section 10(b)(2) -- Merger Consideration and Fees.....	30
	(c) Section 10(b)(3) -- Complicated Capital Structure; No Detriment to Protected Interests.....	32
	3. Section 10(c) -- Sections 8 and 11; Integration.....	36
	(a) Section 10(c)(1) -- Sections 8 and 11.....	36
	(i) The Merger will be lawful under Section 8.....	36
	(ii) The Merger Is Not Detrimental to Carrying Out Provisions of Section 11.....	37
	(A) The Utility Systems Created by the Merger.....	37

	(B) Statutory Standard -- Integration of Electric Operations In Today's Environment.....	38
(iii)	Exelon Will Meet All Four Parts of the Integration Requirement of the Act.....	39
	(A) Interconnection.....	40
	(B) The Contract Path.....	45
	(C) Coordination.....	46
	(D) Single Area or Region.....	50
	(E) Size.....	54
	(F) Conclusion -- Exelon Electric System will be Integrated.....	56
(iv)	Retention of Exelon Gas System.....	58
	(A) Loss of economies if operated as an independent system.....	60
	(B) Same State or Adjoining States.....	63
	(C) Size --Localized Management; Efficient Operation; Effective Regulation.....	63
(v)	Retention of Other Businesses.....	64
(vi)	The Merger will Satisfy the Requirements of Section 11(b)(2) as incorporated by Section 10(c)(1).....	66
	(b) Section 10(c)(2) -- Economies and Efficiencies.....	68
	(c) Section 10(f) -- Compliance with State Law.....	71
C.	Intra-system Transactions.....	71
	1. Exelon Business Services Company.....	71
	2. Services, Goods, and Assets Involving the Utility Operating Companies.....	74
	3. Non-Utility Subsidiary Transactions.....	74
	4. Existing and Anticipated Affiliate Arrangements and Requests for Exemption.....	78
	(a) ComEd AIA Transactions.....	78
	(b) ComEd "Competitive Services".....	79
	(c) PECO Government Contracts.....	80
	(d) PECO Sales and Purchases To and From Retail Marketing Affiliates.....	80

	(e) Exelon Infrastructure Services; Unicom Mechanical Services.....	80
	(i) Description of Exelon Infrastructure Services.....	80
	(ii) Description of Mechanical Services.....	82
	(iii) Requested Exemption from Cost Standard.....	82
	(iv) Alternative Relief for EIS.....	83
	(f) Public Interest.....	84
	(g) Goods and Services to and from Genco.....	85
	5. Phase-In of Compliance with Affiliate Requirements.....	87
	D. Approval for Restructurings -- Interim Operations.....	87
Item 4.	Regulatory Approvals.....	87
	A. Antitrust.....	87
	B. Federal Power Act.....	88
	C. Atomic Energy Act.....	88
	D. State Public Utility Regulation.....	88
	E. Other.....	89
Item 5.	Procedure.....	89
Item 6.	Exhibits and Financial Statements.....	89
	A. Exhibits.....	89
	B. Financial Statements.....	93
Item 7.	Information as to Environmental Effects.....	93

Executive Summary

This Amendment No. 1 to Application-Declaration amends and restates in its entirety the Application-Declaration filed March 16, 2000 and seeks approvals under the Public Utility Holding Company Act of 1935 (the "Act") relating to the proposed acquisition by Exelon Corporation ("Exelon") directly or indirectly of all the common stock of the following electric utility companies:

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

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

All of Exelon's generating capacity, nuclear and other, will be owned or controlled by a single entity -- Genco. Genco will coordinate, through the interconnected system, the efficient use of the generation formerly held by ComEd and PECO for the benefit of the Exelon system. Genco will supply power to its affiliates and to non-affiliated customers. Exelon will be interconnected through the transmission facilities of ComEd and PECO and the extensive, available interstate open access transmission. Exelon will have the legal right under Federal Energy Regulatory Commission ("FERC") mandated Open Access Transmission Tariffs ("OATTs") to move power economically to customers as needed and in amounts sufficient to meet -- under normal conditions -- its operating needs throughout the Exelon system. Exelon believes the use of a flexible array of firm and non-firm transmission reservations available through the OATTs is sufficient under the Act, and is the best and most economical way, to satisfy the interconnection requirement necessary to establish integration. Finally, Exelon Business Services Company ("Exelon Services") will be formed to oversee centralized corporate and administrative services.

Given the operating and regulatory structure of today's industry, Exelon will operate within a single area or region within the meaning of the Act. ComEd and PECO have an extensive five-year history of successful power exchanges with each other. In addition, they both buy and sell power in the same markets. The ability to transfer power economically, taking into account transmission cost, demonstrates that ComEd and PECO are in the same area or region. Further, Exelon's distribution areas -- surrounding Chicago, Illinois and Philadelphia,

Pennsylvania -- are homogeneous and have similar operating characteristics. Illinois and Pennsylvania have enacted customer choice utility restructuring legislation. Finally, Exelon will in fact operate all of its utility facilities as a single, coordinated system.

Although the United States is now largely interconnected electrically, only those utilities, such as Exelon, which can and will operate their separate utilities economically and in a coordinated manner within the meaning of the Act, can be considered to be in the same area or region. Exelon, with corporate

headquarters in Chicago, will coordinate utility operations functions with facilities in Chicago and Philadelphia. ComEd and PECO will maintain the benefits of localized management through local offices throughout their service areas. Exelon's utility subsidiaries will remain fully subject to applicable State and Federal public utility regulation, which will not be adversely affected by the Merger. Thus, this is not a case involving "scattered" properties or the impairment of local management, efficient operation or effective regulation.

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

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

Item 1. Description of Proposed Transaction

A. Introduction -- Benefits of the Merger

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

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

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

B. Overview of the Transaction

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

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

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

^{/2/} In the U-1 Application/Declaration filed March 16, 2000 (the "Original U-1") Exelon indicated that companies might use one or more operating companies to perform some utility functions. Exelon has now determined that it will not use any "Opco" to own or operate facilities that are electric or gas facilities within the meaning of Section 2(a)(3) or 2(a)(4) of the Act. References to Opco's are therefore deleted in this Amendment No. 1. Exelon now expects that all service functions for the holding company system will be performed by a single service company -- Exelon Business Services Company ("Exelon Services") except with respect to certain services between and among ComEd, PECO and Genco as described below and certain services provided to ComEd, PECO and GENCO from non-utility subsidiaries. Further, for federal and state income tax reasons, it may be desirable to have a separate service company as a subsidiary of Genco which would provide services to Genco and others. See Item 3.C. below.

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

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

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

C. Description of the Parties to the Merger

1. Exelon Corporation.

Exelon Corporation, a Pennsylvania corporation, currently a subsidiary of PECO, has no assets and has conducted no business operations to date. Pursuant to the Merger, Exelon will become the parent holding company of ComEd, PECO, Genco and the other subsidiaries described herein. Exelon will have its principal executive office in Chicago, Illinois.

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

2. Unicom and its Subsidiaries.

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

ComEd's Utility Business

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

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

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

/4/ Unicom Corporation, Holding Co. Act Release No. 35-26090 (July 22, 1994).

/5/ At December 31, 1999, 4,859 of the 231,973,810 shares of common stock of ComEd were not owned by Unicom but were in the hands of the public as a result of exercises of warrants or convertible preferred stock into ComEd common stock not followed by an exchange of such stock for Unicom common stock. The rights under the ComEd warrants and convertible preferred stock to acquire or convert into ComEd common stock will not be changed by the Merger. Following the Merger, Exelon will offer to exchange any such ComEd common stock issued on exercise of such warrants or convertible preferred stock for Exelon common stock. However, ComEd intends to redeem the convertible preferred stock in full on August 1, 2000.

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

/7/ See Docket No. EL00-25-000. FERC has provided guidance on this petition. Commonwealth Edison Company, 90 FERC (P) 61,192(Feb. 24, 2000, order denying

reh'g, 91 FERC (P) 61,178 (May 22, 2000).

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

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

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

Unicom's Other Businesses

Unicom, directly or indirectly, owns all the outstanding common stock of the non-utility subsidiary companies identified and described in Exhibit I-1 hereto. These companies are organized under Unicom Enterprises Inc. or Unicom. In addition, ComEd has the subsidiaries identified on that Exhibit which relate to its utility operations.

As described in detail herein, the non-utility operations of Unicom and ComEd will qualify as additional businesses of Exelon under the Act pursuant to Rule 58 or otherwise. Exelon requests that the investment in the Unicom Enterprises activities which it will acquire at consummation of the merger be disregarded for purposes of calculating the dollar limitation upon investment in energy-related companies under Rule 58./10/

Unicom's Financial Position

The authorized capital stock of Unicom consists of 400,000,000 shares of common stock. As of the close of business on December 31, 1999, 217,835,570 shares of Unicom common stock

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

/10/ See SCANA Corporation, Holding Company Act Release No. 35-27133 (Feb. 9, 2000); New Century Energies, Inc., Holding Company Act Release No. 35-26748 (August 1, 1997). Conectiv, Inc., Holding Company Release Act No. 35-26832 (February 25, 1998); Ameren Corp., Holding Company Release Act No. 35-26809 (December 30, 1997).

were issued and outstanding./11/ The Unicom common stock is listed on the New York Stock Exchange, Inc. ("NYSE"), the Chicago Stock Exchange and the Pacific Stock Exchange.

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

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

Further Information

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

3. PECO and its Subsidiaries.

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

PECO's Utility Business

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

/11/ Under the Merger Agreement, Unicom has agreed to repurchase \$1.0 billion of its common stock prior to the merger. At March 31, 2000 Unicom had acquired about 14 million shares. This amount is in addition to the 26.3 million shares of common stock purchased in January, 2000 upon settlement of certain forward purchase contracts. Unicom outstanding common shares at March 31, 2000 was 177,646,782 shares.

Pennsylvania and Maryland. These generation facilities have an estimated aggregate net installed electric generating capacity (summer rating) of 9,262 MW./12/

PECO owns transmission facilities located in the Pennsylvania-New Jersey-Maryland ("PJM") control area. The PJM independent system operator offers transmission service over those PECO transmission facilities and the transmission facilities of other PJM members under the PJM open access transmission tariff on file with FERC./13/ PECO also has an open access transmission tariff on file with FERC./14/

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

Regulation as a Utility

PECO is currently a public utility holding company exempt from the provisions of the Act, except Section 9(a)(2), by reason of the annual exemption statements filed by it pursuant to Rule 2 of the Commission's rules and regulations. PECO currently has three wholly owned subsidiaries that are public utility companies within the meaning of the Act: PECO Energy Power Company ("PEPCO"), Susquehanna Power Company ("SPCO") and Susquehanna Electric Company ("SECO"). The Conowingo Project is owned and operated through PEPCO, SPCO and SECO./15/

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

/12/ PECO is in the process of acquiring additional ownership interests in the Peach Bottom Atomic Power Station which would increase its ownership share to 50%, an additional 80 MW.

/13/ Pennsylvania-New Jersey-Maryland Interconnection, et al., 81 FERC (P)61,257

(1997), reh'g pending.

/14/ PECO Energy Co., 74 FERC (P)61,336 (1996).

/15/ PEPCO, a registered holding company, has one wholly owned subsidiary, SPCO, a public utility company within the meaning of the Act and an indirect subsidiary of PECO. PEPCO owns the portion of the Conowingo Project located in Pennsylvania and SPCO owns the portion located in Maryland. The Conowingo Project is leased to and operated by SECO, which sells the Project's output to PECO. In addition to the companies identified above, SPCO also owns The Proprietors of the Susquehanna Canal, an inactive entity incorporated in 1783 and acquired in connection with the development of the Conowingo Project. See

Holding Company Act Release No. 35-6718, June 18, 1946; Holding Company Act Release No. 35-16636, March 12, 1970; Holding Company Act Release No. 35-14782, January 2, 1963; Susquehanna Power Co., 19 FERC (P) 61, 348, order on reh'g, 13

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

jurisdiction of the NRC with respect to the ownership and operation of its nuclear generating stations.

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

Pursuant to the Competition Act, PECO filed with the Pennsylvania Commission a comprehensive restructuring plan detailing its proposal to implement full customer choice of electric generation supplier. On May 14, 1998 the Pennsylvania Commission issued its Final Order accepting a "Joint Petition for Settlement of PECO's Restructuring Plan and Related Appeals and Application for a Qualified Rate Order and Application of Transfer of Generation Assets" (hereinafter referred to as "Restructuring Settlement"). Pursuant to the terms of the Restructuring Settlement, PECO's retail electric customers received an 8% rate reduction in 1999 and are receiving a 6% rate reduction in 2000. Pursuant to the Restructuring Settlement, PECO is authorized to, among other things, recover from its retail electric customers approximately \$5.3 billion of stranded assets and costs and transfer its generation assets and liabilities and wholesale power contracts to a separate corporate affiliate. Under the Restructuring Settlement, transactions between and among certain PECO affiliates are subject to safeguards to ensure fair dealing. PECO's was the first restructuring plan approved in Pennsylvania and, on a percentage and absolute numbers basis, PECO has the highest number of customers exercising their retail choice by buying electricity from alternative suppliers.

PECO's Other Businesses

In addition to its regulated distribution businesses, PECO actively competes in deregulated retail markets for electricity and natural gas. Although its utility property and operations are generally confined to Pennsylvania,^{/16/} PECO markets or brokers electricity to

^{/16/} The only utility property located outside Pennsylvania is the Conowingo Project, which is located in both Pennsylvania and Maryland, and a 42.6% interest (which will increase to 50%) in Salem Nuclear Generating Station Unit Nos. 1 and 2, located in New Jersey. The Salem station is directly interconnected with PECO's system through the PJM operated transmission system. The Commission has previously recognized that joint participation in the construction of large generating facilities (particularly nuclear facilities) is appropriate and does not controvert the

retail customers in Massachusetts and New Jersey as well./17/ PECO markets or brokers natural gas to a small number of retail commercial and industrial customers in New Jersey and to customers in areas of Pennsylvania outside its gas franchise territory. In these retail choice programs, PECO acts as a marketer or broker. It does not own any utility distribution property or operate any utility distribution facilities in states other than Pennsylvania. PECO also engages in wholesale marketing of electricity through its Power Team division. PECO PowerLabs is a division which calibrates and verifies the accuracy of laboratory measuring and testing equipment.

PECO has multiple subsidiaries that support its utility operations. A complete list of PECO's subsidiaries and affiliated business interests is contained in Exhibit I-2 hereto.

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

PECO, British Energy, plc of Edinburgh, Scotland, and BE, Inc., a U.S. subsidiary of British Energy, have formed AmerGen Energy Company, L.L.C. ("AmerGen") to pursue opportunities to acquire and operate nuclear generating stations in the United States. PECO and BE, Inc. each own a 50% equity interest in AmerGen. As of the date of this Application-Declaration, AmerGen has acquired the Three Mile Island Unit 1 ("TMI-1") in Pennsylvania and Clinton Power Station in Illinois. AmerGen has also entered into separate Asset Purchase Agreements with Vermont Yankee Nuclear Power Corporation and GPU Nuclear, Inc. and Jersey Central Power & Light Company to acquire, respectively, Vermont Yankee/18/ and Oyster Creek nuclear plants./19/ AmerGen has been granted exempt wholesale generator ("EWG")

(continued)

integration requirement of Section 2(a)(29)(A) of the Act. See Electric

Energy, Inc., Holding Co. Act Release No. 13871 (November 28, 1958); Yankee

Atomic Electric Co., Holding Co. Act Release No. 13048 (November 25, 1955);

Mississippi Valley Generating Co., Holding Co. Act Release No. 12794 (February

9, 1955).

/17/ Exelon's electricity and natural gas brokering and marketing activities are permissible under the Act. The Commission and the SEC Staff have both recognized, on numerous prior occasions, that marketing activities are not utility activities under the Act. See UNITIL, Holding Company Act Release No.

26650 (January 21, 1997); SEI Holdings, Inc., Holding Co. Act Release No. 26581

(September 26, 1996); PP&L Resources, Inc., Holding Co. Act Release No. 26905

(August 12, 1998); Enron Capital & Trade Resources Corp., SEC No-Action Letter, 1997 SEC No-Act. LEXIS 287 (February 13, 1997); LG&E Power Marketing, Inc., SEC

No-Action Letter, 1996 SEC No-Act. LEXIS 510 (April 26, 1996). In SEI Holdings

the Commission stated "[i]ndustry trends and competitive pressures make it important for registered system companies to be poised to compete in new markets as they are created. Such participation would appear to promote the goals of United States energy policy, including increased competition and lower rates."

/18/ AmerGen is assigning its rights and obligations under the Asset Purchase Agreement for Vermont Yankee to AmerGen Vermont, LLC, its wholly owned subsidiary formed for the purpose of owning and operating Vermont Yankee.

/19/ An agreement with Niagara Mohawk Power Company and New York State Electric and Gas Company regarding Nine Mile Point Unit 1 has been terminated by the parties.

determinations from the FERC in connection with TMI-1 and Clinton and will apply for EWG determination with respect to the others./20/ PECO's 50% interest in AmerGen is authorized by section 32(e) of the Act./21/

In accordance with the provisions of the Telecommunications Act of 1996, PECO entered the telecommunications business through undertakings with experienced operators. PECO Hyperion Telecommunications is a general partnership with Adelphia Business Solutions, Inc. that provides "competitive local exchange carrier" services such as local dial tone, long distance, Internet service and point-to-point (voice and data) communications for businesses and institutions in eastern Pennsylvania. Through its subsidiary PECO Wireless, LLC, PECO holds a 49% interest in a company which offers personal communications services in the Philadelphia "Major Trading Area." PECO's interests in these businesses are authorized by section 34 of the Act. Other telecommunications related entities in which PECO holds an interest are described in Exhibit I-2./22/

As discussed below under Item 3.B.3(a)(v), "Retention of Other Businesses," the non-utility operations of PECO will qualify as additional businesses of Exelon under the Act pursuant to Rule 58 and other applicable provisions. Exelon requests that the investment in the PECO activities which it will acquire at consummation of the merger be disregarded for purposes of calculating the dollar limitation upon investment in energy-related companies under Rule 58./23/ A list of Rule 58 non-utility businesses and the basis for their retention is contained in Exhibit I-2 hereto.

PECO Financial Position

PECO's authorized capitalization consists of 500 million shares of common stock, 15 million shares of cumulative preferred stock and 100 million shares of series preference stock. As of the close of business on December 31, 1999, there were 181,271,692 shares of PECO common stock and 1,930,920 shares of PECO cumulative preferred stock of various series issued and outstanding./24/ PECO common stock is listed on the NYSE and the Philadelphia Stock

/20/ Letter Orders, reported at 90 FERC (P)62,061 (2000) and 91 FERC (P)62,049

(2000).

/21/ Exelon's compliance with Rule 53 is discussed in the Financing U-1.

/22/ To the extent that the companies identified above have not registered with the Federal Communications Commission ("FCC") as Exempt Telecommunications Companies on the date of the filing of this Application-Declaration, Exelon submits that it will act to ensure their registration with the FCC under Section 34 of the Act. To the extent such registration is not completed prior to the entry by the Commission of an order approving the Merger, Exelon expects to request that the Commission reserve its jurisdiction over these entities until Exelon makes a filing identifying the companies that have registered or explaining why they may otherwise be retained in accordance with the Act and the Commission's Rules.

/23/ See SCANA Corporation, Holding Company Act Release No. 35-27133

(Feb. 9, 2000); New Century Energies, Inc., Holding Company Act Release No.

35-26748 (August 1, 1997). Conectiv, Inc., Holding Company Release Act No.

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

35-26809 (December 30, 1997).

/24/ Under the Merger Agreement, PECO has agreed to repurchase \$500 million of its common stock prior to the Merger. At May 5, 2000, PECO had completed such repurchases and had 169,570,844 shares outstanding.

Exchange. Consolidated assets of PECO and its subsidiaries as of December 31, 1999 were approximately \$13 billion, consisting of \$4 billion in net electric utility property, plant and equipment; \$931 million in net gas utility property, plant and equipment; and \$138 million in non-utility subsidiary assets, and \$8 billion in other corporate assets. For the year ended December 31, 1999, PECO had electric utility revenues of \$4.85 billion and gas utility revenues of \$481 million.

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

Further Information

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

D. Exelon Services

Exelon Services will enter into a service agreement with ComEd, PECO, Genco and other affiliates (the "General Services Agreement"). (A copy of the form of the General Services Agreement is filed as Exhibit B-2.) The General Services Agreement will include non-utility subsidiaries of Exelon as client companies. In this Application-Declaration, Applicant seeks an exemption from or waiver of the Commission's rules regarding the provision of service at cost to certain affiliates of Exelon as described herein. Exelon may create a service company as a subsidiary of Genco to achieve tax savings and efficiencies. If created, this service company would perform some but not all of the services contemplated in the General Services Agreement and would conduct business pursuant to a service agreement substantially the same as the General Services Agreement and pursuant to the allocation methods approved for Exelon Services. /25/

E. Exelon Ventures, Exelon Enterprises and Exelon Energy Delivery

For a variety of tax, regulatory and business reasons, Exelon has determined that the best way to organize its non-utility subsidiaries is through the creation of Exelon Ventures Company ("Ventures"). Ventures will be a first tier subsidiary of Exelon. It will own all of Exelon Enterprises Company, LLC ("Enterprises"). Enterprises, in turn, will hold the existing non-utility investments of Unicom and PECO. In addition to Enterprises, Ventures will also own all

/25/ Exelon will a pre-effective amendment to the is Application-Declaration seeking approval of the service company subsidiary of Genco if it is determined to create that company. Such filing would include all the information necessary for the Commission to make the determination required under Rule 88. Exelon requests that if a post-effective amendment is filed, any further order be entered without the necessity for further publication of notice of the filing.

of the voting interest in Genco./26/ This structure allows Exelon to align its non-utility enterprises and its non-State regulated electric generating business in an efficient and simple manner.

Likewise, for a variety of regulatory and business reasons, Exelon has determined that it wishes to include another intermediate holding company -- Exelon Energy Delivery Company ("Exelon Delivery") in its corporate organization. This company would serve as parent for ComEd and PECO./27/

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

F. Description of the Merger

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

The Merger Agreement provides that through a transition period beginning with the closing of the merger and ending December 31, 2003, the Board of Directors of Exelon will consist of 16 members initially, 50% of the directors will be recommended by Unicom from among the members of its board at the time of closing and 50% of the directors will be recommended by PECO from among the members of its board at the time of closing. The Board of Directors will be divided into three classes, as nearly equal in number as possible, with equal numbers (as nearly as possible) of Unicom and PECO directors in each class. In addition to the executive committee, which shall include the two Co-CEO's, two PECO independent directors and two Unicom independent directors, initially there will be other committees of the board, with the chairmen to be equally divided between PECO designated directors and Unicom designated directors. For the first half of the transition period, Mr. Corbin A. McNeill, Jr., current Chairman and CEO of PECO, will be Chairman and Co-CEO of Exelon, and Mr. John W. Rowe, current

/26/ It is currently contemplated that Genco will be organized as a limited liability company as will Enterprises, although Enterprises may be a business corporation.

/27/ Exelon believes that substantially all conditions to the completion of steps necessary to achieve the corporate structure shown in Exhibit E-5 will be satisfied at or about the time of the Merger. However, including Exelon Delivery as a holding company for ComEd and PECO will require approval of the Pennsylvania Commission, a notice filing with the Illinois Commission and notice to and authorization and/or jurisdictional disclaimer of FERC. In the event such regulatory approvals are not obtained or other impediments develop, Exelon Delivery would not be put in place. Accordingly, Exelon requests authority to effectuate the Merger, with or without Exelon Energy Distribution Company. An analysis of how Exelon Delivery and Ventures comply with the Act is included in Item 3.B.3.a.(vi). Exelon will file with the Commission a Certification under Rule 24 upon completion of the Merger and, if it occurs later, upon completion of the transfer of common stock of ComEd and PECO from Exelon to Exelon Delivery. As indicated in Note 3 above, Exelon also requests authority to effectuate the Merger, with or without the Restructurings

Chairman and CEO of Unicom, will be Chairman of the Executive Committee of the Board, President and Co-CEO of Exelon. For the second half of the transition period, Mr. McNeill will be Chairman of the Executive Committee of the Board and Co-CEO of Exelon and Mr. Rowe will be Chairman and Co-CEO of Exelon. At the expiration of the transition period, Mr. McNeill will retire as an officer and employee of Exelon but will remain a director. The bylaws of Exelon will provide that during the transition period the terms of employment of Messrs. McNeill and Rowe and the succession process described above can be changed only by a vote of at least two-thirds of the directors.

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

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

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

Item 2. Fees, Commissions and Expenses

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

Commission filing fee for the Joint Registration Statement on Form S-4.....	\$4,024,224
Accountants' fees.....	500,000
Legal fees and expenses relating to the Act.....	690,000
Other legal fees and expenses.....	4,686,000
Shareholder communication and proxy solicitation.....	343,000
NYSE listing fee.....	536,000
Exchanging, printing, and engraving of stock certificates.....	1,745,000

Investment bankers' fees and expenses.....	68,000,000
Consulting fees related to the Merger.....	6,600,000
Miscellaneous.....	275,776

TOTAL.....	\$ 87,400,000
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Item 3. Applicable Statutory Provisions

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

Section of the Act	Transactions to which section or rule may be applicable:
2(a)(7), 2(a)(8)	Declaration that Ventures and Exelon Delivery are not holding companies or subsidiary companies for purposes of Section 11(b)(2)
4, 5	Registration of Exelon as a holding company following consummation of the Merger
6(a), 7	Issuance of Exelon common stock in exchange for shares of Unicom and PECO common stock.
9(a)(1), 10	Acquisition by Exelon of stock of Exelon Services and of non-utility subsidiaries of Unicom and PECO.
9(a)(2), 10(a), (b), (c) and (f), 11(b)	Acquisition by Exelon of common stock of ComEd, the Indiana Company, PECO, Genco and the Conowingo Companies.
8, 9(c)(3), 11(b), 21	Retention by Exelon of the retail gas utility operations of PECO; investment in and retention of other businesses of Unicom and PECO and their direct and indirect subsidiaries.
11(b)(2)	Declaration that Ventures and Exelon Delivery are not subsidiary companies or holding companies with respect to the "great-grandfather" provisions of Section 11(b)(2).
12	Transfer of generating assets of ComEd and PECO to Genco in the Restructuring; transfer of assets to Exelon Services in connection with establishment of service company.

Section of the Act -----	Transaction to which section or rule may be applicable: -----
13	Approval of the services to be provided by Exelon Services to utility subsidiaries in accordance with the General Services Agreement; approval of services to be provided thereunder by Exelon Services to the direct and indirect non-utility subsidiaries of Unicom and PECO; approval of the performance of certain services between Exelon system companies; and exemption from at-cost standards with respect to certain services between Exelon system companies.

Rules -----	
43-44	Transfers of utility assets and securities of public utility subsidiaries
80-92	Affiliate transactions, generally.

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

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

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

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

The Act directs the Commission to consider the "state of the art" in determining whether the requirements of the Act are satisfied.^{/28/} The Commission has long recognized that as the industry changes -- by means of technological development and by reason of new laws and regulations -- the Commission faces the task of applying the requirements of the Act in light of these changing conditions. Such changes since 1935 have made it possible for ever larger and geographically more diverse companies to satisfy the standards of the Act. Systems that would have been unlikely to receive approval in an earlier era have proven to be not only permitted, but in fact made necessary, by the evolving state of the art.^{/29/} Neither the Act nor what it means have

^{/28/} See the definition of "integrated public-utility system" in Section 2(a)(29).

^{/29/} See, e.g., American Electric Power Company, Inc., Holding Co. Act Release No. 20633 (July 21, 1978).

changed, but the means by which utilities can comply with the Act have changed. The Exelon system presents yet another case of a new way of complying with the long-standing requirements of the Act. In particular, the manner in which Exelon proposes to establish that it is "interconnected" and therefore to show that it meets one of the conditions to the requirement of an "integrated" system, presents a new idea. As will be shown, the means of interconnection -- through the use of available open access transmission -- is fully consistent with the requirements of the Act as demonstrated by recent cases./30/

In recent years the Commission has emphasized that the Act "creates a system of pervasive and continuing economic regulation that must in some measure at least be fashioned from time to time to keep pace with changing economic and regulatory climates."/31/ In recent decisions, the Commission has cited U.S. Supreme Court and Circuit Court of Appeals cases that recognize that an agency is not required to "establish rules of conduct to last forever,"/32/ but must "adapt [its] rules and policies to the demands of changing circumstances"/33/ and to "treat experience not as a jailer but as a teacher."/34/ Consequently, the Commission has attempted to "respond flexibly to the legislative, regulatory and technological changes that are transforming the structure and shape of the utility industry," as recommended by Division of Investment Management (the "Staff") in its report issued in June 1995 entitled "The Regulation of Public Utility Holding Companies" (the "1995 Report"). Indeed, with specific reference to the integration requirements of the Act, the 1995 Report explains:

The statute recognizes . . . that the application of the integration standards must be able to adjust in response to changes in "the state of the art." As discussed previously, the Division believes the SEC must respond realistically to the changes in the utility industry and interpret more flexibly each piece of the integration equation./35/

/30/ The discussion of the method of establishing "interconnection" sufficient to meet the integration requirements of the Act is found under Item 3, section 3.(ii) "The Merger is Not Detrimental to Carrying Out the Provisions of Section 11" and Item 3, section 3.(iii)(A) "Exelon Will Meet All Four Parts of the Integration Requirement -- Interconnection."

/31/ Union Electric Co., Holding Co. Act Release No. 18368, n. 52(April 10, 1974), quoted in Consolidated Natural Gas Co., Holding Co. Act Release No. 26512 (April 30, 1996) (authorizing international joint venture to engage in energy marketing activities); Eastern Utilities Associates, Holding Co. Act Release No. 26232 (Feb. 15, 1995) (removing restrictions on energy management activities); and Southern Co., Holding Co. Act Release No. 25639 (Sept. 23, 1992) (approving acquisition of foreign public-utility subsidiary company).

/32/ Rust v. Sullivan, 500 U.S. 173 (1991); American Trucking Assns., Inc. v. Atchison, T.&S.F.R. Co., 387 U.S. 397 (1967); Shawmut Assn. v. SEC, 146 F.2d, 791 (1st Cir. 1945).

/33/ NIPSCO Industries, Inc., Holding Co. Act Release No. 26975 (Feb. 10, 1999) [hereinafter "NIPSCO"], citing Rust v. Sullivan at 186-187. Accord, Sempra Energy, Holding Co. Act Release No. 26971 n.23 (Feb. 1, 1999) (interpreting the integration standards of the 1935 Act in light of developments in the gas industry).

/34/ NIPSCO, supra, citing Shawmut Assn. v. SEC at 796-97.

/35/ 1995 Report at 71.

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

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

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

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

Development of the competitive model for electric generation began with the Public Utility Regulatory Policies Act of 1978 ("PURPA"), which encouraged the development of new sources of generation. The development of the market for non-traditional generation for the wholesale market accelerated significantly after adoption of the Energy Policy Act of 1992 ("EPACT"). This progress has been facilitated by FERC's willingness to permit the sale of electric capacity and energy at market-based rates. The regulatory policy fostering market based rates for the commodity of electricity applies not only to non-utility generators and independent power producers ("IPPs"), which developed in the wake of PURPA, but also to traditional integrated utilities, like ComEd and PECO, who have increasingly focused on their own

wholesale marketing efforts./36/ The increasing number of wholesale sellers has also led to the development of power marketers (many of which are affiliated with utilities) -- a relatively new class of wholesale market participant that purchases and sells power produced by third parties, not from their own resources.

The increase in the number of, and capacity controlled by, non-traditional generators, and the volume of trading by power marketers has been dramatic. Nationwide, plans to build new plants by non-utility entities have expanded dramatically. For example, PJM makes public requests received by it for interconnection to the PJM transmission grid by new generating sources. As of January, 2000, the "queue" of applications for connection with the PJM grid included about 100 active projects with a total of about 40,000 MW./37/ Similar plant additions have been announced by IPPs in the Midwest as well. By the first quarter of 1999, power traded by marketers exceeded 400 million MWh, with over 100 entities engaged in the business./38/

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

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

For various reasons, including State utility restructuring laws, utilities have been selling large amounts of generating assets. From August 1997, through early 1999 approximately

/36/ ComEd and PECO have each been granted market rate authority and participate in wholesale markets. PECO's wholesale power marketing operation division (the Power Team) is one of the most active power marketers in the country. It ranked 14th out of the top 45 wholesale power sellers in 1998. Power Markets Week, at 16 (June 28, 1999).
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/37/ Current information can be found at <http://www.pjm.com/>. For reference, the PJM ISO has a peak load of about 51,000 MW.

/38/ Order No. 2000 at 15.

80,000 MW of generating capacity was sold (or was under contract to be sold) by utilities. In total, this represents more than 10 percent of U.S. generating capacity./39/ ComEd itself has sold 11,272 MW of capacity (about 55% of its total capacity before the sales) to unaffiliated purchasers. These sales contribute to the development of the market for generation by increasing the capacity in the hands of non-traditional generators and bringing new competitors into most local markets.

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

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

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

their own generation and distribution functions.

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

utilities under its jurisdiction to open their transmission systems and allow

any qualified entity to use their system on a regular basis to deliver electricity at a fair and non-discriminatory rate. The new requirements, known simply and descriptively as

/39/ RTO NOPR at 33,690.

"open access" came about in 1996 in FERC's Order No. 888 and its progeny./40/ Order No. 888's key provision was the requirement that utilities file standard transmission tariffs (called "OATTs" -- open access transmission tariffs) under which a transmission provider must offer service to any qualified user. OATTs provided utilities, other generation owners and power marketers for the first time with a generally available right to use the transmission systems of others to move power at tariffed rates.

In Order No. 889,/41/ a companion 1996 ruling, FERC also mandated that transmission owners establish a comprehensive information system regarding the availability and price of their transmission service on an Internet site called Open Access Same-Time Information System ("OASIS"). The OASIS provides a practical and efficient means for distant utilities to use the interstate transmission grid to coordinate their operations. Because of these changes it is now possible for utilities that are not adjacent to gain the advantages of coordinated operation, to jointly use their various generating assets on an economic basis and otherwise act as an integrated public utility company through the use of the OATTs and OASIS. Importantly, "open access" as dictated by Order Nos. 888 and 889, provides an easy to use, day-to-day means of coordinating electric operations. Unlike in the past, when inter-company transmission required complex, separately negotiated agreements, open access is available to all on minimal notice and at standard terms.

As a means of establishing interconnection sufficient to achieve integration under the Act, these legal and practical circumstances have only become available in recent years -- in fact only since about 1997./42/ The Merger of Unicom and PECO is one of the first to take advantage of this opportunity.

Because of the importance of OATTs and OASIS to Exelon's assertion that its electric facilities are "interconnected" and, therefore, that it is an integrated system, Exelon has prepared an Analysis of How the Interconnection

Requirement of PUHCA is Satisfied by OATTs and OASIS ("Interconnection Analysis"). This Interconnection Analysis, filed as Exhibit K-1 to this

Application-Declaration and incorporated by reference herein, describes in detail the historical development of the interstate transmission grid in the United States referred to in the preceding paragraphs of this Application-Declaration. The Interconnection Analysis also traces the

development of the competitive generating sector of the electric utility industry and demonstrates how that development, spurred by EPACT and FERC Order Nos. 888 and 889, has led to a system which will enable Exelon to operate efficiently, under normal conditions, as a coordinated and integrated public-utility system. Finally, the Interconnection Analysis includes

/40/ Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Service by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities, FERC Stats. and Regs., Regulations Preambles, (P) 31,036 (1996) ("Order No. 888"), order on rehearing, FERC Stats. & Regs., Regulations Preambles, (P) 31,048 (1997) ("Order No. 888-A"), order on rehearing, 81 FERC (P) 61,248 (1997) ("Order No. 888-B"), order on rehearing, 82 FERC (P) 61,046 (1998) ("Order No. 888-C").

/41/ Open Access Same-Time Information System (formerly Real-Time Information Network) and Standards of Conduct, Order No. 889, [1991-1996 Transfer Binder] FERC Stats. & Regs., Regs. Preambles (P) 31,035, at 31,585 (1996), order on reh"g, Order No. 889-A, III FERC Stats. & Regs., Regs. Preambles (P) 61,253 (1997).

/42/ The requirement to file an OATT was effective in 1996. OASIS went into operation in 1997.

a practical guide to moving power describing in detail exactly how the OATT and OASIS system will work to effectively and economically interconnect the parts of the Exelon system. The Interconnection Analysis does not attempt a legal

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

detailed to include here, of the factual basis for the conclusion that open access transmission constitutes "interconnection" within the meaning of the Act.

Unicom and PECO recognize and embrace the changes in the industry and believe that the Merger will result in an integrated public-utility system positioned for competition in the utility industry of the future. Open access to transmission, retail electric competition and technological changes are promoting the growth of larger and more competitive regional wholesale power markets. As more buyers and sellers participate in broader bulk power markets, increased competition will tend to produce lower and more stable electricity prices for the benefit of consumers. Although open access transmission is fully developed to enable Exelon to coordinate its utility operations, the transmission markets will become even more liquid and seamless, as a result of FERC's policy of promoting regional transmission organizations ("RTOs"), as most recently evidenced by its issuance of Order No. 2000 on December 15, 1999./43/ The development of RTOs will further streamline the currently robust market for the interstate movement of electricity and provide the tools for meeting the ever increasing demand for capacity on the interstate grid. State and Federal policy makers have recognized that the economic operation of utility systems can be achieved, and indeed is perhaps best achieved, through contractual relations in a competitive marketplace, and not simply through ownership of generation, transmission and distribution facilities.

/43/ Order No. 2000, Docket No. RM99-2-000, Final Rule Regional Transmission Organizations (December 15, 1999), 89 FERC (P) 61,285 (1999); order on reh'g, Order No. 2000-A, FERC Stats and Regs (P) 31,092 (Feb. 25, 2000). FERC defines an RTO as an entity that satisfies the minimum characteristics (independence, scope and regional configuration, operational authority and short-term reliability) and minimum functions (tariff administration and design, congestion management, parallel path flow, ancillary services, OASIS information, market monitoring, planning and expansion and interregional coordination). 18 CFR (S) 35.34. The regional organizations to which ComEd and PECO belong, MISO and PJM, are "independent system operators," which is a type of organization structure for the control or operation of transmission facilities of multiple owners. Order No. 2000 at 24. MISO and PJM may become RTOs in the future. Order No. 2000 requires all public utilities that own, operate or control interstate transmission facilities subject to FERC jurisdiction to file, by October 15, 2000, a proposal for an RTO with the minimum characteristics and functions identified in Order No. 2000, or, alternatively, a description of any efforts made by the utility to participate in an RTO, any obstacles to participation, and any plans and timetable for further work toward RTO participation. Public utilities that are members of an existing, FERC-approved regional entity must file by January 15, 2001 an explanation of the extent to which the regional entities in which they participate meet the minimum characteristics and functions of an RTO. In Order No. 2000, FERC has adopted a flexible approach that permits a number of different types of RTOs to come into being, including non-profit independent system operators and for-profit transmission companies (transcos), combinations of these two types of entities, or other approaches as yet to be determined. FERC also adopted the principle of "open architecture" so that an RTO and its members can evolve over time and improve structure, geographic scope, market support and operations to meet market needs. FERC will allow RTOs to propose changes to their enabling agreements to meet changing market, organization and policy needs. The inefficiencies that continue to exist in today's open access transmission system will be reduced as RTOs develop and mature. More information on how RTOs will further facilitate the open access transmission system is set forth in the Interconnection Analysis.

To summarize the current state of the art described in this section, the ongoing corporate restructuring of the U.S. utility industry reflects the effects of emerging FERC policy on market-based power pricing and on transmission, including Order Nos. 888, 889 and 2000 requiring open access transmission on comparable terms and the functional unbundling of the transmission and wholesale merchant functions, the formation of ISOs and the development of RTOs. It is also the product of many recent State laws mandating competitive resource procurement, retail electric competition and the functional separation (and in some States, divestiture) of generation from transmission and distribution operations. Layered on these changes are both rapid developments in technology and the emergence and growth of the power marketing and energy trading industry, both of which facilitate efficient and competitive low-cost electric markets. The cumulative effect of these regulatory, technological and economic changes has dramatically altered the "state of the art" that Congress directed the Commission to consider more than sixty years ago. The Commission must "respond realistically to the changes in the utility industry and interpret more flexibly each piece of the integration equation."/44/ The SEC Staff in its 1995 Report advised the SEC that "open access under FERC Order No. 636, wholesale wheeling under the Energy Policy Act and the development of an increasingly competitive and interconnected market for wholesale power have expanded the means for achieving the interconnection and the economic operation and coordination of utilities with non-contiguous service territories." The "means for achieving interconnection" referred to in the 1995 Report are even more developed because of the open access requirements of Order No. 888 and Order No. 2000 which were promulgated after the 1995 Report was prepared.

The 1935 Act was intended, among other things, to prevent the evils that arise "when the growth and extension of holding companies bears no relation to the economy of management and operation or the integration and coordination of related operating properties . . . "/45/ The Exelon system will be an example of growth that promotes economies and coordination of related operating properties within a single region in a manner consistent not only under the policies of the Act, but also with the policies of FERC and State regulatory initiatives. Under the Act, the ultimate determination has always been whether, on the facts of a given matter, the proposed transaction "will lead to a recurrence of the evils the Act was intended to address."/46/ The following section B, "section by section analysis" will examine each of the requirements of the Act and show that the Merger will satisfy all those provisions, will not result in a recurrence of the evils to which the Act is directed and, therefore, should be approved by the Commission.

B. Section by Section Analysis

The following is a section-by-section analysis that will demonstrate that the Merger is consistent with each of the referenced sections of the Act and should, therefore, be approved by the Commission. This discussion will show that the Merger clearly comports with Commission precedent. As noted, the one area where the Merger might be said to present novel facts, is in the method of establishing "interconnection" sufficient to meet the integration requirements of the

/44/ 1995 Report at 67.

/45/ Section 1(b)(4).

/46/ Union Electric Co., quoted in Southern Co., Holding Company Act Release

No. 25639 (Sept. 23, 1992).

Act. The discussion of this topic is found under section 3.(ii) "The Merger is Not Detrimental to Carrying Out the Provisions of Section 11" and section 3.(iii)(A) "Exelon Will Meet All Four Parts of the Integration Requirement -- Interconnection," below.

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

Section 9(a)(2) makes it unlawful, without approval of the Commission under Section 10, "for any person...to acquire, directly or indirectly, any security of any public-utility company, if such person is an affiliate" of such company and of any other public-utility or holding company, or will by virtue of such acquisition become such an affiliate."/47/ As a result of the Merger, Exelon will directly or indirectly acquire all of the outstanding voting securities of, and therefore be an affiliate of, each of the following public-utility companies: ComEd, the Indiana Company, PECO, Genco and the Conowingo Companies./48/ The Merger therefore requires prior Commission approval under the standards of Section 10. The relevant standards are set forth in Sections 10(b), 10(c) and 10(f) of the Act.

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

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

/47/ Under the definition set forth in Section 2(a)(11), an "affiliate" of a specified company means "any person that directly or indirectly owns, controls, or holds with power to vote, 5 per centum or more of the outstanding voting securities of such specified company," and "any company 5 per centum or more of whose outstanding voting securities are owned, controlled, or held with power to vote, directly or indirectly, by such specified company."

/48/ Upon completion of the Restructurings, the Conowingo Companies will be subsidiaries of Genco. See Exhibit E-5.

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

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

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

(a) Section 10(b)(1) -- Interlocking Relations/Concentration of Control

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

because the Merger will not "tend towards interlocking relations or the concentration of control of public utility companies, of a kind or to an extent detrimental to the public interest or the interests of investors or consumers." By its nature, any merger results in new links between previously unrelated companies. The Commission has recognized that such interlocking relationships are permissible in the interest of efficiencies and economies.^{49/} The links that will be established as a result of the Merger are not the types of interlocking relationships targeted by Section 10(b)(1), which is primarily aimed at preventing business combinations for reasons unrelated to attaining operating synergies. In the present circumstances, the so-called interlocking relationships will consist of new Boards of Directors of Exelon and its subsidiaries and various contractual arrangements designed to integrate the Exelon system and to produce efficiencies and economies. The Merger Agreement provides for the Board of Directors of Exelon to consist of up to 16 members, one-half designated by Unicom and one-half designated by PECO.^{50/} This is a typical arrangement in a merger of equals transaction such as the Merger.

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

^{49/} Northeast Utilities, Holding Co. Act Release No. 25221 (Dec. 21, 1990), as modified, Holding Co. Act Release No. 25273 (Mar. 15, 1991), aff'd sub nom. City of Holyoke v. SEC, 972 F.2d 358 (D.C. Cir. 1992) ("interlocking relationships are necessary to integrate [the two merging entities]").

^{50/} The Applicant acknowledges the requirements of Section 17(c) of the Act and Rule 70 thereunder with respect to limitations upon directors and officers of registered holding companies and subsidiary companies thereof having affiliations with commercial banking institutions and investment bankers and undertake that, upon completion of the Merger, it will be in compliance with the applicable provisions thereof.

- . General Service Agreements. ComEd, the Indiana Company, PECO, Genco

and the Conowingo Companies will each enter into a General Services Agreement with Exelon Services. Under the General Services Agreement, Exelon Services will also provide services to Exelon's direct and indirect non-utility subsidiaries. Through the consolidation of functions into Exelon Services, the Exelon system will achieve substantial economies and efficiencies. Services incidental to their business function may be provided directly by ComEd or PECO in compliance with Rule 87(a)(3). The provision of services between ComEd and PECO and certain affiliates will be subject to State regulation as well.
- . Genco, ComEd, PECO Power Sales Agreements. All generating facilities

of ComEd and PECO will be transferred to Genco. Genco will enter into arrangements with ComEd and PECO to provide them with power necessary for them to meet their "bundled service" or "provider of last resort" obligations under State law and, at the request of ComEd and PECO, will be available to meet future supply needs or coordinate purchases from non-affiliated suppliers. Genco will coordinate Exelon's purchases of power from non-affiliated entities for its competitive marketing activities. Because of this consolidation of generation in a single entity, the Exelon system will not need the typical "joint operating agreement" or "joint dispatch agreement" that many other systems use to achieve coordinated operations.
- . Marketing. The function of marketing the available generating capacity

of the Exelon system will be coordinated by Genco. Genco will include the existing energy marketing functions of PECO's Power Team as well as the wholesale sales and marketing operations of ComEd.

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

Unlike many existing registered holding company systems, the integrated electric system of ComEd, PECO and Genco (the "Exelon Electric System") will have no need for a transmission integration agreement. The Exelon Electric System will be physically interconnected through the open access transmission service which the operating companies have the right to obtain and use on non-discriminatory terms by virtue of FERC Order Nos. 888 and 889 and the applicable open access tariffs of the utilities whose facilities form the electrical paths between the two parts of the Exelon Electric System. In keeping with this approach Genco, which will own and operate all of the Exelon Electric System's integrated generating facilities, will arrange for interconnecting paths to ensure that both ComEd and PECO receive power from one another when it is economically desirable. Thus, under normal conditions, Exelon will be able to engage in coordinated operations in a manner necessary to establish that it is an integrated public utility company. Further, the transmission facilities owned by ComEd and PECO themselves will each be made available to the other company and these transmission systems

will be operated by the respective independent regional transmission system operators (the MISO in the case of ComEd, PJM in the case of PECO) under the non-discriminatory terms contained in the applicable regional open-access tariffs. Finally, under the prevailing retail access programs of Illinois and Pennsylvania, the rates of ComEd's and PECO's retail customers (those that choose to retain the companies as their suppliers) are frozen or capped and will be unaffected by the level and allocation of transmission costs incurred by the Exelon Electric System companies while the frozen or capped rates are in effect.

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

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

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

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

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

In applying Section 10(b)(1) to utility acquisitions, the Commission must further determine whether the acquisition will create "the type of structures and combinations at which the Act was specifically directed."/51/ The Merger will not create a "huge, complex and irrational system" but, rather, will afford the opportunity to achieve economies of scale and efficiencies for the benefit of investors and consumers. The Merger is a direct response to the desire of the

/51/ Vermont Yankee Nuclear Power Corp., Holding Co. Act Release No. 15958

(Feb. 6, 1968).

legislature and regulators in Illinois and Pennsylvania to enhance competition in the electric utility business. See American Electric Power

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

explained in the Joint Proxy Statement and Prospectus of Unicom and PECO (the "Joint Proxy Statement") (a copy of which is included as Exhibit C-2), a primary reason for the Merger is to position the companies to participate in the growing and increasingly competitive energy markets. Specifically, the Merger will combine the strengths of the two companies, enabling them to offer customers a broader array of energy products and services more efficiently and cost-effectively than could either company acting alone. At the same time Exelon will benefit from larger and more diverse asset and customer bases, with enhanced opportunities for operating efficiencies and risk diversification. Although Exelon will be one of the larger registered holding companies, its operations will not exceed the economies of scale of current electric generation and transmission technology, nor provide undue market power or control to Exelon in the region in which it will provide service.

Size. While the combination of Unicom and PECO will result in a larger

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

The following table shows the Exelon Electric System's relative size as compared to other registered systems in terms of assets, operating revenues and customers/52/:

System	Total Assets (\$ Millions)	Operating Revenues (\$ Millions)	Electric Customers (Thousands)
Southern	36,192	11,403	3,794
Entergy	22,848	11,495	2,495
AEP/53/	19,483	6,346	3,022
CSW	13,744	5,482	1,752
GPU	16,288	4,249	2,041
Exelon	36,726	12,225	4,737

/52/ (Feb. 6, 1968). 52 U.S. Securities and Exchange Commission, Financial and Corporate Report, Holding Companies Registered under the Public Utility Holding

Company Act of 1935 as of July 1, 1999 (data provided is as of December 31,

1998); Unicom and PECO from Unaudited Pro Forma Combined Condensed Financial Statements included in S-4 Registration Statement filed as an Exhibit hereto.

/53/ The proposed merger of American Electric Power and Central and South West Corporation is pending before the Commission. In Amendment No. 4 to the U-1 filed in connection with the merger American Electric Power indicates that the combined company would have revenues of \$9,834 million, assets of \$33,227 million and electric customers of 4.7 million.

Moreover, the Commission has approved a number of acquisitions involving similarly-sized operating utilities./54/

The Commission has rejected a mechanical size analysis under Section 10(b)(1) in favor of assessing the size of the resulting system with reference to the economic efficiencies that can be achieved through the integration and coordination of utility operations. See, e.g., AEP, supra. The Commission in AEP

noted that, although the framers of the Act were concerned about "the evils of bigness, they were also aware that the combination of isolated local utilities into an integrated system afforded opportunities for economies of scale, the elimination of duplicate facilities and activities, the sharing of production capacity and reserves and generally more efficient operations . . . [and] [t]hey wished to preserve these opportunities." Id. By virtue of the Merger, Exelon

will be in a position to realize precisely these types of benefits. Among other things, the Merger is estimated to yield labor cost savings, corporate and administrative and purchasing savings, and savings in the cost of fuel, information technology, facilities, vehicles, and corporate programs including insurance, advertising, organization dues and benefits./55/

Competitive Effects. Section 10(b)(1) also requires the Commission to consider the possible anticompetitive effects of a proposed combination. In this case, Unicom and PECO have filed Notification and Report Forms with the Department of Justice and the Federal Trade Commission pursuant to the HSR Act describing the effects of the Merger on competition in the relevant market. It is a condition to the consummation of the Merger that the applicable waiting period under the HSR Act shall have expired or been terminated./56/

The competitive impact of the Merger was also considered by FERC. In its order approving the Merger, FERC found that the horizontal aspects of the Merger relating to consolidating generation would not adversely affect competition. Further, FERC found that the Merger would not adversely affect competition through the strategic dispatch of generation or through the vertical aspects associated with combining the generation and transmission systems. Finally, the FERC found no serious concern with combining generation assets with PECO's limited role as a gas distribution company. Based on this review and review of other relevant factors, FERC approved the Merger without imposing any conditions on the Merger./57/ No party to the FERC proceeding on the Merger sought rehearing of the Commission's approval and it is now final and is not subject to any court appeal.

/54/ See, e.g., Entergy Corporation, Holding Co. Act Release No. 25952

(Dec. 17, 1993) (acquisition of Gulf States Utilities; combined assets at time of acquisition in excess of \$22 billion); TUC Holding Company, Holding Co. Act

Release No. 26749 (Aug. 1, 1997) (combination of Texas Utilities Company and ENSERCH Corporation; combined assets at time of acquisition of \$24.0 billion).

/55/ These expected economies and efficiencies from the combined utility operations are described in greater detail in Item 3.B.3(b).

/56/ The waiting period expired in April 2000.

/57/ Commonwealth Edison Co., 91 FERC (P) 61,036 (Apr. 12, 2000)(filed as Exhibit D-1.3 hereto).

The Commission has found, and the courts have agreed, that it may watchfully defer to FERC with respect to such matters./58/

As summarized in the testimony of Dr. Heironymous submitted in support of the FERC application (filed as Exhibit D-1.2 hereto), there is no adverse impact on competition resulting from the consolidation of the pre-merger market shares of ComEd and PECO./59/

ComEd has given up ownership of nearly half of its generation in northern Illinois, a measure which addresses ComEd's position in its own highly concentrated market. Although PECO owns substantial generation in its own right, the newly merged system will own a portfolio of generation that is approximately the same size as, but which is dispersed over a larger area than, ComEd's pre-divestiture portfolio. In the competitive generation market in which they operate, ComEd and PECO will continue to have little ability or incentive to raise market prices. Further, within a relatively short time-frame, ComEd's transmission operation and control area functions will be turned over to the MISO, an independent regional organization that meets FERC's standards./60/

PECO's transmission already is controlled by PJM.

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

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

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

if the consideration to be paid in connection with the combination, including all fees, commissions and other remuneration, is "not reasonable or does not bear a fair relation to the sums invested in or

/58/ See City of Holyoke v. SEC, supra at 363-64, quoting Wisconsin's

Environmental Decade v. SEC, 882 F.2d 523, 527 (D.C. Cir. 1989).

/59/ While ComEd and PECO offered to sell their 300 MW ComEd to PECO power purchase contract as a mitigation measure, FERC found that such a sale was unnecessary.

/60/ ComEd may turn over its transmission assets to the control of an ITC which will operate with MISO oversight.

the earning capacity of . . . the utility assets underlying the securities to be acquired." The Commission has found "persuasive evidence" that the standards of Section 10(b)(2) are satisfied where, as here, the agreed consideration for an acquisition is the result of arm's-length negotiations between the managements of the companies involved, supported by opinions of financial advisors./61/

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

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

Third, the merger consideration is the product of extensive and vigorous arm's-length negotiations between Unicom and PECO. These negotiations were preceded by extensive due diligence, analysis and evaluation of the assets, liabilities and business prospects of each of the respective companies. This process is described in "Background of the Merger" in the Joint Proxy Statement./62/ As recognized by the Commission in Ohio Power Co., Holding Co.

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

Fourth, nationally recognized independent investment bankers have reviewed extensive information concerning PECO and Unicom, analyzed the merger consideration employing a variety of valuation methodologies, and ultimately opined that the merger consideration is fair to the respective holders of Unicom common stock and PECO common stock as of January 7, 2000, the date of the amendment to the Original Merger Agreement which resulted in the Merger Agreement and the final merger consideration. The investment bankers' analyses are described in detail and their opinions are included in full in the Joint Proxy Statement. The assistance of independent consultants in setting consideration has been recognized by the Commission as evidence that the requirements of Section 10(b)(2) have been met./63/

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

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

/61/ See Southern Company, Holding Co. Act Release No. 24579 (Feb. 12, 1988); Consolidated Natural Gas Co., et al., Holding Co. Act Release No. 25040 (February 14, 1990).

/62/ See pages 22 through 27 in the Joint Proxy Statement filed as Exhibit C-2 heret o.

/63/ Southern Company, supra; and SV Ventures, Inc., Holding Co. Act Release No. 24579 (Feb. 12, 1988).

public, investors and consumers are consistent with recent precedent and meet the standards of Section 10(b)(2).

As set forth in Item 2 of this Application-Declaration, Unicom and PECO together expect to incur a combined total of approximately \$87.4 million in fees, commissions and expenses in connection with the Merger, including the fees of financial and other advisors. AEP and Central and South West Corporation have represented that they expect to incur total transaction fees and regulatory processing fees of approximately \$53 million in connection with their proposed merger. New Century Energies and Northern States Power incurred an estimated \$43.7 million in fees in connection with their proposed merger. The Cincinnati Gas and Electric Company and PSI Resources incurred \$47.12 million in fees in connection with their reorganization as subsidiaries of CInergy; Northeast Utilities alone incurred \$46.5 million in fees and expenses in connection with its acquisition of Public Service of New Hampshire; and Entergy alone incurred \$38 million in fees in connection with its acquisition of Gulf States Utilities - - which amounts all were approved as reasonable by the Commission./64/

The Applicant believes that the estimated fees and expenses in this matter bear a fair relation to the value of their respective companies and the benefits to be achieved by the Merger, and further that the fees and expenses are fair and reasonable in light of the size and nature of the Merger. See Northeast

Utilities, supra (noting that fees and expenses must constitute normal costs and

represent a minor part of the overall acquisition). Based on the closing prices of Unicom and PECO common stock on September 21, 1999, which was the day prior to the original announcement of the transaction, the Merger would be valued at approximately \$18 billion. The total estimated fees and expenses of \$87.4 million represent approximately 0.49% of that value. The value of the consideration to be paid under the purchase method of accounting is \$5.759 billion and such total estimated fees and expenses represent about 1.5% of that amount. These figures are consistent with percentages previously approved by the Commission. See, e.g., Entergy Corp., supra (fees and expenses represented

approximately 1.7% of the value of the consideration paid to the shareholders of Gulf States Utilities); Northeast Utilities, supra (fees and expenses represented approximately 2% of the value of the assets to be acquired).

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

Applicable Standard. Section 10(b)(3) requires the Commission to

determine whether the Merger will "unduly complicate the capital structure" or be "detrimental to the public interest or the interest of investors or consumers or the proper functioning" of the Exelon system.

Exelon's Capital Structure. The capital structure of Exelon will be

substantially similar to capital structures approved by the Commission in other orders./65/ Exelon's capital structure

/64/ CInergy, Holding Co. Act Release No. 26146 (Oct. 21, 1994); Northeast

Utilities, Holding Co. Act Release No. 25548 (June 3, 1992); and Entergy Corp., Holding Co. Act Release No. 25952 (Dec. 17, 1993).

/65/ See, e.g., Ameren Corporation, Holding Co. Act Release No. 26809 (Dec. 30, 1997); CInergy Corp; Holding Co. Act Release No. 26934 (Nov. 2, 1998); and Centerior Energy Corp., Holding Co. Act Release No. 24073 (April 29, 1986).

will also be similar to the capital structures of existing registered holding company systems. The shareholders of Unicom and PECO will each receive Exelon common stock. Exelon will own directly or indirectly 100% of the common stock of PECO, Genco, the Indiana Company and the Conowingo Companies, and there will be no minority common stock interest in any of those companies. Exelon will own virtually all (over 99%) of the common stock of ComEd.⁶⁶ The very small outstanding amount of ComEd common stock not owned by Exelon relates to outstanding warrants and convertible preferred stock of ComEd which converts into ComEd common stock. Although Unicom has had a standing exchange offer whereby it will exchange for Unicom common stock any ComEd common stock issued on the exercise of these warrants or convertible preferred stock, some shareholders have failed to take advantage of the offer. Exelon expects to continue to make available a similar exchange offer post merger.⁶⁷ Consequently, there will be no disadvantage to those few holders of ComEd common stock as a result of the transactions. They will be able to exchange their ComEd common stock for Exelon common stock at any time.

Although Exelon will have an authorized class of preferred stock, there are no current plans to issue any Exelon preferred stock. Exelon will have the ability to issue, subject to the approval of the Commission, preferred stock, the terms of which may be set by Exelon's Board of Directors.^{68/} The only outstanding class of voting securities of Exelon's direct non-utility subsidiaries will be common stock and, in each case, all issued and outstanding shares of such common stock will be held by Exelon (except as noted in Exhibits I-1 and I-2).

The existing debt securities and preferred stock of ComEd and PECO will remain outstanding without change.^{69/}

Set forth below are summaries of the capital structures of Unicom and PECO as of March 31, 2000, and the pro forma combined consolidated capital structure of Exelon (assuming the Merger occurred on March 31, 2000):

^{66/} If Exelon decides to create Exelon Delivery, it would own the ComEd common stock and Exelon would own 100% of the voting securities of Exelon Delivery.

^{67/} Exelon will seek the necessary approval for such exchange in the Financing U-1.

^{68/} See, e.g., Columbia Gas System, Inc., Holding Co. Act Release No. 26361

(Aug. 25, 1995) (approving restated charter, including authorization to issue preferred stock the terms of which, including voting rights, can be established by the board of directors).

^{69/} It is contemplated that Genco will assume the pollution control bonds of PECO issued to finance facilities at the generating stations being transferred to Genco.

Unicom and PECO Historical
Capital Structures

(dollars in millions)

	Unicom	PECO
Common stock equity	\$ 3,932	\$ 1,895
Preferred stock	352	321
Long-term debt	6,965	6,895
Short-term debt/70/	445	135
	-----	-----
Total	\$11,694	\$ 9,246
	=====	=====

Exelon Pro Forma Consolidated
Capital Structure

(dollars in millions)(unaudited)

Common stock equity	\$ 6,654
Preferred stock	673
Long-term debt	13,860
Short-term debt/70/	580

Total	\$21,767
	=====

The anticipated consolidated common equity of Exelon when it is formed in the Merger, is 31% of total capitalization./71/ This is within the range of the common equity component of capitalization found acceptable by the Commission./72/

Exelon seeks approval to form two intermediate holding companies --Ventures to hold the interests in Genco and Enterprises and Exelon Delivery to hold ComEd and PECO. Ventures is necessary to achieve a simple corporate structure while minimizing the Federal and State income tax

/70/ Includes current portion of long-term debt.

/71/ The anticipated consolidated capitalization takes into account the adjustments resulting from purchase accounting for the Merger and the affects of the Restructuring transactions. The anticipated post-Merger consolidated common equity ratio for Exelon, excluding securitization debt as indebtedness, is 46%.

The anticipated common equity ratio for ComEd, excluding securitization debt is 39% and including securitization debt is 30%, while the anticipated common equity ratio for PECO, excluding securitization debt is 40% and including securitization debt is 15%. For a complete discussion of the capitalization of Exelon, see the Financing U-1.

/72/ Northeast Utilities, Holding Co. Act Release No. 25221 (Dec. 21, 1990);

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

Subsidiary Companies of Registered Public-Utility Holding Companies, Holding

Company Act Release No. 25573 (July 7, 1992). Under section 7(d)(1) of the Act, the Commission generally has required a registered holding company system and its public-utility subsidiaries to maintain no more than a 65/30 debt/common equity ratio, with the balance generally being preferred equity. Such debt/equity capitalization requirement was included in rule 52, as originally adopted, as applied to securities issued by public-utility subsidiaries, but was eliminated in 1992. Several extraordinary events in recent years involving write-offs related to utility restructuring have resulted in lower than historical levels of retained earnings at Unicom and PECO. The companies expect that Exelon's common stock ratio will improve after the Merger. See Unaudited Pro Forma Combined Condensed Financial Statements in the Form S-4 Registration Statement filed as an exhibit hereto.

impact of combining the unregulated businesses of Unicom and PECO. Alternative structures were considered but each had serious disadvantages including potential tax liabilities ranging from about \$5 million to about \$80 million. Alternative structures which would minimize tax liability were much less desirable from a business organization viewpoint and involved much more complicated corporate structures. With respect to Exelon Delivery, Exelon wishes to emphasize the separation of its "wires" business --the transmission and distribution functions of ComEd and PECO -- from its non-State regulated utility --Genco -- and non-utility -- Enterprises -- businesses. Providing a corporate organization that clearly and fully separates the distribution business from other business will better insulate the distribution business, which will continue to be regulated, from unregulated business. Further, providing a separate management structure for the distribution business will provide for management focus on that business enabling better integration and efficient development of that business.

The Commission has recognized in recent cases that there are organizational, regulatory and tax benefits to the creation of intermediate holding companies that should be considered.^{/73/} The harms that the Act envisioned would be prevented by the reduction or elimination of intermediate holding companies are unlikely to occur given modern financial reporting and affiliate transaction requirements. Exelon's proposal will not result in harmful pyramiding of holding company groups. There is no risk of unfair or inequitable distribution of voting power from the proposal. Neither Ventures nor Exelon Delivery will issue any voting securities to anyone other than Exelon. Accordingly, the Commission should approve the formation of Ventures and Exelon Delivery, "look through" the intermediate holding companies or treat them as a single company for purposes of analysis under Section 11(b)(2) of the Act.

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

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

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

^{/73/} National Grid Group plc, Holding Co. Act Release No. 27154 (Mar. 15, 2000)(intermediate holding companies necessary for cross-border tax considerations); Dominion Resources, Holding Company Act Release No. 27113 (Dec. 15, 1999)(intermediate holding company "CNG Acquisitions" to hold CNG's utility subsidiaries under alternative form of merger)

Finally, consummation of the Merger is conditioned upon receipt of all necessary State and Federal regulatory approvals. These regulatory approvals will assure that the interests of retail customers and wholesale customers are adequately protected. FERC's approval will provide assurances that there is no significant adverse effect on competition, no adverse effect on wholesale rates, and no adverse effect on Federal and State regulation. Moreover, as noted by the Commission in approving Entergy's acquisition of Gulf States Utilities, "concerns with respect to investors" interests have been largely addressed by developments in the Federal securities laws and the securities market themselves."/74/ Exelon, ComEd and PECO will be reporting companies subject to the continuous disclosure requirements of the Securities Exchange Act of 1934, as amended ("1934 Act") following the completion of the Merger. The various reports previously filed by Unicom, ComEd and PECO under the 1934 Act contain readily available information concerning the Merger. For these reasons, the Applicant believes that the Merger will be in the public interest and the interest of investors and consumers and will not be detrimental to the proper functioning of the resulting holding company system.

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

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

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

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

(i) The Merger will be lawful under Section 8

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

/74/ Entergy Corp., Holding Co. Act Release No. 25952 (Dec. 17, 1993).

Additional assurances are expected to be provided in connection with PECO's application for merger approval filed before the Pennsylvania Commission. In its Pennsylvania application PECO has requested that the Pennsylvania Commission find that the proposed combination "is [not] likely to result in anticompetitive or discriminatory conduct, including the unlawful exercise of market power, which will prevent retail [gas] customers in this Commonwealth from obtaining the benefits of a properly functioning and workable competitive retail [natural gas] market," as required by the Pennsylvania Natural Gas Competition Act./75/ A favorable finding by the Pennsylvania Commission will provide the Commission additional assurance that the requirements of Section 8 of the Act have been satisfied.

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

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

(A) The Utility Systems Created by the Merger

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

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

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

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

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

Section 2(a)(29)(A). As the definition suggests, and the Commission has observed, Section 11 is not intended to impose "rigid concepts" but rather creates a "flexible" standard designed "to accommodate changes in the electric utility industry."⁷⁶ Section 2(a)(29)(A) expressly directs the Commission to consider the 'state of the art' in analyzing the integration requirement. As indicated above, the Commission is not constrained by its past decisions interpreting the integration standards based on a different 'state of the art.' See AEP, supra (noting that the state of the art -- technological advances in generation and transmission, unavailable thirty years prior -- served to distinguish a prior case and justified "large systems spanning several states.")

The ultimate determination under Section 11 of the Act has always been whether, on the facts of a given matter, the proposed transaction "will lead to a recurrence of the evils the Act was intended to address."⁷⁷ As shown by this Application-Declaration, the combination of Unicom and PECO will in no way lead to a recurrence of the problems the Act was designed to eliminate. In the following section, this Application-Declaration describes how the Exelon electric system will meet all of the four requirements of integration set out in the Act.

/76/ UNITIL Corp., Holding Co. Act Release No. 25524 (April 24, 1992); see

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

1955) ("We think it is clear from the language of Section 2(a)(29)(A), which defines an integrated public-utility system, that Congress did not intend to imposed [sic] rigid concepts with respect thereto.") (citations omitted); and see also Madison Gas and Electric Company v. SEC, 168 F.3d 1337 (D.C. Cir. 1999)

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

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

NIPSCO.

/77/ Union Electric, supra.

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

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

- . Centralized Generation Function. Genco will coordinate the efficient use

of the generation formerly held by ComEd and PECO for the benefit of the Exelon Electric System. The creation of Genco is made possible, in part, by the passage of utility regulation restructuring legislation in Illinois and Pennsylvania.
- . Centralized Operations Function. Genco will coordinate the economic

dispatch of all generation and, together with one or more specialized operating subsidiaries, will coordinate the efficient functioning of Exelon's entire electric utility operations --including transmission and distribution systems. As the industry moves to a competitive model, to the extent the regulated distribution functions continue to be energy suppliers, they will increasingly look to all potential sources of generation in the market. Genco will be able to supply power to its affiliates and to non-affiliated customers.
- . Centralized Nuclear Operations Function. The safe and efficient operation

of all of Exelon's nuclear generating stations will be coordinated through a centralized function which will adopt best practices and gain efficiencies through concentrated efforts.
- . Centralized Administrative Function. Exelon Services Company will be

formed to oversee all centralized corporate and administrative services. Exelon, with corporate headquarters in Chicago, Illinois, will coordinate utility operations functions with facilities in Chicago and Philadelphia, Pennsylvania. ComEd and PECO will maintain the benefits of localized management through local offices throughout their service areas. Exelon's utility subsidiaries will remain fully subject to applicable State and Federal public utility regulation, which will not be adversely affected by the Merger.
- . Centralized Interconnection Management. Exelon will effectuate the coordinated operations of its generation, transmission and distribution functions through Genco's administration of transmission interconnections sufficient to ensure that the benefits of the centralized control and dispatch of generating assets are realized./78/ Exelon will be interconnected through the transmission facilities of ComEd and PECO and extensive interstate open access transmission capacity. Exelon will have the legal right under the OATTs to move power economically to customers as needed in

/78/ Operation of the transmission system of PECO is already conducted by PJM and the ComEd transmission system will soon be operated by MISO or the ITC.

amounts sufficient to meet its operating needs throughout the Exelon system. Because of legal and operating changes in transmission made within the last five years, Exelon will be one of the first public utility holding company systems to be able to operate in an interconnected and coordinated manner -- under normal conditions-- by use of OATTs and OASIS technology and protocols. Exelon believes the use of a flexible array of firm and non-firm transmission reservations available through the OATTs is sufficient under the Act, and is the best and most economical way, to achieve the interconnection necessary to establish integration. The reservation of a single end-to-end, all hours firm contract path will not add any significant increased capacity, availability, flexibility or reliability to Exelon's interconnections; but will add cost. However, to the extent the Commission deems it necessary under the Act, Exelon will procure a 100 MW firm transmission path as described herein to be part of its interconnection resources.

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

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

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

manner within the meaning of the Act can be considered to be in the

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

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

(A) Interconnection(A)

The first requirement for an integrated electric utility system is that the electric generation and/or transmission and/or distribution facilities comprising the system be "physically interconnected or capable of physical interconnection." Historically, the Commission has focused on physical interconnection through facilities that the parties owned or, by specific contract, controlled./79/ As early as 1978, however, -- well before the developments creating a

/79/ See, e.g., Northeast Utilities, Holding Co. Act Release No. 25221 (Dec. 21, 1990) ("Northeast Utilities") at n.74, supplemented, Holding Co. Act Release No. 25273 (Mar. 15, 1991), aff'd sub nom. City of Holyoke v. SEC.,

flexible, open access transmission grid -- the Commission considered the effect of joint participation in a power pool as a basis for a finding of integration./80/ To date, the Commission has found interconnection through memberships in "tight" power pools and ISOs./81/ These findings are consistent with the recommendation of the 1995 Report that the Commission "adopt a more flexible interpretation of the geographic and physical integration standards, with more emphasis on whether an acquisition will be economical and subject to effective regulation."/82/

The 1995 Report further recommended that the Commission should increasingly rely on an acquisition's demonstrated economies and efficiencies, rather than upon the physical interconnection of facilities, to meet the integration standard./83/ The 1995 Report noted that the 1935 Act provides the necessary flexibility to adjust the integration standards in light of changes in the "state of the art."/84/ The 1995 Report concluded that it would be a logical extension of prior orders for the Commission to find that wheeling and other forms of sharing power (such as reliability councils and proposed regional transmission groups) meet the statutory interconnection standard./85/

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

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

(continued...)

972 F.2d 358 (1992) (Northeast had the right to use a Vermont Electric line for ten years, with automatic two-year extensions, subject to termination upon two years notice, in order to provide power to a Northeast affiliate.); Centerior

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

Electric Illuminating Company and Toledo Edison Company were connected by a line owned by Ohio Edison. All three were members of the Central Ohio Power Coordination Group ("CAPCO"). The line connecting Cleveland Electric, Ohio Edison and Toledo was a CAPCO line with segments owned by each of the three named utilities.); Electric Energy, Inc., 38 SEC 658, 668-671 (1958) (the right

to use a transmission line owned by a different company found sufficient to satisfy integration.); Cities Service Power & Light, Co., 14 SEC 28, 53 n.44

(1943) (two companies in the same holding company system were found to be interconnected where energy was transmitted between two separated parts of the system over a transmission line owned by the United States Bureau of Reclamation, under an arrangement which afforded the system the privilege of using the line).

/80/ See AEP, supra ("The pooling issue is one aspect of the major debate, . . .

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

/81/ UNITIL Corp., supra (interconnection through NEPOOL), and Conectiv, Inc.,

Holding Co. Act Release No. 26382 (Feb. 25, 1998) (interconnection through PJM, Inc.). See also Yankee Atomic Elec. Co., 36 SEC 552, 565 (1955); Connecticut

Yankee Atomic Power Co., 41 SEC 705, 710 (1963) (authorizing various New England

companies to acquire interests in a commonly-owned nuclear power company and finding the interconnection requirement met because the New England transmission grid already interconnected the companies).

/82/ 1995 Report, at 70.

/83/ Id.

/84/ Id. at 71.

/85/ Id.

"open access" from a "case-by-case" arrangement of individually negotiated contracts to a standardized system where transmission is available on short notice to all comers at a set price. If the 1995 Report were being written today it seems reasonable to conclude that it would find that the current state of the open access transmission system results in the "interconnection" of participating utilities within the meaning of the Act./86/

The Commission in the past has found the interconnection requirement met where the parties had a firm contract path. "The physical interconnection requirements of [Section 2(a)(29)(A)] are met if the two service areas are connected by power transmission lines that the companies have the right to use whenever needed."/87/

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

Further, as detailed in the Interconnection Analysis, the legal rights

encompassed in Order No. 888 and the open access tariffs of transmission owners will provide a more comprehensive and reliable method of interconnection than the single contract path relied upon in prior cases. The transmission capacity available through open access transmission tariffs is directly analogous to the rights attendant to participation in a power pool. In fact, the "right to use"

/86/ See the 1995 Report at 71.

/87/ Centerior, supra (emphasis added). Dicta in a series of Commission

decisions states that contract rights cannot be relied on to integrate two "distant" systems. See, e.g., WPL Holdings, Inc., Holding Co. Act Release No.

26856 (April 14, 1998), citing UNITIL Corp., supra; Northeast Utilities, Holding

Co. Act Release No. 25273 (March 15, 1991); Centerior Energy Corp., supra. In

the Applicant's view, it would be incorrect to interpret these statements to mean that a firm contract path might not meet the "physical interconnection" requirement because of its length. In both UNITIL and Northeast Utilities, the

Commission explained that the reason a contract path might not "integrate" two distant utilities was due to the "single area or region" requirement of Section 2(a)(29)(A). UNITIL, supra at n.30; Northeast Utilities, supra at n.75. The

Commission did not hold in any of these cases that the length of a firm contract path was relevant in determining whether the "physically interconnected or capable of physical interconnection" requirement of Section 2(a)(29)(A) was met. Such a holding would be contrary to the literal language of Section 2(a)(29)(A).

use" transmission afforded by OATTs is equivalent, in all respects essential to the analysis under the Act, to the rights associated with power pools which the Commission has often, and recently, relied on for a finding of interconnection and the ability to operate in a coordinated manner./88/

In 1992, the Commission approved the merger of UNITIL Corporation with Fitchburg Gas and Electric Light Company based on their common membership in the New England Power Pool ("NEPOOL"), a regional power pool./89/ UNITIL and Fitchburg were not connected through transmission lines that they owned. Rather, as the Commission noted in its order:

Access to and use of the regional transmission network, which

is owned by the larger New England utilities, is provided by
the NEPOOL Agreement and by transmission rate schedules and
contracts filed with the Federal Energy Regulatory Commission.

In this matter, the Companies are indirectly interconnected
through NEPOOL-designated transmission facilities ("PTF") and
other nonaffiliated transmission facilities pursuant to the
NEPOOL Agreement and other separate agreements with
nonaffiliated companies. The Commission has previously found a
system to be "capable of physical interconnection" on the
basis of contractual rights to use a third-party's
transmission lines.

This matter differs from prior orders in that there will be no

particular line through which transfers of power will be made

among the Companies. Instead, power will be delivered through

a nonaffiliated system and a transmission charge will be paid

to the owner of the facilities. On the facts of this matter,

the Commission is satisfied that the Companies' contractual
arrangements for transmission service establish that the
UNITIL electric system will satisfy the physical
interconnection requirement of the Act. (emphasis added)/90/

In 1998, based on UNITIL, the Commission found in *Conectiv, Inc.*,/91/

that Delmarva Power & Light Company and Atlantic Energy, Inc. met the physical
interconnection

/88/ E.g., *Conectiv, Inc., Holding Co.* Act Release No. 26832 (February 25,

1998).

/89/ New England Power Pool, 79 FERC (P) 61,374 (1997); New England Power Pool,

83 FERC (P) 61,045 (1998).

/90/ With respect to the "other separate agreements with nonaffiliate
companies" described above, the Commission by footnote explained that Fitchburg
obtained primary transmission service from New England Power Company ("NEPCO")
under the NEPOOL Agreement and through NEPCO's FERC Tariff Number 3, which
provided for non-firm service. The Commission went on to note that Fitchburg was
eligible to use NEPCO's FERC Tariff No. 4 should Fitchburg and UNITIL Power
conduct more power sales or swaps. The interconnection found in these cases was
therefore effected pursuant to FERC filed tariffs. Similarly, the FERC filed
OATTs constitute tariffs pursuant to which Exelon will "have the right" to use
intervening transmission facilities to conduct its coordinated operations.

/91/ *Conectiv, Inc., Holding Co.* Act Release No. 26832 (February 25, 1998).

requirements of Section 2(a)(29)(A) through their common membership in PJM./92/
The Commission noted that Delmarva and Atlantic were not physically
interconnected, but:

are interconnected through their undivided ownership interest
in, and/or rights to use, the same regional generation

facilities and extra-high voltage transmission facilities, as
well as through their contractual rights to use the

transmission facilities of other members of the PJM regional
power pool. (emphasis added)/93/

The language from UNITIL and Conectiv quoted above also describes the

arrangement which Exelon proposes. All of the essential elements necessary for
the Commission's findings in those cases are present in this case:

- . Exelon will use the tariffed transmission service available from
others.
- . Exelon will use "no particular line" but will be able to transmit
power, for a tariffed charge, over the facilities of an
unaffiliated person (or persons).
- . Through the tariff, which each transmission owner must file with
FERC, Exelon will have a legal right to obtain this service./94/

Thus, under the clear precedent of UNITIL and Conectiv, the systems of

ComEd and PECO will be "interconnected" within the meaning of the Act.

Applicant believes that relying on numerous transmission service
reservations is a better, more flexible and more economical way of realizing
significant interchange capability -- better than a more traditional contract
path. The open access approach increases the number of potential interconnection
options and allows the flexible use of less expensive non-firm products where
appropriate while providing a high level of assurance that transmission capacity
will be available when needed. This flexible use of the transmission grid also
enhances competition by more efficiently utilizing transmission resources. When
combined, ComEd and PECO will continue to develop and refine this open access
approach, and make other changes necessary to meet anticipated needs in the
short-, medium- and long-term markets. The open access approach, therefore, will
promote the public interest and benefit consumers and shareholders.

The model of single contract path or single line interconnection as a
means of establishing integration that has characterized past Commission
decisions was developed in an industry characterized by the almost universal
feature of vertically integrated electric utilities. This industry structure,
particularly the absence of open access transmission, made it impossible for two
merging companies to force a utility which controlled transmission in the area
between

/92/ Pennsylvania " New Jersey " Maryland Interconnection, 81 FERC (P) 61,257

(1998). PJM is a regional power pool and the first, FERC-approved, operational
ISO.

/93/ Conectiv, Inc., Holding Co. Act Release No. 26832 (February 25, 1998).

/94/ See the Interconnection Analysis included as Exhibit K-1 for a detailed

description of how OATTS will allow Exelon to transmit power.

them to provide transmission on an economic or reasonable basis. Thus, it was practically impossible to arrange for more than minimal interties. The best compromise was limited capacity, individually-negotiated contract paths. The capacity and duration were often limited because it was not economic to arrange for greater capacity or duration. Similarly, when utilities were able to construct new interties between their areas, these were also often limited in size because of economic constraints.

As described above and in the Interconnection Analysis in Exhibit K-1,

with the advent of EPACT and FERC Order No. 888, an intervening utility is now obligated to provide available transmission capacity and, if there is insufficient capacity, are obligated to offer to construct additional transmission. These changes in the law, and more importantly the resulting development of a robust market for transmission services -- which will only be enhanced in the future as a result of the development of existing and future RTO's -- have enabled a far superior method of providing for economic coordination of electric utilities. These developments allow utilities to obtain a balanced portfolio of transmission capacity over multiple paths, with various degrees of firmness, providing for various amounts of capacity which can be designed by the holding company system to enhance its optimal integrated operations. Today, superior interchange ability can be achieved via a portfolio of short-term firm and non-firm transmission at a lower all-in cost than the more limited, rigid, single firm contract path.

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

(B) The Contract Path

Exelon believes that the required electrical interconnection will exist without a firm path, and that its ability to operate economically under normal conditions as a single interconnected and coordinated (integrated) system will be enhanced through the use of an array of firm and non-firm open access transmission reservations as presented in this Application-Declaration./95/

Nevertheless, if the Commission finds it necessary under the Act, for three years following consummation of the Merger, ComEd and PECO will procure a firm contract for a 100 MW unidirectional path from ComEd to PECO. If required, Exelon will procure this transmission capacity through one or a combination of three alternative paths that are available. The path may be:

. ComEd to American Electric Power to First Energy to PJM;

/95/ If the Commission requires Exelon to establish the 100 MW firm contract path, this path will be used as a part of the overall portfolio of transmission arrangements that Exelon will use to conduct its coordinated operations following the Merger.

- . ComEd to American Electric Power to Virginia Electric Power to PJM; or
- . ComEd to American Electric Power to Allegheny Power System to PJM.

As noted in the Interconnection Analysis, Exelon believes that there is

sufficient available transmission capacity to allow Exelon to economically reserve this 100 MW path on a firm basis for a period of 3 years following the Merger. Further, because the transmission owners listed above are obligated under their OATs to provide this service, if available, at their tariffed rates, Exelon can be assured that it will have the ability to procure the needed service at a reasonable price./96/

Applicant notes that the Commission has in the past declined to require a holding company system to build an additional line or otherwise increase physical interconnections when no economic benefit would be derived from such action./97/ Applicant submits that an inflexible requirement for a specific contract path falls within this precedent -- requiring a fixed, firm contract path would be uneconomical -- and the Commission should rely on the dynamic operation of the transmission grid and OATs to make the finding of interconnection of the Exelon system./98/

(C) Coordination

Coordination of Generation. Historically, the Commission has interpreted

the requirement that an integrated electric system be economically operated under normal conditions as a single interconnected and coordinated system, "to refer to the physical operation of utility assets as a system in which, among

other things, the generation and/or flow of current within the system may be

centrally controlled and allocated as need or economy directs."/99/ The Commission has noted that, through this standard, Congress "intended that the utility properties

/96/ PECO has made an OASIS request on the AEP transmission system for 100 MW for the period 2001, 2002, and 2003 with a Point-of-Receipt (POR) of ComEd and a Point-of-Delivery (POD) of Virginia Power (VP). As of June 1, 2000, the request had not yet been accepted by AEP. No other requests have been made. However, PECO currently has firm rights to 820 MW of VP transmission with a POR of AEP and a POD of PJM for the year 2000. It is expected that PECO will exercise its right of "rollover" on this transmission reservation, subject to Section 2.2 of the Virginia Power Open Access Transmission Tariff. With respect to the PJM leg of any firm path it would obtain, it is expected that Exelon will rely on the right PECO Energy will have as a Load-Serving Entity to use "Secondary Service" as defined by Section 28.4 of the PJM Open Access Transmission Tariff rather than obtain from PJM 100 MW of firm point-to-point transmission service. If required by the Commission to obtain 100 MW of firm point-to-point service, then a request for such service will be made on the PJM OASIS at an appropriate time. With respect to the ComEd leg of any firm path Exelon would obtain, Exelon would make a reservation for such transmission service at an appropriate time.

/97/ UNITIL, supra, at note 29; Electric Energy, Inc., 38 SEC 658, 669 (1953)

(direct interconnection not required in circumstances which would have resulted in an uneconomic duplication of transmission facilities.)

/98/ See the Interconnection Analysis for information regarding the cost of a

firm contract path.

/99/ See, e.g., Conectiv, supra, citing The North American Company, Holding

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

be so connected and operated that there is coordination among all parts, and that those parts bear an integral operating relationship to one another."/100/

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

It is clear from the language of the Act and Commission precedent that central or joint dispatch is not per se a requirement for a finding of coordinated operations./101/ Central dispatch was a means to accomplish the efficient "coordinated" operations required by the Act not an end in itself.

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

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

/100/ Id., (citations omitted).

/101/ Electric Energy, Inc., 38 SEC 658 (1958); Cities Service Power & Light Co., 14 SEC 28 (1943). In fact, the Commission has even held that a system

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

Environmental Action involved the acquisition by a holding company of an

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

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

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

These factors are consistent with the requirements of the Act. Applicant will not use traditional joint automatic economic dispatch of the systems of ComEd and PECO as do other registered systems that effectively operate as tight power pools. Given that ComEd and PECO are in separate "control areas," such true automatic joint dispatch would not be feasible./102/ However, Exelon will centralize all its generating assets and activities in Genco. Genco will provide power to ComEd and PECO as one of several competing options to meet those companies' bundled load or provider of last resort load obligations. Because of this organizational structure, Exelon will have no need for the type of "joint operating agreement" that many registered public-utility systems have. While those agreements may be necessary to achieve integrated operations among several separate subsidiary utility companies, in Exelon's case all generation resources are controlled in a single entity and no such agreements are required./103/

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

The operation and coordination of the ComEd transmission system will increasingly be performed by an ITC operating under the purview of the MISO, just as PJM now operates PECO's transmission facilities. These RTOs will develop all operating procedures and schedules, approve all transmission requests and direct the operation of the transmission grid for

/102/ A control area is a portion of the transmission and distribution grid where electric control over the area's electric system is performed by one entity, usually the vertically integrated utility having the certificated service area corresponding with that portion of the grid. The operators of a control area ensure the constant balanced operation of the grid and directly control the output of all generation within the control area and also control the movement of power into and out of or across the control area. See the

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

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

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

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

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

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

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

/103/ See the discussion in Item 3.b.2.a above regarding the fact that Exelon will not need "transmission integration agreements" or similar arrangements.

all transmission users. The RTOs will also control maintenance and planning of all of the transmission facilities within their respective areas. This degree of coordination and integration of transmission assets is comparable to that presented to, and accepted by, the Commission in UNITIL and Conectiv./104/

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

Coordination of Non-Operating Activities. In applying the integration standard, the Commission looks beyond simply the coordination of the generation and transmission within a system to the coordination of other activities./105/ Recently, the Commission has found coordinated operational and administrative functions to constitute "de facto" integration for exempt holding companies./106/ Moreover, the coordination of administrative functions and joint marketing activities were crucial factors in the Commission's determination that the coordination requirement was satisfied in Sempra and NIPSCO.

The combined system of Exelon will be coordinated in a variety of ways beyond simply the coordination of the generation and transmission within the system. Among other things, administrative and general services will be performed for the Exelon System by Exelon Services. Exelon may develop additional service companies to perform specialized functions.

/104/ See also MISO Order, supra at n. 162 and n. 169.

/105/ See, e.g., General Public Utilities Co., Holding Co. Act Release No. 13116

(Mar. 2, 1956) (integration is accomplished through power dispatching by a central load dispatcher as well as through coordination of maintenance and construction requirements); Middle South Utilities, Inc., Holding Co. Act

Release No. 11782 (Mar. 20, 1953), petition to reopen denied, Holding Co. Act Release No. 12978 (Sept. 13, 1955), rev"d sub nom. Louisiana Public Service

Comm'n v. SEC, 235 F.2d 167 (5th Cir. 1956), rev"d, 353 U.S. 368 (1957), reh"g denied, 354 U.S. 928 (1957) (integration is accomplished through an operating

committee which coordinates not only the scheduling of generation and system dispatch, but also makes and keeps records and necessary reports, coordinates construction programs and provides for all other interrelated operations involved in the coordination of generation and transmission); North American

Company, Holding Co. Act Release No. 10320 (Dec. 28, 1950) (economic integration

is demonstrated by the exchange of power, the coordination of future power demand, the sharing of extensive experience with regard to engineering and other operating problems, and the furnishing of financial aid to the company being acquired). See also NIPSCO, supra (functional merger of Bay

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

/106/ Sierra Pacific Resources, Holding Co. Act Release No. 27054 (July 26, 1999).

Exelon will have a single accounting organization which will be managed by a single team in one or more locations. The coordination and integration of the combined system is expected to be further achieved through the coordination and integration of information system networks; customer service; procurement organizations; organizational structures for power generation, energy delivery and customer relations; and support services.

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

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

1337 (D.C. Cir. 1999). In that case, the court determined that in analyzing whether a system will be economically coordinated, the focus must be on whether the acquisition "as a whole" will "tend toward efficiency and economy." *Id.* at 1341. The Merger will meet this standard given the significant savings and synergies and other benefits expected to result from the Merger.

In short, all aspects of the combined system will be centrally and efficiently planned and operated. As with other merger applications approved by the Commission, the combined system will be capable of being economically operated as a single interconnected and coordinated system as demonstrated by the variety of means through which its operations will be coordinated and the efficiencies and economies expected to be realized by the proposed transaction./107/

(D) Single Area or Region

As required by Section 2(a)(29)(A), the operations of the Exelon Electric System will be confined to a "single area or region in one or more States." While the terms "area" and "region" are not defined in the 1935 Act, the "single area or region" requirement does not mandate that a system's operations be confined to a small geographic area or a single State./108/ The Commission has specifically found that the combining systems need not be contiguous in order for the

/107/ The savings, synergies and other benefits are discussed under Item 3.B.3.(b).

/108/ In considering size, the Commission has consistently found that utility systems spanning multiple States satisfy the single area or region requirement of the 1935 Act. For example, the Entergy system covers portions of four States (Entergy, supra), the Southern system provides electric service to customers in

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

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

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

requirement to be met./109/ Rather, the Commission has found that the single area or region test should be applied flexibly when doing so does not undercut the policies of the 1935 Act against "scatteration" --[that is,] the ownership of widely dispersed utility properties which do not lend themselves to efficient operation and effective state regulation."/110/ Conversely, utilities which may be "efficiently and economically operated" in an integrated fashion, and where effective State regulation is not hampered by such combination, should be considered in the same area or region.

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

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

Analysis, there is a significant volume of interchange of electric power through

the corridor of major transmission lines running from the Chicago area generally through Indiana, Ohio and the Virginias to southeastern Pennsylvania. The following table gives information regarding transactions over the three-year period ending in 1999:

/109/ See, e.g., Conectiv, supra; cf. New Century Energies, supra (integration

test was met where entities planned to build a 300-mile transmission line to interconnect the systems which operated in noncontiguous territories).

/110/ NIPSCO, supra (applying single area or region requirement with respect to

gas utility system); accord, Sempra, supra. In Gaz Metropolitan, Inc., the

Commission agreed that a single area or region could include areas across international borders. Holding Co. Act Release No. 26170 (Nov. 23, 1994).

/111/ 1995 Report at 66, 69.

/112/ 1995 Report at 69.

/113/ Id.

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

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

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

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

The developments noted by the Staff in 1995, and enhancements and improvements since that date, are breaking down traditional boundaries and concepts of regions. The Commission has confirmed its support for the Staff's Report, citing, in particular, the Staff's recommendation that the Commission "continue to interpret the "single area or region" requirement of [the 1935 Act] to take into account technological advances."/116/ The Commission noted as long ago as 1978 that the permissible area or region of a registered holding company was a function of technological realities./117/ Exelon will be able to use open access transmission to achieve the coordinated operations of its system thus demonstrating that it will, in fact, be confined to a 'single area or region."

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

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

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

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

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

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

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

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

The Commission's recent decision related to the gas industry in *Sempra* is

also relevant for a commodity business such as the evolving electricity industry. In that decision, the SEC approved *Sempra's* acquisition of a 90 percent interest in *Frontier Energy LLC* of North Carolina and considered the combined system to be an integrated gas system under the Act./121/ In that decision the SEC affirmed the existence of a national natural gas commodity market. The SEC pointed out that, when the Act was drafted in the 1930s, the common source requirement meant

/118/ PECO has an interest in the *Salem* nuclear generating station in New Jersey. See note 16 above. Other generating facilities coordinated by Genco will

be EWGs whose geographical location is not restricted by the Act.

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

West Corp., 18 SEC 296 (1945); In re *West Texas Utilities Co.*, 21 SEC 566

(1945).

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

121 *Sempra Energy, Holding Co.* Act Release No. 26890 (June 26, 1998).

the city gate. Now, however, with the changing gas market, it means obtaining gas from the same supply basins. Thus, even though the two systems in Sempra

were 3,000 miles apart, the SEC said that its decision did not undercut the Act because the acquisition did not raise the concerns that prompted its enactment./122/ This conclusion supports the notion that mere distance does not equate to "scatteration" so long as the separate parts of the system can be operated, under normal conditions, in a coordinated manner. Exelon has demonstrated that it meets that test.

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

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

Electric Power in 1978./123/ This case involved one of the few situations of a

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

(E) Size

The final clause of Section 2(a)(29)(A) requires the Commission to look to the size of the combined system (considering the state of the art and the area or region affected) and its effect upon localized management, efficient operation, and the effectiveness of regulation. In the instant matter, these standards are easily met./124/

Localized Management The Commission has found that an acquisition does

not impair the advantages of localized management where the new holding company's "management [would be] drawn from the present management" (Centerior, supra), or where the acquired

/122/ Applicant recognizes that the Sempra case is not directly on point because

the language of Section 2(a)(29)(B) of the Act regarding an integrated gas utility differs from that of Section 2(a)(29)(A) describing an electric system. The recognition in that case of the changing nature of energy markets in the United States is directly relevant, however.

/123/ American Electric Power Company, Inc., Holding Co. Act Release No. 20633

(July 21, 1978) ("AEP").

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

system

company's management would remain substantially intact (AEP, supra). The

Commission has noted that the distance of corporate headquarters from local management was a "less important factor in determining what is in the public interest" given the "present-day ease of communication and transportation." AEP, supra. The Commission also evaluates localized management in terms of whether a merged system will be "responsive to local needs." AEP, supra.

The management of Exelon will be drawn primarily from the existing management of Unicom, ComEd, PECO and their subsidiaries. The corporate headquarters of Exelon will be in Chicago -- the current headquarters of Unicom and ComEd. PECO's distribution and transmission functions will have headquarters in Philadelphia. The management of the combined generating operations of Genco and the marketing activities will be conducted in southeastern Pennsylvania. The electric utility subsidiaries will continue to operate through the regional offices with local service personnel and line crews available to respond to customer's needs. In short, the management structures of ComEd and PECO, which are responsive to local needs, will continue to perform to meet customer needs after the Merger. Accordingly, the advantages of localized management will not be impaired.

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

Effective Regulation -- The Merger will not impair the effectiveness of regulation at either the State or Federal level. ComEd will continue to be regulated by the Illinois Commission and PECO by the Pennsylvania Commission with respect to retail rates, service and related matters subject to the changing regulation brought about by utility regulatory restructuring laws in both States./125/ On the Federal level, Exelon will be regulated as a single registered holding company as opposed to two exempt holding company systems. The electric utility subsidiaries of Exelon will continue to be regulated by FERC with respect to interstate electric sales for resale and transmission services, by the NRC with respect to the operation of nuclear facilities, and by the FCC with respect to certain communications licenses.

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

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

its transaction. That notice was filed on November 22, 1999/126/ and included the following information, as required by statute:

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

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

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

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

A rigid reading of the integration requirement may have been appropriate at a time when ownership or control of the intervening transmission lines was the only way that a utility could move power from its generation assets to its distribution systems. The need for this type of firm physical interconnection has been greatly reduced, if not eliminated, as the distribution systems now routinely contract for power with nonaffiliates and move the purchased commodity power over independently operated or owned transmission lines -- or eliminate the requirement for physical movement of power from the generator to the utility system through use of market swaps, power displacement or similar techniques.

As FERC explained in the RTO NOPR:

the industry has undergone sweeping restructuring activity, including a movement by many states to develop retail

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

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

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

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

In the 1995 Report, the Division recommended that the Commission focus on whether the resulting system will be subject to effective regulation. The 1995 Report emphasized that "open access under FERC Order No. 636, wholesale wheeling under the Energy Policy Act [and FERC Order No. 888] and the development of an increasingly competitive and interconnected market for wholesale power have expanded the means for achieving the interconnection and the economic operation and coordination of utilities with non-contiguous service territories."/130/ The

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

/128/ Northeast Utilities, Holding Co. Act Release No. 25273 (March 15, 1991),

aff'd sub nom. City of Holyoke v. SEC, 972 F.2d 358 (1992). See also Wisconsin's

Environmental Decade v. SEC, 882 F.2d 523 (D.C. Cir. 1989) ("we are not prepared

to say that the Commission abdicates its duty in an exemption determination by
deciding to rely, watchfully, on the course of state regulation").

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

/130/ 1995 Report at 73-74.

1995 Report further expressed concern that the Act "not serve as an artificial barrier where other energy regulators have determined that an acquisition will benefit utility consumers." Accordingly, the 1995 Report concluded that "[w]hen considering any proposed acquisition, the SEC should consider whether the resulting system will impair the effectiveness of regulation. Where the affected State and local regulators concur, the SEC should interpret the integration standard flexibly to permit non-traditional systems if the standards of the Act are otherwise met." Under this approach, if the affected States approve a proposed transaction (a condition precedent to the instant Merger), the "effectiveness of regulation" standard would be met. A condition of the Merger is the receipt of all requisite State approvals.

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

(iv) Retention of Exelon Gas System

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

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

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

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

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

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

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

The Pennsylvania Legislature recently passed the Natural Gas Competition Act ("Gas Competition Act"). 66 Pa.C.S.A. (S)(S) 2201 et. seq. (1999). The Pennsylvania Gas Competition Act will require PECO to provide competitors access into PECO's gas distribution network. While PECO is presently one of the lowest cost gas utility suppliers in the Commonwealth of Pennsylvania, if PECO were required to divest its gas utility, the conservative projections included in Exhibit J-1 indicate that the price PECO's gas utility would have to charge retail customers located in its present service territory would make it one of the most expensive retail gas suppliers in the State (with an estimated post-divestiture rate increase of \$292 per customer per year, an increase of 30.28%)./131/

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

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

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

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

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

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

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

Direct Loss of Economies. PECO has prepared a study of its gas utility

operations that analyzes the lost economies that its gas utility operations would suffer upon divestiture when compared to their retention pursuant to the Merger. The study is attached to this Application as Exhibit J-1 (the "Gas Study").

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

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

combined operations occur in operational areas that will remain subject to rate regulation even after full retail competition for retail gas and electric customers is implemented in Pennsylvania.

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

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

On a percentage basis, the lost economies amount to 124.5% of 1998 gas net income--far in excess of the 30% loss of net income in New England Electric System that the Commission has described as the highest loss of net income in any past order requiring divestiture./133/ As a percentage of 1998 gas operating revenues, these lost economies described in the Gas Study amount to 18.24% -- greater than the losses identified in several past orders that permitted merger applicants to retain the additional systems in question./134/ As a percentage of 1998 expenses or operating revenue deductions, the lost economies described in the Gas Study would amount to 22.54%. Again, the losses identified in the Gas Study exceed the losses as a percentage of operating revenue deductions identified in past orders permitting retention of the additional systems, including Ameren (17.6%) and Conectiv (17.4%). As a percentage of 1998 gross income, the lost economies described in the Gas Study amount to 95.42%, far in excess of

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

/134/ See, e.g., Conectiv, Inc., Holding Co. Act Release No. 26832 (February 25, 1998) (loss of 14.07% of gas operating revenues in case permitting retention of additional gas system); UNITIL Corp., supra (loss of slightly less than 14% of operating revenues). The highest loss of operating revenues in any case ordering divestiture is commonly said to be 6.58%. ("[o]f cases in which the Commission has required divestment, the highest estimated loss of operating revenues of a stand-alone company was 6.58% . . .") Id.

25.44% figure the Commission relied upon in identifying a loss of substantial economies in its Engineers Public Service Co. decision. See supra.

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In order to recover these estimated lost economies, New Gas Co stand-alone gas operations would need to increase rate revenue by \$123 million or about 30%. This increase in rate revenues would have an immediate negative impact on the rates charged to customers for gas services (to the extent that they apply to regulated operations) and would adversely impact New Gas Co's ability to compete in the emerging retail gas market in Pennsylvania (to the extent they apply to operations which will soon be competitive). In addition, the customers of PECO's gas businesses who are also electric customers will experience a doubling of their postage costs to pay two separate bills. The total estimated increase in incremental costs associated with forced divestiture would be \$292 per customer per year, or 30.3% over the average customer's current annual payments.

Other Lost Economies. Divestiture of the PECO gas property would also

result in the loss to consumers of the cost-saving benefits of the economies offered by the "energy services" approach of PECO and Unicom to the utility business. While the losses cannot now be fully quantified, they are substantial. At the center of the energy services company concept is the idea that providing gas and electric services and products is only the start of the utility's job. In addition, the company must provide enhanced service to the consumer by providing an entire package of both energy products and services. In this area, PECO and Unicom's efforts are part of a trend by companies to organize themselves as energy service providers; that is, as providers of a total package of energy services rather than merely utility suppliers of gas and electric products. The goal of an energy service company is to retain its current customers and obtain new customers in an increasingly competitive environment by meeting customers' needs better than the competition. An energy service company can provide the customer with a low cost energy (i.e., gas, electricity or conservation) option without inefficient subsidies. This trend towards, and the need for, convergence of the former separate electric utility function and gas utility function into one energy service company was recognized by the Commission in Consolidated Natural Gas Company, Holding Co. Act Release No.

26512 (April 30, 1996) (hereinafter, the "CNG Order"), where the Commission

stated: "It appears that the restructuring of the electric industry now underway will dramatically affect all United States energy markets as a result of the growing interdependence of natural gas transmission and electric generation, and the interchangeability of different forms of energy, particularly gas and electricity." See also New Century Energies, Holding Co. Act Release No. 26748

(August 1, 1997); UNITIL Corp., Holding Co. Act Release No. 26527 (May 31, 1996)

and SEI Holdings, Inc., Holding Co. Act Release No. 26581 (Sept. 26, 1996).

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

retail rates for PECO's gas and electric customers. For the deregulated portions of PECO's business, competition between energy suppliers can only benefit consumers.

As the Commission recognized in WPL Holdings, TUC Holdings and New Century Energies, there are significant economies and competitive advantages inherent in

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

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

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

(B) Same State or Adjoining States

The Merger does not raise any issue under Section 11(b)(1)(B) of the Act. The Commission has paraphrased Clause B as follows: "All of such additional systems are located in a State in which the single integrated public-utility system operates, or in states adjoining such a State, or in a foreign country contiguous thereto." Engineers Public Service Company, Holding Co. Act Release

No. 2897 (July 24, 1941), rev'd on other grounds, 138 F.2d 936 (D.C. Cir. 1943),

vacated as moot, 332 U.S. 788 (1947). The PECO Gas System is located in the same

State and region as the PECO Electric System. Indeed, the two service territories overlap. Thus, the requirement that each additional system be located in one State or adjoining States is satisfied.

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

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

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

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

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

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

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

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

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

(v) Retention of Other Businesses

Exhibits I-1 and I-2 list and describe those non-utility businesses conducted by Unicom and PECO. As a result of the Merger, the non-utility businesses and interests of Unicom and PECO described in Item 1.C. above and in those Exhibits will become businesses and interests of Exelon. These non-utility interests are fully retainable by Exelon under the Act. Corporate charts showing the subsidiaries, including non-utility subsidiaries of Unicom and PECO, are

filed as Exhibits E-3 and E-4. A corporate chart showing the projected arrangement of these subsidiaries under Exelon is filed as Exhibit E-5.

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

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

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

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

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

^{/137/} Id.

^{/138/} 1995 Report at 81-87, 91-92

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

Because the non-utility investments of Unicom and PECO, as exempt holding companies, were exempt under the Act, investments made by them prior to the effective date of Rule 58 which will continue as part of Exelon after consummation of the merger, should not count in the calculation of the 15% maximum./140/ See New Century Energies, supra (Commission order granting

exclusion of non-utility energy-related investments of Southwestern Electric Service, an independent utility, and Public Service Colorado, an exempt holding company, from calculations of the 15% maximum investment allowed under Rule 58).

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

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

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

/139/ Holding Co. Act Release No. 26667 at 75

/140/ In the Financing U-1, Exelon undertakes to maintain the equity component of its capitalization at not less than 30% excluding from the debt portion the transition bonds issued in connection with the securitization transactions arising out of utility restructuring legislation in Illinois and Pennsylvania. Exelon proposes that it will also exclude securitization debt from capitalization for purposes of determining its Rule 58 investment limitation.

any company whose principal business is that of a public-utility company.

Section 11(b)(2) raises two issues: first, will the proposed corporate structure or continued existence of any company unduly or unnecessarily complicate the structure of the Exelon holding company system post-Merger and, second, will the Merger result in an unfair or inequitable distribution of voting power among the security holders of Exelon. As explained more fully below and as found by the Commission in recent cases, any apparent complexity in the resulting holding company system does not create any inequitable distribution of voting power and is necessary in order to achieve important benefits./141/

Ventures and Exelon Delivery raise an issue under Section 11(b)(2)./142/ The important benefits Exelon will derive from these companies should outweigh any increase in complexity there presence causes. There presence will not in any way create inequitable distribution of voting power. Both companies serve the purpose of creating the simplest possible business organization that still achieves important business goals of Exelon. As noted above, Ventures is required to achieve significant tax savings. Exelon Delivery will enable Exelon to fully and efficiently integrate its regulated utility businesses and provide full separation from its unregulated businesses.

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

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

/141/ National Grid Group plc, Holding Co. Act Release No. 27154 (Mar. 15,

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

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

/142/ PECO is currently a holding company with respect to the Conowingo Companies. Further, PEPCO is a registered holding company. Thus, Genco will also be a holding company with respect to the Conowingo Companies. See note 15 above.

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

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

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

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

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

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

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

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

Expanded Generation Capacity. Exelon is expected to have a portfolio of

generation assets with a capacity that will be nearly double that of either PECO Energy or Unicom alone and that can be deployed to expand its power marketing business. Unicom and PECO

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

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

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

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

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

Holdings, Holding Co. Act Release No. 26856 (April 14, 1998) (estimated expected savings of \$680 million over ten years); Conectiv, Holding Co. Act Release No.

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

years); 1997 NCE Order, supra (estimated savings of \$770 million over ten years); TUC Holding Company, supra (estimated savings of \$505 million over ten

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

eleven years); Entergy Corporation, Holding Co. Act Release No. 25952 (Dec. 17, 1993) (expected savings of \$1.67 billion over ten years); Northeast Utilities,

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

No. 25465 (Feb. 5, 1992) (expected savings of \$140 million over five years); IE

Industries, Holding Co. Act Release No. 25325 (June 3, 1991) (expected savings of \$91 million over ten years); Midwest Resources, Holding Co. Act Release No.

25159 (Sept. 26, 1990) (estimated savings of \$25 million over five years); CINergy Corp., Holding Co. Act Release No. 26146 (Oct. 21, 1994) (estimated

savings of approximately \$1.5 billion over ten years).

believe the competitive and strategic value of size and scope will increase future earnings growth rates, creating value for shareholders. With a focus on nuclear operations excellence, Exelon will have the nation's largest nuclear generation fleet. Unicom and PECO expect to achieve synergies in operations and supply management by combining best practices and operating capabilities. The expansion strategy of Exelon will be consistent with PECO Energy's disciplined acquisition programs and will provide a framework for adding value to Unicom's nuclear fleet.

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

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

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

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

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

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

companies to take advantage of new opportunities for unregulated businesses, including by:

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

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

Nuclear Coordination. The potential benefits associated with the integration

of the nuclear operations of ComEd and PECO will be particularly significant. As the licensed owner and operator of the nuclear power plants currently owned and operated by ComEd and PEC, Genco will be subject to pervasive regulatory oversight by the NRC under the Atomic Energy Act of 1954, as amended, ("AEA") with respect to virtually every aspect of the operation, maintenance, and eventual decommissioning of these plants. As described in the license transfer applications submitted to the NRC in connection with the Merger, the qualifications of Genco to carry out its licensed responsibilities will meet or exceed the existing qualifications of ComEd and PECO and enhance the safety of nuclear operations throughout the Exelon system./144/ The Merger will combine two of the nation's most experienced nuclear management teams and nuclear operating organizations, currently consisting of over 9,600 personnel responsible for the operation of 14 nuclear plants with a total generating capacity in excess of about 14,000 MW, with demonstrated experience in achieving and sustaining safe and reliable nuclear plant operations, into a single nuclear operating group in Genco.

/144/ The NRC recently adopted new procedures to streamline its license transfer proceedings and facilitate the transfer of NRC licenses to technically and financially qualified licensees as the restructuring of the electric utility industry unfolds. See Streamlined Hearing Process for NRC Approval of License

Transfers, 63 Fed. Reg. 66723 (Dec. 3, 1998). As Commissioner Merrifield of the

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

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

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

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

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

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

Section 10(f) provides that:

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

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

C. Intra-system Transactions

The Exelon system companies will engage in a variety of affiliate transactions for the provision of goods, services, and construction. Certain of these transactions are elaborated upon below. The provision of goods, services, and construction by Exelon system companies to other Exelon system companies will be carried out in accordance with the requirements and provisions of Rules 87, 90, and 91 unless otherwise authorized by the Commission by order or by rule.

1. Exelon Business Services Company.

Rule 88(b) provides that "[a] finding by the Commission that a subsidiary company of a registered holding company . . . is so organized and conducted, or to be so conducted, as to meet the requirements of Section 13(b) of the Act with respect to reasonable assurance of efficient and economical performance of services or construction or sale of goods for the benefit of associate

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

Exelon Services/146/ will be the service company subsidiary for the Exelon system and will provide Exelon, ComEd, PECO, Genco and non-utility subsidiaries with one or more of the following: administrative, management and support services, including services relating to support of electric and gas plant operations (i.e., energy supply management of the bulk power and natural gas supply, procurement of fuels, coordination of electric and natural gas distribution systems, maintenance, construction and engineering work); customer bills, and related matters; materials management; facilities; real estate; rights of way; human resources; finance; accounting; internal auditing; information systems; corporate planning and research; public affairs; corporate communications; legal; environmental matters; executive services and the other services listed on Schedule 2 to the General Service Agreement.

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

Exelon Services will be staffed primarily by transferring existing personnel from the current employee rosters of Unicom, PECO and their subsidiaries. It is expected that Exelon

/145/ New Century Energies; Ameren; CINergy Corp.; UNITIL Corp., supra.

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

Services will conduct substantial operations in Chicago and Philadelphia. Merger transition teams are presently considering where specific operations of the combined company will be headquartered.

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

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

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

The companies listed on Attachment B will be subsidiaries that Exelon is authorized to hold, other than the Utility Subsidiaries, such as EWGs, FUCOs, Exempt Telecommunications Companies ("ETCs"), and Energy Related Companies ("ERCs") permitted under Rule 58 or by Commission order, certain intermediate companies/147/ and other entities which are not involved in directly providing goods, construction or services to Utility Subsidiaries (collectively, the "Non-Utility Subsidiaries").

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

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

e.g., Interstate Energy Corporation, Holding Company Act Release No. 35-27069

(Aug. 26, 1999); Ameren Corporation, Holding Company Act Release No. 35-27053

(July 23, 1999); Entergy Corporation, Holding Company Act Release No. 27039

(June 22, 1999); New Century Energies, Inc., Holding Company Act Release No. 35-

27000 (Apr. 7, 1999).

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

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

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

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

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

3. Non-Utility Subsidiary Transactions.

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

/148/ See Item 3.C.4.(g).

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

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

- 1) a FUCO or an EWG that derives no part of its income, directly or indirectly, from the generation, transmission, or distribution of electric energy for sale within the United States;
- 2) an EWG that sells electricity at market-based rates which have been approved by the FERC or other appropriate State public utility commission, provided that the purchaser of the EWG's electricity is not an affiliated public utility or an affiliate that re-sells such power to an affiliated public utility;
- 3) a qualifying facility ("QF") under the Public Utility Regulatory Policies Act of 1978 ("PURPA") that sells electricity exclusively at rates negotiated at arm's length to one or more industrial or commercial customers purchasing such electricity for their own use and not for resale, or to an electric utility company other than an affiliated electric utility at the purchaser's "avoided cost" determined under PURPA;
- 4) an EWG or a QF that sells electricity at rates based upon its costs of service, as approved by FERC or any State public utility commission having jurisdiction, provided that the purchaser of the electricity is not an affiliated public utility; or
- 5) an exempt telecommunications company under Section 34 of the Act ("ETC"), an energy related company ("ERC") under Rule 58 or any other Non-Utility Subsidiary that (a) is partially owned, provided that the ultimate purchaser of goods or services is not a Utility Subsidiary, (b) is engaged solely in the business of developing, owning, operating and/or providing services or goods to Non-Utility Companies described in (1) through (4) above, or (c) does not derive, directly or indirectly, any part of its income from sources within the United States and is not a public-utility company operating within the United States.

Exelon requests similar relief. However, because of the unique circumstances applicable to Exelon -- the formation of an independent Genco, the retail rate caps and freezes applicable to ComEd and PECO and the full restructuring of the electricity supply market in Illinois and Pennsylvania -- certain of the limitations included in the above list are unnecessary for the protection of investors or consumers.

(continued...)

Priced at market, which may be above or below cost. A Non-utility Subsidiary would generally be permitted to make such sales of goods, services or construction to another Non-utility Subsidiary under Rule 87(b)

/150/ Interstate Energy Corporation, Holding Company Act Release No. 35-27069

(Aug. 26, 1999); Ameren Corporation, Holding Company Act Release No. 35-27053

(July 23, 1999); Entergy Corporation, Holding Company Act Release No. 27039

(June 22, 1999); Entergy Corporation, Holding Company Act Release No. 27040

(June 22, 1999); New Century Energies, Inc., Holding Company Act Release No. 35-

27000 (Apr. 7, 1999).

The unnecessary limitations in the above list can be summarized as the restriction that the entity receiving the "at market" service cannot be a seller of electricity to an affiliated utility. Thus, goods or services can be provided at market prices to an EWG if that EWG makes no sales of electricity, directly or indirectly, to an affiliated utility./151/ These restrictions are fully appropriate where the customers of the Utility Subsidiary could be subjected to goods or services at a price above the affiliate's cost and where such inflated price could be passed on to captive ratepayers./152/ However, in the Exelon system, because of the factors indicated above, such restriction is not necessary.

As described in this Application/Declaration, Genco will supply electricity to ComEd and PECO. Genco will also coordinate the use of other generation resources for the Exelon Electric System -- including from the EWGs now owned by AmerGen as well as future EWGs. Thus, it is likely that an EWG owned by the Exelon system would make sales directly or indirectly to Genco, ComEd or PECO. Such an EWG does not fit within the restrictions of the circumstances where market pricing of goods or services provided to that EWG from Exelon Services or another Non-Utility Subsidiary has been allowed (see, e.g., items 2, 3 or 4 in the list above). There is no reason that such a restriction is necessary, however, to protect regulated utility customers. FERC has already held that certain power sales contracts between PECO and its affiliated EWGs need not be subject to affiliate rules. /153/ Further, ComEd and PECO will seek a similar determination from FERC regarding transactions between them and Genco.

In Illinois, many non-residential customers have been eligible since October 1, 1999 to choose their electricity supply via direct access. The balance of ComEd's non-residential customers will become eligible for direct access by December 31, 2000, and all of its residential customers by May 1, 2002. Furthermore, as a part of the Illinois retail access program, ComEd's retail rates are capped through the end of 2004. Consequently, the price for electricity -- the commodity -- is now de-regulated and subject to market prices. Customers are protected by a rate cap during the transition period.

In Pennsylvania, under the settlement entered into in connection with the State restructuring process, PECO phased-in full retail choice for generation supply for all of its retail customers through January 2, 2000. Since that date, every PECO retail customer has been entitled to purchase its electric generation

/151/ Exelon does not seek general relief from the limitation that goods or services cannot be provided at market to a Non-Utility Subsidiary if the ultimate purchaser of the goods or services is a Utility Subsidiary. However, Exelon is requesting relief for Non-Utility Subsidiaries to directly provide goods or services to the Utility Subsidiaries at market prices in certain limited circumstances. See Item 1.C.4.e.

/152/ For example, FERC has explained that affiliate abuse takes place when a public utility and an affiliated power marketer transact in ways that result in a transfer of benefits from the public utility (and its captive ratepayers) to the power marketer (and the shareholders). Heartland, 68 FERC " 61,223 at 62,062; Wholesale Power Services, Inc., 72 FERC " 61,284 (1995).

/153/ FERC agreed that there is no possibility that PECO Energy could engage in affiliate abuse with AmerGen Energy or AmerGen Vermont in connection with the proposed power sales because PECO Energy does not have any captive customers. AmerGen Energy, 90 FERC " 61,080 at 61,282 (2000); AmerGen Vermont, 91 FERC " 61,082 at 61,291 (2000). In both cases, FERC noted that the fact that PECO Energy's rates will be capped during most of the period of the agreements provides further protection against affiliate abuse.

supply requirements from alternative electric generation suppliers. PECO serves as a "provider of last resort" to retail customers who elect not to purchase their electric generation supply requirements from alternative electric generation suppliers or who elect to do so but then wish to switch back to PECO. In addition, the settlement requires PECO to reduce its retail electric rates during 1999 and 2000 by 8% and 6%, respectively, from the rates in existence on December 31, 1996. PECO has entered into additional settlements in Pennsylvania that (1) cap its transmission and distribution rates until December 31, 2006, and (2) cap its retail generation rates pursuant to a fixed schedule until December 31, 2010./154/

Thus, if Exelon Services or any other Exelon associate company were to provide goods or services to Genco or AmerGen, for example, at a market price, there is no risk that an abusively "inflated" price could be passed on to the bundled service or provider of last resort customers of ComEd or PECO. All of these customers are protected today by the rate caps or freezes in place. Further, these customers now have (or soon will have) a choice of electricity supplier. With the cost of electricity set by market forces, AmerGen, Genco or other affiliated generators of Exelon have no incentive or ability to charge abusively excessive prices based on "passing through" the cost of services received from an Exelon affiliate at an excessive market price. Because no customers can be harmed by actions taken by the Genco or the Non-Utility Subsidiaries, there is no basis for retaining the rules that restrain inter-affiliate transactions and interactions for the sake of preventing affiliate abuse.

The Commission has granted requests for exemption from the Commission's "at cost" requirements for proposed transactions where the circumstances showed that there was little if any risk that Utility Subsidiaries and their customers could be harmed from excessive charges resulting from an abuse of the affiliate relationships./155/ Accordingly, Exelon proposes that the following transactions be exempt under Section 13(b) from the at cost requirements of Rules 90 and 91 and Exelon Services or a Non-Utility Subsidiary be allowed to provide goods or services at market prices if the client company is:

- 1) a FUCO or an EWG that derives no part of its income, directly or indirectly, from the generation, transmission, or distribution of electric energy for sale within the United States;

/154/ PECO continues to have captive retail distribution service customers, which it serves under rates and tariffs regulated by the Pennsylvania Commission. PECO recently agreed to provide further protections to those customers. In a settlement reached with intervenors in the Pennsylvania Commission proceeding considering the Merger, PECO agreed to reduce its retail electric distribution service rates by a total of \$200 million during the period from January 1, 2002, through December 31, 2005, and agreed to extend for an additional eighteen months, or until December 31, 2006, rate caps on its retail electric transmission and distribution service charges. Following hearings on this settlement, a Pennsylvania Commission administrative law judge recently issued a decision recommending that the PaPUC approve the settlement. Recommended Decision in PaPUC Docket No. A-00110550F0147 (issued June 1, 2000). PECO's retail generation rates are capped pursuant to a fixed schedule set forth in its initial settlement under the Pennsylvania Competition Act, which was approved by the Pennsylvania Commission.

/155/ Interstate Energy Corporation, Holding Company Act Release No. 35-27069

(Aug. 26, 1999); Ameren Corporation, Holding Company Act Release No. 35-27053

(July 23, 1999); Entergy Corporation, Holding Company Act Release No. 27039

(June 22, 1999); Entergy Corporation, Holding Company Act Release No. 27040

(June 22, 1999); New Century Energies, Inc., Holding Company Act Release No. 35-

27000 (Apr. 7, 1999).

- 2) an EWG that sells electricity at rates which have been approved by the FERC or other appropriate State public utility commission, provided that the purchaser of the EWG's electricity, if it is an affiliated public utility or an affiliate that re-sells such power to an affiliated public utility, shall either (a) be subject to State restructuring whereby all customers have a choice in electricity provider, (b) have in place a rate cap or rate freeze which prevents the public utility from passing on any higher costs of electricity purchased directly or indirectly from any associate company or (c) be subject to a combination of customer choice and such rate caps or freezes that together cover all customers;
 - 3) a qualifying facility ("QF") under the Public Utility Regulatory Policies Act of 1978 ("PURPA") that sells electricity (i) at rates based on costs of service as approved by FERC or (ii) exclusively at rates negotiated at arm's length to one or more industrial or commercial customers purchasing such electricity for their own use and not for resale, or to an electric utility company at the purchaser's "avoided cost" determined under PURPA, provided that the purchaser of the QF's electricity, if it is an affiliated public utility or an affiliate that re-sells such power to an affiliated public utility, shall either (a) be subject to State restructuring whereby all customers have a choice in electricity provider, (b) have in place a rate cap or rate freeze which prevents the public utility from passing on any higher costs of electricity purchased directly or indirectly from any associate company or (c) be subject to a combination of customer choice and such rate caps or freezes that together cover all customers; or
 - 4) an ETC, an ERC under Rule 58 or any other Non-Utility Subsidiary that (a) is partially owned, provided that the ultimate purchaser of goods or services is not a Utility Subsidiary, (b) is engaged solely in the business of developing, owning, operating and/or providing services or goods to Non-Utility Companies described in (1) through (3) above, or (c) does not derive, directly or indirectly, any part of its income from sources within the United States and is not a public-utility company operating within the United States.
4. Existing and Anticipated Affiliate Arrangements and Requests for Exemption.. Existing and Anticipated Affiliate Arrangements and Requests for Exemption.

(a) ComEd AIA Transactions

ComEd currently provides to or receives services from affiliates in accordance with an Affiliated Interests Agreement ("AIA") approved by the Illinois Commission. PECO has filed a form of Mutual Services Agreement with the Pennsylvania Commission seeking approval for it to provide and receive services from affiliates. Each of these contracts (including the parties) is described in Exhibit B-3.

Under the Illinois AIA, ComEd may provide services to affiliates, and affiliates may provide services to ComEd, at the "prevailing price," which, as defined in the AIA, is

substantially a market price,^{/156/} or if there is no prevailing price, then at fully distributed cost, which is substantially the same as "cost" as defined under the Act.

Under the AIA ComEd has a contract with Unicom Energy Services ("UES") under which it acquires services at the prevailing price. Under this contract, UES provides service to ComEd in connection with a contract that ComEd has with certain U.S. governmental agencies to provide energy management, demand side management and energy conservation and efficiency services. These services include energy audits, feasibility analyses, engineering and design and implementation. All services required to be provided by ComEd to the governmental entities are provided to ComEd by UES at a prevailing price. To the extent required, Exelon seeks an exemption or waiver from applicable provisions of the Act for ComEd to continue this arrangement.

(b) ComEd "Competitive Services"

Under Illinois law, regulated distribution utilities such as ComEd are authorized to provide certain competitive services to affiliates and unaffiliated parties. These services include any service "declared to be competitive" by the Illinois Commission, "contract service" for the provision of electric power and energy or other services provided by mutual agreement between an electric utility and a retail customer, and "services, other than tariffed services, that are related to but not necessary for, the provision of electric power and energy or delivery services." ("Competitive Services").^{/157/} The price at which Competitive Services may be sold by the utility is not limited to cost.

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

Applicant requests authorization for ComEd to enter into agreements with affiliates to provide Competitive Services and to acquire goods or services from affiliates related to Competitive Services at fair market prices determined without regard to cost and therefore requests an exemption under Section 13(b) from the cost standards of Rules 90 and 91 as applicable.

^{/156/} Under the AIA, "prevailing price" means, for the utility, the tariffed rate or other pricing mechanism approved by the Illinois Commission, and for ComEd's Unicom affiliates, the price charged to nonaffiliates if such transactions with nonaffiliate constitute a substantial portion of the affiliate's total revenues from such transactions.

^{/157/} 220 ILCS 16-102

(c) PECO Government Contracts

PECO seeks a waiver similar to ComEd's prevailing price standard in order to permit PECO or its subsidiaries to provide energy services to U.S. governmental agencies at rates approved by the Pennsylvania Commission.

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

Under the proposed Pennsylvania Mutual Service Agreement, most transactions between affiliates will be made at cost, in accordance with the Pennsylvania Commission's regulations. However, transactions involving non-power goods and services between the regulated electric distribution company (PECO) and its retail marketing affiliate(s) protect the regulated utility by requiring PECO to sell non-power goods and services to its affiliated retail marketing entities at the greater of cost or market and requiring PECO to purchase non-power goods and services from those entities at prices no higher than market in order to prevent anti-competitive cross subsidies. This standard is required by Appendix H (Interim Code of Conduct) of PECO's Pennsylvania Commission approved restructuring settlement in Docket Nos. R-00973953 and P-00971265.

Applicant does not believe that there will ordinarily be any conflict between the Commission's cost rules and the Pennsylvania Commission approved inter-affiliate cost allocation rules. To address the rare circumstances in which the Commission's cost rule and the Mutual Services Agreement (reflecting the terms of PECO's Pennsylvania restructuring settlement) may conflict, PECO proposes to implement a practice that will mitigate any such conflict. Under the proposed procedure PECO will only sell non-power goods or services to its retail marketing affiliate when its cost is substantially equal to the market price for the services or goods in question./158/ PECO will only purchase non-power goods and services from its retail marketing affiliate when the at-cost price offered by that affiliate is at or below the market price for the same goods or services. The proposed procedure will protect customers who receive service from PECO's regulated entity from any potential for abuse of the affiliate relationship and ensure that regulated services are not used to subsidize competitive activities. PECO requests that, in its Order, the Commission find the proposed measures comply with its "at cost" rules (Rules 90 and 91), or grant a limited waiver therefrom, as appropriate.

(e) Exelon Infrastructure Services; Unicom Mechanical Services

(i) Description of Exelon Infrastructure Services.

PECO is engaged in the Electric Infrastructure Business through its current subsidiary, Exelon Infrastructure Services, Inc ("EIS") and its subsidiaries. Exelon plans to expand this utility related business through additional acquisitions. This business consists of two major groups: Construction Maintenance Operations Group and Program Management and Sales

/158/ If the utility's cost is below market, it would not be permitted to sell at cost under Pennsylvania rules, but would be prohibited from selling at market by the Commission's rules.

Group. The Construction Maintenance Operations Group will include most of EIS's field operations and will be functionally aligned around the skills and resources required to perform particular kinds of work. EIS is putting in place centralized systems for the management of construction and maintenance work on a nationwide basis so that EIS can quickly set up a new project site, hire workers and manage assets efficiently.

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

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

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

(ii) Description of Mechanical Services

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

(iii) Requested Exemption from Cost Standard

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

The Utility Subsidiaries would like to allow EIS and Mechanical Services to compete for this business on an equal footing with non-affiliated contractors. Exelon estimates that in the first full year following the Merger EIS and Mechanical Services could provide up to

approximately 6 % and 2 % of their total sales, respectively, to the Utility Subsidiaries./159/ The amount of such services purchased from EIS and Mechanical Services would likely be about constitute a minor portion of the Utility Subsidiaries" construction budgets for that period.

Pricing of services to ComEd at "market" prices will be permitted by the Illinois Commission. ComEd's existing AIA allows affiliates to sell goods and services to ComEd at "prevailing prices" -- i.e., the price at which such affiliate makes a substantial number of sales to the general public. Under the Pennsylvania Public Utilities Code/160/, any services provided to or from an affiliate of a Pennsylvania public utility must be provided at a reasonable price. In PECO's recent merger and restructuring filing with the Pennsylvania Commission, in which it sought approval for affiliate contracts, PECO requested a determination that pricing for affiliate services will be considered reasonable if those services are provided at no more than cost, or on such other pricing treatment as may be directed or permitted by an appropriate regulatory authority.

Exelon requests a determination that EIS and Mechanical Services may engage in the business described above with ComEd, PECO and Genco pursuant to Rule 87(a)(3) or otherwise. In addition Exelon requests an exemption under Section 13(b) of the Act from the cost standards of Rules 90 and 91 for EIS and Mechanical Services to provide services to the Utility Subsidiaries at market prices. The costs of services provided to any associate company by EIS or Mechanical Services (and their subsidiaries) will in all cases be comparable to the costs charged to unaffiliated third parties.

(iv) Alternative Relief for EIS

In the event EIS may provide services to the Utility Subsidiaries, but is limited to cost as provided in Rules 90 and 91, Exelon seeks approval for (1) certain existing contracts to be performed on the basis on which they were entered into until such contracts are complete and (2) the inclusion of a 12.75 % cost of capital in such calculation of "cost."/161/

(1) EIS has acquired and anticipates that it will acquire in the future existing infrastructure service businesses which have traditionally included ComEd and/or PECO as their customers. To the extent there is any contract with ComEd and/or PECO in place on the date of the Merger, or any contract with ComEd and/or PECO in place on the date Exelon, through EIS or a Subsidiary, acquires a new business, Exelon seeks any necessary approval for the continued performance of that contract pursuant to its terms, including any pricing terms, until completion notwithstanding that such contract would be performed by an affiliate of ComEd and PECO. This will allow an orderly transition of these contracts.

/159/ The percentage of EIS's total business represented by sales to the Utility Subsidiaries is expected to decline as the EIS business grows through acquisitions.

/160/ Pa. C.S. Title 66.

/161/ The relief requested in this subsection (iv) will be unnecessary if the Commission grants the relief requested in subsection (iii).

(2) EIS's primary business is providing infrastructure services to companies outside the Exelon system. Because Exelon expects that less than 10% of EIS's revenues will be derived from Exelon affiliates that are public utilities or utility service companies, EIS will not be shielded from exposure to ordinary business risk via its association with Exelon./162/ EIS seeks authority to include in the "cost" of services rendered to its utility and utility service company affiliates a rate of return that reflects: (1) the substantial equity component of EIS's capital structure, and (2) the risks the EIS subsidiaries face as participants in the unregulated, competitive infrastructure services market./163/

The EIS companies debt-to-equity ratio differs from the remainder of the Exelon system because EIS has issued and will continue to issue common stock to finance the acquisition of infrastructure service companies it acquires and to provide incentives for the former owners (many of whom are the present managers) of the acquired companies by giving them a continuing stake in the success of the EIS businesses. While the overall debt-to-equity ratio for Exelon will be approximately 70/30, EIS's current capitalization is approximately 96% equity, and is expected to remain heavily weighted toward equity. Therefore, it is appropriate to apply an equity-based rate of return as compensation for capital used by EIS in its business.

As noted, the EIS companies participate in a competitive infrastructure services market. Prior to their acquisition, several of the EIS companies were awarded infrastructure services contracts with PECO based on an arms-length competitive bidding process that provided market-based rates of return in the 13-16% range. PECO is presently authorized to receive a 12.75% return on equity from the Pennsylvania Public Utility Commission. However, for the year ending December 31, 1999, PECO achieved an adjusted return on equity of 11%. Based on these figures, Exelon requests authorization for EIS to receive a 12.75% return on its necessary capital procured to provide services to the Exelon utilities and utility service companies.

(f) Public Interest

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

/162/ EIS businesses provided approximately \$29 million in services to PECO in 1999, which represented about 5.8% of EIS's \$503 million in total revenues for the year. Due to its acquisition of additional infrastructure services companies, EIS expects to provide approximately \$50 million in services to PECO in 2000 which is 6.8% of EIS's total expected revenues of \$734 million for the year. EIS does not anticipate providing more than 10% of its services to PECO, ComEd or Genco or to service companies that provide services to public utility associates on an annual basis. If Exelon determines, on a prospective basis that more than 10% of EIS's fiscal year revenues are likely to be derived from associated public utility companies and/or utility service companies on a combined basis), Exelon will seek additional authorization from the Commission.

/163/ Under Rule 91, "cost" includes "reasonable compensation for necessary capital procured through the issuance of capital stock."

reasonable and are in the public interest, cross-subsidization issues will not arise under these agreements, and each should be permitted to continue./164/ Applicant emphasizes that the bundled rate distribution customers of ComEd and PECO are protected from increases in rates for proscribed periods because of the rate cap or rate freeze in effect in those States as described elsewhere in this Application-Declaration./165/

(g) Goods and Services to and from Genco

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

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

One area of particular concern to the Nuclear Regulatory Commission in its regulation of nuclear generating plants is the identity and capabilities of the individuals who will be responsible for nuclear operations and safety. The NRC has found that a key factor in its determination that AmerGen has the technical qualifications to own nuclear plants is the

/164/ The Commission is authorized to grant exemptions or waiver of the at cost rules that involve special or unusual circumstances or are not in the ordinary course of business." Section 13(b)(2) of the Act. See Dominion Resources, Inc.,

Holding Company Act Release No. 35-27113 (Dec. 15, 1999). See also, In Entergy

Corporation, Holding Co. Release No. 27040 (June 22, 1999), the Commission

addressed its flexibility in administering Section 13 in the context of Entergy's Settlement Agreement with several regulators. The Commission allowed Entergy's regulated utilities to provide services to non-utility businesses at cost of service plus five percent. In reaching its decision, the Commission recognized that the Act's statutory provisions afforded the Commission the "necessary flexibility to deal with changing circumstances." The Commission has used this flexibility several times. See, e.g., New England Electric System,

Holding Co. Release No. 22309 (Dec. 9, 1981) (authorizing the price or charter rental of a good or service to be 90% of a market rate); Blackhawk Coal Co.,

Holding Co. Release No. 23834 (Sept. 20, 1985) (authorizing market-based cap on prices paid for coal purchased from coal mining affiliate); Columbus Southern

Power Co., Holding Co. Release No. 25326 (June 5, 1991) (authorizing sale of

spare parts at replacement cost); EUA Cogenex Corp., Holding Co. Release No.

26373 (Sept. 14, 1995) (authorizing sale of goods or services at prices not to exceed market prices); and EUA Cogenex Corp., Holding Co. Release No. 26469 (Feb. 6, 1996) (authorizing provision of goods or services at prices not to exceed market prices). The Commission should again exercise its flexibility to approve Applicants' waiver request in order to comply with applicable Illinois and Pennsylvania commission orders.

/165/ See Item 3.C.3.

managerial and technical support that PECO currently provides to AmerGen and the sharing of talent and expertise between AmerGen and PECO./166/ These nuclear support functions will be transferred to Genco and, in approving the license transfers associated with the Merger, the NRC will rely upon the continuation of these support services from Genco to, and the sharing of talent and expertise between, AmerGen and Genco.

Consequently, Genco has important reasons to seek to share services with AmerGen and future EWGs of Exelon. These services may include such services as engineering and technical support and functions, nuclear fuel procurement and engineering, information systems, licensing, emergency planning, maintenance, quality assurance, management services and support, offsite safety review, and other services beneficial to the efficient operation of Genco and AmerGen generation facilities.

Exelon seeks approval for Genco and AmerGen and any future Subsidiary of Genco to provide such services to each other as required for the efficient operation of the generating facilities in the Exelon system. These services would involve a substantial number of employees and other resources but will result in the most efficient operation of the Exelon generation function.

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

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

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

/166/ See In re GPU Nuclear, Inc. (Three Mile Island Unit No. 1), Order

Approving Transfer of License and Conforming Amendment Docket No. 50-289 (April 12, 1999); 64 Fed. Reg. 19,202.

5. Phase-In of Compliance with Affiliate Requirement

Exelon expects Exelon Services to be operational on the date the Merger is effective or within 30 days thereafter. However, Exelon seeks authority to delay, for a period not longer than one year following the effective date of the Merger, the full implementation of all expected services to be provided by Exelon Services and/or full implementation of required accounting systems and cost allocation methodologies. Such delay would be to accommodate the need to develop systems to fully implement the desired accounting requirements or for other reasons making full implementation more costly or complex than if a short delay were allowed./167/

D. Approval for Restructurings -- Interim Operations

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

Item 4. Regulatory Approvals

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

A. Antitrust

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

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

/167/ The Commission has allowed limited phase-in of the affiliate requirements for companies who are becoming subject to the Act for the first time as a result of a merger. See Dominion Resources, Inc., Holding Company Act Release No. 27113

(December 15, 1999).

B. Federal Power Act

Section 203 of the Federal Power Act provides that no public utility shall sell or otherwise dispose of its jurisdictional facilities or directly or indirectly merge or consolidate such facilities with those of any other person or acquire any security of any other public utility, without first having obtained authorization from FERC. Under Section 203 of the Federal Power Act, FERC will approve a merger if it finds that merger "consistent with the public interest." In reviewing a merger, FERC evaluates three factors: (i) whether the merger will adversely affect competition, (ii) whether the merger will adversely affect cost based power or transmission rates, and (iii) whether the merger will impair the effectiveness of regulation. On November 22, 1999, ComEd and PECO filed a combined application with FERC requesting FERC to approve the Merger under Section 203 of the Federal Power Act.

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

On December 16 and December 22, 1999, PECO and ComEd, respectively, filed separate applications with FERC requesting FERC to authorize the transfer of jurisdictional assets associated with the companies' Restructurings. The Restructurings include plans to establish Genco and to separate generation and marketing from transmission and distribution businesses. FERC was informed that the transfers are expected to occur about the time the Merger becomes effective. On March 17, 2000 and April 12, 2000 FERC entered orders approving the requested transfers. On May 31, 2000, ComEd filed a second application with FERC requesting FERC to authorize the transfer of additional jurisdictional assets associated with the Restructurings. In the near future, ComEd and PECO and their regulated affiliates will make additional filings requesting certain further FERC authorizations in order to fully effectuate the Restructurings. In addition, the Conowingo Companies hold certain hydroelectric project licenses under the FPA. The transfer of the utility assets and liabilities of the Conowingo Companies will constitute transfers of the hydroelectric project licenses, requiring approval of FERC.

C. Atomic Energy Act.

ComEd, PECO and AmerGen hold NRC operating licenses in connection with their ownership and/or operation of various nuclear generating facilities. The operating licenses authorize the holder to own and operate the facilities. The AEA provides that a license or any rights thereunder may not be transferred or in any manner disposed of, directly or indirectly, to any person through transfer of control unless the NRC finds that such transfer is in accordance with the AEA and consents to the transfer. Pursuant to the AEA, ComEd and PECO have applied for approval from the NRC to reflect the fact that after the Merger, Genco will be the owner and operator of the facilities and Exelon will be the parent company of Genco. AmerGen has also applied for NRC approval in connection with the Transfer of PECO's interest in AmerGen to Genco.

D. State Public Utility Regulation

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

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

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

E. Other

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

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

Item 5. Procedure

The Commission is respectfully requested to publish, not later than July 15, 2000, the requisite notice under Rule 23 with respect to the filing of this Application-Declaration, such notice to specify a date not later than August 15, 2000, by which comments must have been entered and a date on or after August 15, 2000, as the date when an order of the Commission granting and permitting this Application-Declaration to become effective may be entered by the Commission.

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

Item 6. Exhibits and Financial Statements

A. Exhibits

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

Exhibit No.	Description of Document	Method of Filing
A-2	Restated Articles of Incorporation of ComEd effective February 20, 1985, including Statements of Resolution Establishing Series, relating to the establishment of three new series of ComEd preference stock known as the "\$9.00 Cumulative Preference Stock," the "\$6.875 Cumulative Preference Stock" and the "\$2.425 Cumulative Preference Stock."	Incorporated by reference; File No. 1-1839, Unicom Form 10-K for the year ended December 31, 1994, Exhibit (3)-2.
A-3	Restated Articles of Incorporation of PECO	Incorporated by reference; File No. 1-1401, PECO 1993 Form 10-K, Exhibit 3-1
B-1	Amended and Restated Agreement and Plan of Exchange and Merger (Merger Agreement)	Incorporated by reference; Annex 1 to Exhibit C-1
B-2	Form of General Services Agreement	Filed March 16, 2000
B-3	Description of existing agreements under State approved affiliated interest requirements	Filed by amendment
C-1	Registration Statement of Exelon on Form S-4	Incorporated by reference; Registration Statement No. 333-37082.
C-2	Joint Proxy Statement and Prospectus of Unicom and PECO	Incorporated by reference; included in Exhibit C-1
D-1.1	Joint Application of ComEd and PECO to FERC re Merger (excluding exhibits and testimony which Applicant will supply upon request of the Commission)	Filed March 16, 2000
D-1.2	Direct Testimony of Dr. William H. Heironymous (Exhibit No. APP-300 to FERC Joint Application).	Filed March 16, 2000
D-1.3	Order of FERC approving the Merger	Filed herewith
D-1.4	Application of ComEd to FERC for Authority to Transfer Jurisdictional Assets ("Restructuring Filing") (excluding exhibits and testimony which Applicant will supply upon request of the Commission)	Filed March 16, 2000

Exhibit No.	Description of Document	Method of Filing
D-1.5	Application of PECO to FERC for Authority to Transfer Jurisdictional Assets ("Restructuring Filing") (excluding exhibits and testimony which Applicant will supply upon request of the Commission)	Filed March 16, 2000
D-2.1	Application of PECO before the Pennsylvania Commission regarding the Merger (excluding exhibits and testimony which Applicant will supply upon request of the Commission)	Filed March 16, 2000
D-2.2	Order of the Pennsylvania Commission approving the Merger	Filed by amendment
D-2.3	Application of PECO before Pennsylvania Commission regarding Restructuring (excluding exhibits and testimony which Applicant will supply upon request of the Commission)	Filed March 16, 2000
D-3.1	Notice of ComEd to the Illinois Commission regarding the Merger (excluding exhibits and attachments which Applicant will supply upon request of the Commission)	Filed March 16, 2000
D-3.2	Application of ComEd to the Illinois Commission regarding Restructuring (excluding exhibits and testimony which Applicant will supply upon request of the Commission)	Filed herewith
D-4.1	Application of PECO, ComEd and AmerGen to the NRC regarding transfer of nuclear generating operating licenses	Filed March 16, 2000
D-4.2	Order of the NRC finding that the transfer of Filed by amendment certain operating licenses in connection with the Merger is in compliance with The Atomic Energy Act and consenting to such transfers	Filed by amendment
E-1	Maps of service area and transmission system of ComEd	Filed in paper under Form SE
E-2	Maps electric and gas service areas and transmission system of PECO	Filed in paper under Form SE

Exhibit No.	Description of Document	Method of Filing
E-3	Unicom corporate chart	Filed in paper under Form SE
E-4	PECO corporate chart	Filed in paper under Form SE
E-5	Exelon corporate chart	Filed in paper under Form SE
F-1	Preliminary opinion of counsel to Exelon	Filed by amendment
F-2	Past-tense opinion of counsel to Exelon	Filed by amendment
G-1	Opinion of Wasserstein Perella & Co.	Incorporated by reference; Annex 4 to S-4 Registration Statement, Exhibit C-1
G-2	Opinion of Salomon Smith Barney Inc.	Incorporated by reference; Annex 3 to S-4 Registration Statement, Exhibit C-1
G-3	Opinion of Morgan Stanley & Co.	Incorporated by reference; Annex 2 to S-4 Registration Statement, Exhibit C-1
H-1	Annual Report of Unicom on Form 10-K for the year ended December 31, 1999	Incorporated by reference, File No. 1-11375
H-2	Annual Report of PECO on Form 10-K for the year ended December 31, 1999 No. 1-1401	Incorporated by reference, File No. 1-1401
H-3	Quarterly Reports of Unicom on Form 10-Q for the quarter ended March 31, 2000 No. 1-11375	Incorporated by reference, File No. 1-11375
H-4	Quarterly Reports of PECO on Form 10-Q for the quarter ended March 31, 2000 No. 1-1401	Incorporated by reference, File No. 1-1401
I-1	List and Description of Subsidiaries and Investments Of Unicom Corporation (Other than "Public-Utility" Companies) (updated as of June, 2000)	Filed herewith
I-2	List and Description of Subsidiaries and Investments Of PECO Energy (Other than "Public-Utility" Companies) (updated as of June, 2000)	Filed herewith
J-1	Analysis of the Economic Impact of a Divestiture of the Gas Operations of PECO Energy Company	Filed March 16, 2000

Exhibit No.	Description of Document	Method of Filing
K-1	Analysis of How the Interconnection Requirement of PUHCA is Satisfied by OATTs and OASIS ("Interconnection Analysis")	Filed March 16, 2000
L-1	Form of Notice of filing	Filed by amendment

B. Financial Statements

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

Item 7. Information as to Environmental Effects

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

SIGNATURE

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

EXELON CORPORATION

Date: June 16, 2000

BY: /s/ Corbin A McNeill, Jr.

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

COMM-OPINION-ORDER, 91 FERC (P)61,036, Commonwealth Edison Company on Behalf of Itself and Its Public Utility Subsidiaries and PECO Energy Company On Behalf of Itself and Its Public Utility Subsidiaries, Docket No. EC00-26-000, (Apr. 12, 2000)

Commonwealth Edison Company on Behalf of Itself and Its Public Utility Subsidiaries and PECO Energy Company On Behalf of Itself and Its Public Utility Subsidiaries, Docket No. EC00-26-000

Order Authorizing Merger

(Issued April 12, 2000)

Before Commissioners: James J. Hoecker, Chairman; William L. Massey, Linda Breathitt, and Curt Hebert, Jr.

On November 22, 1999, Commonwealth Edison Company (ComEd) on behalf of itself and its public utility subsidiaries, and PECO Energy Company (PECO) on behalf of itself and its public utility subsidiaries, (collectively, Applicants) filed a joint application pursuant to Section 203 of the Federal Power Act (FPA)/1/ for approval of the merger of Applicants. As discussed below, the Commission has reviewed the proposed merger under the Commission's Merger Policy Statement./2/ In this order, we will approve the merger, as proposed.

I. Background

A. Description of the Parties to the Merger

1. ComEd

ComEd is a "public utility" under Section 201 of the FPA and a majority-owned subsidiary (greater than 99 percent) of Unicom Corporation ("Unicom"). ComEd and its affiliates supply wholesale and retail power and transmission services principally in northern Illinois. The State of Illinois has begun implementing a direct, retail access program. All of ComEd's non-residential customers will become eligible for direct access by December 31, 2000, and all of its residential customers by May 1, 2002. Both ComEd and its Unicom affiliate, Unicom Power Marketing, Inc. (UPM), have authority to sell power at market-based rates./3/

ComEd currently owns 9,214 megawatts (MW) of generating capacity, all nuclear, after recently selling all of its remaining non-nuclear generating facilities to Edison Mission Energy, Inc. (Mission Energy)./4/ In order to secure state regulatory approval for the Mission Energy sale, ComEd has entered into

1 16 U.S.C. (S)824b (1994).

2 Inquiry Concerning the Commission's Merger Policy Under the Federal Power Act: Policy Statement, Order No. 592, 61 Fed. Reg. 68,595 (1996), FERC Statutes and Regulations, Regulations Preambles January 1991-June 1996 (P)31,044 (1996), reconsideration denied, Order No. 592-A, 62 Fed. Reg. 33,341 (1997), 79 FERC (P)61,321 (1997) (Merger Policy Statement).

3 See Commonwealth Edison Co., 82 FERC 61,317 (1998); and Unicom Power Marketing, Inc., 81 FERC (P)61,048 (1997).

4 The Commission has approved ComEd's disposition of jurisdictional assets associated with the generating units to be sold to Mission Energy. See Commonwealth Edison Co., et al., 89 FERC (P)62,105 (1999).

a series of power purchase agreements intended to maintain ComEd's ability to reliably serve its load during the beginning years of Illinois' transition to full retail access. These agreements provide ComEd with the right to dispatch and receive electric energy from the generating facilities sold to Mission Energy through the summer of 2004. ComEd has similar rights, under power purchase agreements which extend through 2013, to capacity and energy from the Kincaid and State Line coal-fired power plants it sold to subsidiaries of Dominion Resources, Inc. and the Southern Company in 1997./5/

ComEd's transmission system interconnects with several other large, adjacent utilities, including Alliant Energy Corporation (Alliant), Wisconsin Electric Power Company (Wisconsin Electric) and American Electric Power Company (AEP). Currently, ComEd provides both wholesale and unbundled retail transmission service under the rates, terms and conditions of ComEd's open access transmission tariff ("OATT") on file with the Commission./6/ However, ComEd has committed to transfer control of its transmission facilities to the Midwest Independent Transmission System Operator, Inc. (Midwest ISO)./7/ Applicants state that the Midwest ISO is expected to commence operation by June 1, 2001./8/ In addition, on December 13, 1999, ComEd and other interested parties filed a proposal in Docket No. EL00-25-000 to create an independent transmission company (ITC), seeking a Commission order declaring that the ITC, coupled with oversight by the Midwest ISO, will satisfy the minimum characteristics and functions of a regional transmission organization (RTO)./9/ Under this proposal, Applicants state that ComEd will transfer its transmission system and control of its control area functions to the proposed ITC, which will operate under the Midwest ISO's oversight./10/ If the merger is approved, ComEd commits that if the Commission concludes that the ITC/Midwest ISO combination does not meet the minimum RTO requirements, it will endeavor to modify its proposal in order to meet those requirements.

2. PECO and AmerGen

5 See Kincaid Generation, L.L.C., 78 FERC (P)62,060 (1997); and State Line Energy, L.L.C., 78 FERC (P)62,037 (1997).

6 The Commission has recently accepted changes to the OATT to implement retail transmission access. See Commonwealth Edison Co., 88 FERC (P)61,296 (1999).

7 Application at 11. Applicants state that ComEd's membership in the Midwest ISO is unqualified and unconditional. Applicants' Answer to Motions for Rehearing and/or Other Action (Applicants' Answer) at 7-8. The Commission interprets that this commitment has been made, irrespective of whether the merger is approved.

8 Application at 11.

9 In this regard, the Commission approved appendix I to the Midwest ISO operating agreement, creating a framework for membership and operation of ITCs within the Midwest ISO, under which ComEd and the other petitioners seek to operate their proposed structure for an RTO. The Commission also granted in part the petition for a declaratory order and provided guidance to the petitioners for revising the ITC/ISO proposal to meet Order No. 2000 requirements. See Commonwealth Edison Co., et al., 90 FERC (P)61,192 (2000).

10 We note that in the Application Applicants have stated that ComEd will turn over functional control of its transmission system to the Midwest ISO. Ex. APP-400 at 11. However, the ITC proposal provides that the ITC would have primary operational authority, with oversight by the Midwest ISO. In its ruling on the ITC petition, the Commission directed petitioners to clarify the specific division of functions between the Midwest ISO and the ITC at the time they submit their filings to establish the ITC. See 90 FERC at p. 61,619.

PECO is a "public utility" under Section 201 of the FPA and provides wholesale and retail power service and retail natural gas service in Pennsylvania. Pursuant to the Electricity Generation Customer Choice and Competition Act and as a part of a Pennsylvania Public Utilities Commission ("PaPUC") approved settlement, PECO has implemented a retail access program. Under this program, as of January 1, 2000, all retail customers in PECO's territory have the freedom to choose their power supply provider. PECO remains the provider of electric distribution services in its service territory. PECO serves seven requirements-type wholesale customers, all under its market-based tariff,^{11/} in Pennsylvania and New Jersey.

PECO and its subsidiaries currently own approximately 9,500 MW of generating capacity consisting of a mix of fossil, nuclear, hydro and combustion turbine generators. PECO also holds a 50 percent interest in AmerGen Energy Company, L.L.C. (AmerGen), a limited liability company formed by PECO and British Energy, Inc., to own and operate nuclear and other generating assets in the United States.^{12/} AmerGen has purchased the 930 MW Clinton nuclear generating station from Illinois Power Company and will sell 75 percent of the output of the Clinton station to Illinois Power through 2004.^{13/} AmerGen also has acquired the Three Mile Island Unit No. 1 nuclear unit and has entered into agreements to acquire the following nuclear generating stations: Nine Mile Point Unit Nos. 1 and 2; Oyster Creek; and Vermont Yankee. In addition, PECO is acquiring an additional 80 MW ownership interest in the Peach Bottom nuclear station.

All of PECO's generating capacity (except for the Clinton nuclear capacity) is subject to oversight and dispatch by the PJM Interconnection, LLC (PJM), an independent system operator (ISO) that also operates a control area covering the middle Atlantic region of the country. Although PECO owns transmission facilities, PJM controls the operation of PECO's transmission system and provides transmission service over PECO's and other members' facilities under the PJM OATT.

B. Description of Proposed Merger and Post-Merger Operations

1. The Merger

Under the Agreement and Plan of Exchange and Merger, dated September 22, 1999 ("Merger Plan"), PECO will enter into a mandatory share exchange with a PECO subsidiary, Exelon Corporation (Exelon). Each outstanding share of PECO common stock will be exchanged for one share of Exelon common stock. Immediately thereafter, Unicom, ComEd's parent, will merge with and into Exelon. Each outstanding share of Unicom common stock will be exchanged for 0.875 shares of Exelon common stock and \$3.00 in cash.^{14/} The result of these transactions is that PECO, ComEd and the existing utility and non-utility subsidiaries of Unicom will become subsidiaries of Exelon. The current holders of PECO and Unicom common stock will together own all of the outstanding shares of Exelon common stock. Exelon will be a public utility holding company system subject to regulation and registration under the Public Utility Holding Company Act of 1935, 15 U.S.C. (S)79a, et seq. ("PUHCA").

11 See Letter Orders issued to PECO Energy Company in Docket No. ER95-770-000 on May 15, 1995, in Docket No. ER97-316-000 on February 14, 1997, and in Docket No. ER97-316-001 on March 18, 1999.

12 British Energy, Inc., a wholly owned subsidiary of British Energy plc., owns no electric generation or transmission assets anywhere in the United States, other than through its AmerGen joint venture with PECO.

13 Illinois Power Co. and AmerGen Energy Co., L.L.C., 89 FERC (P)61,104 (1999).

14 Applicants' Securities and Exchange Commission application, filed as Ex. 6 to their merger application in this proceeding, at 4.

2. Post-Merger Interconnected Operations and Transmission Services

Applicants state that ComEd and PECO will operate as an interconnected utility system within the meaning of PUHCA. Although Applicants' systems are not contiguous, they have engaged in transactions with each other by means of transmission services taken from intervening third-party transmission systems. The most significant of these is a 10-year sale from ComEd to PECO of 300 MW. At the time of the filing, Applicants did not know with certainty whether the Securities and Exchange Commission (SEC) will find that Applicants are currently "interconnected" or "capable of interconnection," as those terms are defined in PUHCA. Applicants state that, if necessary to avoid delay in obtaining SEC authorization, they will commit (to the SEC) to acquire a firm, 100 MW transmission path from ComEd to PJM for three years following the merger's effective date.

Both ComEd and PECO will continue to provide open access transmission services under their individual respective tariffs (in PECO's case, the PJM OATT). Applicants state that because PECO already has transferred control of its transmission system to PJM, and ComEd has committed to transfer control of its transmission facilities to the Midwest ISO, it is infeasible for them to file a combined-system OATT.

3. Applicants' Restructuring Plans

At or about the time the merger closes, both of the Applicants will undergo internal reorganizations. Currently, PECO has functionally divided its operations within its existing corporate structure into three parts: (a) the regulated transmission and distribution function; (b) the generation function; and (c) unregulated ventures. PECO's restructuring plan will formalize this functional separation into separate corporate entities within a holding company structure. After restructuring, PECO, which will continue in existence as a subsidiary of the holding company, will continue to own and operate all distribution assets. It also will continue to own its transmission facilities, but PJM will continue to operate such facilities. PECO will fulfill the "provider of last resort" functions mandated by Pennsylvania law and will remain regulated by the PaPUC.

As part of the PECO restructuring, PECO's generation assets and operations will be transferred to a new subsidiary, referred to herein as GenCo. GenCo will own PECO's existing fossil and nuclear generating plants. Also, PECO's power marketing functions, currently pursued through a division of PECO known as the Power Team, will become a part of GenCo. To the extent necessary, PECO will enter into power purchase agreements with GenCo, as well as other generators, to obtain power supplies./15/

In addition to its ITC initiative, ComEd also plans to restructure generation and distribution operations./16/ ComEd will transfer its generation facilities to the same GenCo that PECO will create. The means of this transfer of control has not yet been determined. It could take the form of an asset transfer, a lease, or a sale of all output to GenCo. Regardless, after restructuring, the existing ComEd will be a distribution company. ComEd will then obtain generation supplies necessary to serve its customers in accordance with power purchase agreements with GenCo, through at least 2004. ComEd will also assign its rights under various power purchase agreements, including those with Mission Energy, to GenCo. Applicants state that the transfer of control of ComEd's generating facilities to GenCo will not occur unless the merger is approved. ComEd will continue to own and operate its transmission facilities until such time that its proposed ITC is established and the Midwest ISO becomes operational.

4. Related Filings and Commitments

15 PECO's application for restructuring was filed in Docket No. EC00-38-000 and conditionally approved by the Commission on March 17, 2000. PECO Energy Co., et al., 90 FERC (P)61,269 (2000).

16 The Commission is considering ComEd's proposal in Docket No. EC00-41-000 in an order to be issued contemporaneously with this order.

Applicants recognize that their proposed merger represents a departure from the facts relied upon by the Commission in granting market-based rate authority to PECO and to ComEd and its affiliate, UPM. They state that, consistent with Commission policy addressing transactions between utilities proposing to merge, ComEd and PECO have committed not to sell power to each other while the merger is pending and thereafter if the merger is consummated, unless the Commission authorizes such sales. ComEd and PECO have also committed that any authorized sales which do occur at market-based prices are subject to an independent, verifiable rate cap. Further, ComEd and PECO have agreed that when they sell non-power goods and services to each other, the buyer will not pay more than the market price. These commitments were set forth in filings approved by the Commission in Docket Nos. ER99-1872-001 (PECO) and ER98-1734-001 and ER97-3954-010 (ComEd)./17/ ComEd filed its amended service agreement in Docket No. ER00-182-000, and PECO filed its amended agreement in Docket No. ER00-194-000./18/

Applicants have further committed that, effective as of the date of the Application, they will, for purposes of Order No. 889,/19/ treat each other as if they were already affiliated companies. Therefore, ComEd's transmission function personnel will treat PECO's merchant function personnel in the same manner that ComEd's transmission function personnel treat ComEd's merchant function personnel. PECO's transmission function personnel will treat ComEd's merchant function personnel in the same manner. Upon consummation of the proposed merger, Applicants will file combined Order No. 889 Standards of Conduct.

II. Notices of Filing, Interventions, and Answers

Notice of Applicants' merger filing was published in the Federal Register, 64 Fed. Reg. 67,256 (1999), with comments, interventions, and protests due on or before January 21, 2000. Motions to intervene were filed by the parties listed in the appendix to this order. The American Public Power Association (APPA), the Illinois Cities (Cities), the Illinois Municipal Electric Agency (IMEA), Mid-Atlantic Power Supply Association (MAPSA), Wisconsin Public Power Inc. (WPPI), and the Electricity Consumers Resource Council (ELCON) filed protests to Applicants' proposal./20/ On February 7, 2000, Applicants filed an answer to the protests and comments.

III. Discussion

A. Procedural Matters

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- 17 Those filings were approved by separate, unpublished Commission letter orders issued November 22, 1999.
 - 18 Those filings were approved by separate, unpublished Commission letter orders issued on December 16, 1999.
 - 19 Open Access Same-Time Information System (Formerly Real-Time Information Network) and Standards of Conduct, 61 Fed. Reg. 21737 (May 10, 1996), FERC Statutes and Regulations, Regulations Preambles January 1991-June 1996 (P)31,035 (April 24, 1996); Order No. 889-A, order on reh'g, 62 Fed. Reg. 12484 (March 14, 1997), FERC Statutes and Regulations (P)31,049 (March 4, 1997); Order No. 889-B, reh'g denied, 62 Fed. Reg. 64715 (December 9, 1997), FERC Statutes and Regulations (P)31,253 (November 25, 1997).
 - 20 Hoosier Energy Rural Electric Cooperative, Inc. (Hoosier) filed an intervention, motion to consolidate, and protest to Applicants' filing, but on March 15, 2000, Hoosier filed a notice of withdrawal of its filing. This notice was unopposed and thus the withdrawal was deemed approved on March 30, 2000. 18 C.F.R. (S)385.216 (1999). On February 18, 2000, the National Railroad Passenger Corporation filed to delete the paragraph of its intervention which raised a substantive issue concerning the merger application.

Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure,^{21/} the timely, unopposed motions to intervene and notices of intervention serve to make those who filed them parties to this proceeding. Due to the absence of any undue prejudice or delay, the Commission will grant the late, unopposed motions to intervene and protests in this proceeding of the parties filing late listed in the appendix of this order. Notwithstanding Rule 213 of the Commission's Rules of Practice and Procedure,^{22/} we will accept Applicants' February 7, 2000 answer, since it assists the Commission in understanding Applicants' merger application.

Several parties filed motions to consolidate the instant merger application with various proceedings, including the petition of ComEd and other public utilities for a Declaratory Order in Docket No. EL00-25-000, et al., or with the Docket No. EC00-41-000 proceeding involving ComEd's proposed corporate restructuring. These motions need not be addressed since the Commission is approving Applicants' merger proposal without establishing hearing procedures in this order, has already addressed the petition in Docket No. EL00-25-000, et al., and is contemporaneously addressing ComEd's proposal in Docket No. EC00-41-000.

B. The Merger

1. Standard of Review

Section 203(a) of the FPA provides, in relevant part, as follows:

No public utility shall sell, lease, or otherwise dispose of the whole of its facilities subject to the jurisdiction of the Commission, or any part thereof of a value in excess of \$50,000, or by any means whatsoever, directly or indirectly, merge or consolidate such facilities or any part thereof with those of any other person, or purchase, acquire, or take any security of any other public utility, without first having secured an order of the Commission authorizing it to do so.^{23/}

Under Section 203(a), the Commission must approve a proposed merger if it finds that the merger "will be consistent with the public interest." ^{24/}

In 1996, the Commission issued its Merger Policy Statement updating and clarifying its procedures, criteria and policies applicable to public utility mergers. The Merger Policy Statement provides that the Commission will generally take account of three factors in analyzing proposed mergers: (a) the effect on competition; (b) the effect on rates; and (c) the effect on regulation.

For the reasons discussed below, we find that Applicants' proposed merger and mitigation commitments are consistent with the public interest. Accordingly, we will approve the merger without further investigation.

2. Effect on Competition

a. Effects of Combining Generation

Applicants identify non-firm energy as the relevant product and use economic capacity and available economic capacity as a proxy for a supplier's ability to participate in the relevant product market.

21 18 C.F.R. (S)385.214 (1999).

22 18 C.F.R. (S)385.213(2) (1999).

23 16 U.S.C. (S)824b (1994).

24 Id.

Applicants identify and define 42 relevant geographic ("destination") markets using the approach in Appendix A of the Merger Policy Statement./25/ Applicants evaluate these destination markets over 11 separate time periods: super-peak, peak and off-peak periods for summer, winter and shoulder seasons, along with two extreme summer super peaks./26/ Rather than using system lambda or observed prices to approximate market prices in relevant markets, Applicants use a range of prices from \$15 per MWh to \$100 per MWh./27/

Applicants perform an analysis without taking into account a 100 MW transmission path which may become necessary to comply with the integration requirements of PUHCA. They report competitive screen violations for economic capacity only in the ComEd destination market in ten of the 11 periods analyzed. Post-merger HHIs in the ten time periods with screen failures range from 4,395 to 5,671 with pre-to post-merger changes ranging from 179 to 297./28/ Next, Applicants present results under the assumption that the 100 MW transmission path is in place. They adjust the available transfer capability (ATC) based on load flow analyses resulting from the firm 100 MW power flow from ComEd to PECO./29/ The results are nearly identical, with screen violations only occurring in the ComEd destination market in the same ten time periods as in the no-integration case. Applicants argue that the screen failures in the ComEd market are caused by the treatment accorded PECO's 300 MW power purchase contract with ComEd. Under the post-merger scenario, this 300 MW is combined with ComEd's economic capacity./30/ Applicants note that they are willing to sell the contract if the Commission deems it necessary to avoid an evidentiary hearing./31/

Applicants also conduct sensitivity tests of their results. They examine cases where total transfer capability is used rather than the standard ATC and where transmission rates are assumed to be zero. Both of these assumptions have the effect of increasing the amount of economic capacity that can reach the relevant destination markets./32/ Applicants report results that are qualitatively unchanged and conclude that the lack of sensitivity to changes in the transmission assumption show that the results are robust.

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- 25 The markets include all first-tier utilities to ComEd and PECO along with additional destination markets representing historical customers of the Applicants.
- 26 The extreme summer super peaks represent the top 25 and top 125 load hours.
- 27 Applicants explain that both system lambdas and trade data have limitations. They present a table (Ex. No. APP-312) with Load Weighted System
- 28 A screen failure occurs whenever the post-merger HHI exceeds 1800 and the change in HHI exceeds 50. See Merger Policy Statement at p. 30,119, n.33.
- 29 Ex. APP-302 at 17.
- 30 Applicants state that lack of a screen failure in the highest summer peak period is due to the fact that ComEd has a recall provision on the energy sold under this contract during periods of supply shortages in order to meet native load. In addition, Applicants state that although PECO has generally taken delivery of the energy in the AEP control area, they adopted the more conservative (less favorable to Applicants) assumption that the energy was actually delivered in the ComEd destination market. Applicants note that if they had assumed an AEP delivery point, there would not have been screen failures in the ComEd destination market since the 300 MW would have been severely "squeezed out" by the transmission allocation procedures in Applicants' computer model.
- 31 They state that a condition of the sale would be that the buyer be small enough not to trigger an Appendix A screen violation based on the associated increase in economic capacity. Application at 8.
- /32/ In general, this assumption could increase or decrease the market concentration depending on the

Applicants also report concentration statistics for available economic capacity (AEC) in the relevant destination markets with and without the 100 MW transmission path. In both cases, there are screen violations in numerous destination markets beyond those in the ComEd market. Applicants do not present results for AEC under the proposed mitigation involving sale of the 300 MW contract. Instead they argue that AEC is not a reliable measure, especially during times of state-level restructuring. They argue that since AEC includes all capacity not committed to serving native load, and since state retail competition releases native load, AEC and economic capacity are essentially the same under retail competition. In addition, they contend that the uncertainty regarding the pace and scope of state-level restructuring makes any estimate of AEC highly speculative and therefore does not provide useful information.

b. Effects of Combining Generation and Transmission

Applicants claim that the combination of their generation and transmission assets does not create any vertical competitive concerns. They consider possible scenarios under which the merger could create or enhance the incentive and/or ability to adversely affect electricity prices by exercising vertical market power. Applicants address the possibility that the merged firm would strategically dispatch ComEd's generation units in order to create congestion so that PECO could sell energy into Midwestern markets at higher prices.^{33/} They argue that ComEd currently has little, if any, ability to do so, since it only operates nuclear units, which have little dispatch flexibility. Also, they argue that withholding baseload capacity is rarely a profit-maximizing strategy, so they would also have little, if any, incentive to engage in anti-competitive dispatch. Further, Applicants state that ComEd will transfer its transmission system and control of its control area functions to the proposed ITC, which will operate under the Midwest ISO's oversight. According to Applicants, the Midwest ISO and ITC, once they are in operation, will be monitoring the operation of generation and transmission and will be able to detect any attempted manipulations.

Similarly, Applicants argue that PECO has no ability to engage in anti-competitive dispatch, since its generation operates under the oversight of the PJM ISO. They note that the PJM ISO performs area control functions for its members and operates under approved congestion management rules to detect attempts to dispatch generation to cause congestion.

Applicants also address the possibility of Applicants operating their transmission system to adversely affect electricity prices. They argue that PJM, not PECO, controls the operation of PECO's transmission system so PECO has no ability to use its transmission system to frustrate competition. Applicants acknowledge that ComEd has some degree of operational control over its transmission system because it is a Scheduling Coordinator. However, they present evidence that ComEd has not shown preferential treatment to its merchant function in granting transmission service requests on its system.^{34/} In addition, Applicants note that ComEd has committed to turn over complete operational control of its transmission system to the proposed ITC, subject to oversight by the Midwest ISO. Applicants conclude that ComEd currently has little ability to strategically manipulate its transmission system, has not used what ability it currently has to do so, and will have even less ability once it forms the ITC.

relative size of the increase in the Applicants' economic capacity to the increase in size of the entire market.

33 While most of PECO's generation is located within PJM, the PECO-AmerGen Clinton nuclear unit located in Illinois can provide economic capacity into Midwestern destination markets.

34 Their analysis shows an acceptance rate for firm transmission service of 98.8 percent for ComEd requests as opposed to 98.2 percent for requests from competing firms. Their analysis also shows an acceptance rate for non-firm transmission service of 99.0 percent for ComEd requests as opposed to 94.2 percent for requests from competing firms. Applicants state that there is a statistically significant difference in the refusal rates for non-firm service but argue that all but three of the 280 refusals were for hourly or daily service for which MAIN, not ComEd, calculates ATC. Ex. APP-400 at 31.

Applicants acknowledge low levels of firm ATC into Wisconsin during the summer months. ComEd is currently constructing two 345 kV transmission lines that will significantly increase ATC into Wisconsin. Applicants state that ComEd expects the lines to be in operation before or shortly after consummation of the proposed merger. Applicants commit that if these lines are not completed by the consummation of the proposed merger, ComEd and all of its affiliates would forgo any new off-system sales that would reduce ATC on the Illinois-Wisconsin interface, except in the case of emergency sales requested by other utilities./35/

c. Effects of Combining Generation and Natural Gas Facilities

Applicants do not perform a quantitative analysis of the competitive effects of the combination of ComEd's generation with PECO's natural gas facilities. They note that PECO provides gas distribution services to only one small (28 MW) electric generator. They state that PECO is an LDC with most of the electric generators in its service territory presently bypassing PECO and connecting directly to an interstate gas pipeline./36/

d. Intervenor's Comments and Protests

Cities challenge Applicants' horizontal competitive analysis. They present concentration statistics for the ComEd market in the summer high peak season in which the proposed sale of the 300 MW contract does not remove the screen violation. They also present results with a screen failure in the same market and time period under the assumption that ComEd's fossil generating plants have been sold to Mission Energy. In both of these cases, Cities use total capacity rather than economic capacity and they assign the capacity of the Clinton Nuclear Unit owned by AmerGen (an affiliate of PECO) to Applicants./37/ Cities conclude that since the proposed sale would not mitigate the increase in market power caused by the merger, the merger cannot be approved based on the record presented and necessitates a hearing.

Cities further argue that Applicants did not address the effects of the interconnection of the two systems in their analysis.

WPPI argues that Applicants do not address the impact of economic dispatch of the Applicants' combined generation assets on the transmission network. They state that loop flow created by joint dispatch will decrease transfer capability into Eastern Wisconsin, an area that is import-constrained. They also argue that the divestiture of ComEd's generation assets and the combination of PECO's and ComEd's remaining generation assets will increase east-to-west and north-to-south power flows in the ComEd area, thus creating loop flows that would reduce the transfer capability into Eastern Wisconsin. WPPI further argues that the proposed mitigation of foregoing off-system sales does not address the effects on import capability caused by the post-merger change in generation to load dispatch by the merged firm. In addition, WPPI argues that since ComEd is capacity deficient during peak hours, it will need to make intra-system purchases (from GenCo) which may exacerbate the problem of importing power into Wisconsin.

A number of intervenors (ELCON, APPA, IMEA, MAPSA and Cities) argue that ComEd's proposal to form an ITC within the Midwest ISO undermines the vertical market power mitigating effect of ComEd's participation in the Midwest ISO. APPA and WPPI express fear that the ITC will undercut or

35 Ex. APP-400 at 26.

36 Ex. APP-300 at 51.

37 They assign the capacity in question to the purchasers of the power who hold a contract that expires within five years. Assigning the capacity to Applicants raises their total capacity by 700 MW. Cities argue that total capacity is a reasonable substitute for economic capacity during the highest summer peak periods, since during those periods prices are sufficiently high to make all capacity economic.

destroy any movement of the Commission-approved Midwest ISO concept into a fully functioning ISO and an RTO consistent with the standards articulated in Order No. 2000. ELCON and Cities argue that the merger case should be consolidated with the ITC filing. APPA contends that the Commission should review Applicants' analysis in the context of the proposal to form an ITC within the Midwest ISO.

APPA also argues that Applicants' proposal to satisfy PUHCA integration requirements by committing to reserve a 100 MW firm transmission path for three years is intended specifically to avoid the Commission's market power screens. According to APPA, PUHCA requires actual integration and coordination and when purchased transmission capacity is used to achieve this purpose, PUHCA requires a permanent, firm, bi-directional transmission reservation between the operating companies. APPA asserts that the screen analysis submitted by Applicants does not satisfy that requirement. APPA requests that Applicants be required to submit an analysis which reflects reasonable integration requirements and that analysis be evaluated in a hearing.

e. Applicants' Response

In response, Applicants point out two critical flaws in Cities' analysis. First, they argue that since Cities is modeling the summer peak period, the 300 MW contract should not be assigned to PECO because ComEd holds recall rights to that energy which would likely be exercised during Summer Super Peak. Second, they argue that Cities does not assign the 300 MW contract that would be sold under Applicants' mitigation proposal to any market participant. Applicants argue that these assumptions overstate both the concentration level and the merger-related change in market concentration.

Nonetheless, to alleviate Cities' concern about market power impacts of the merger, Applicants offer an "open season" to the Cities which Applicants claim will ensure that no adverse consequences will occur in the ComEd market. Under the open season commitment, ComEd will release the Cities from their wholesale power contracts if so requested prior to the effective date of the merger, with the date of release to be effective on the effective date of the merger. The open season would also extend one year from the effective date of the merger, during which the Cities, upon 60 days' advance notice of a decision to cancel, would be released from their contracts. Applicants state that ComEd will not seek to recover any stranded generation costs.

Applicants note in response to WPPI's concerns that changes in ATC into Wisconsin are insignificant.^{38/} In their application, they explain that the transfer of 100 MW from ComEd to PECO would lead to a 1 MW increase in both firm and non-firm ATC from ComEd to Wisconsin Electric for the Summer 2000 time period.^{39/}

To further alleviate concerns that Applicants will be able to create transmission congestion through control of generation, Applicants propose a mitigation measure intended to ensure that they will not be able to manipulate any non-nuclear generation used by ComEd as a core source of supply. Such generation includes over 9700 MW of recently divested capacity sold to Mission Energy, to which ComEd retains energy entitlements and recall rights through the end of 2004 under several power purchase agreements. Under the proposed mitigation measure (to take effect if the Merger is approved and closes), ComEd will relinquish its recall rights to energy from the non-peaking units covered by these power purchase agreements in excess of the energy needed for ComEd to satisfy its: (a) native load; (b) off-system sales; and (c) reliability obligations (NERC performance standards, reliability-related operating requirements and energy balancing needs).^{40/}

38 Ex. APP-400 at 50.

39 Exs. APP-409 at 2 and APP-410 at 2.

40 The reliability determinations would be assumed by the ITC when it becomes operational. Ex. APP-411

Applicants contend that any specific issues regarding the ITC should be addressed in the ITC filing, and, therefore, oppose consolidation of the merger and ITC proceedings. They assert that the ITC proposal is pro-competitive in response to APPA's claim that the merger should be reviewed in the context of the ITC. They reaffirm their commitment to endeavor to modify the ITC proposal to meet minimum RTO requirements and observe that even if the ITC proposal were to be rejected in total, the status quo with respect to the development of a regional transmission network in the Midwest will be at least maintained. In this regard, Applicants note that the status quo includes ComEd's unconditional membership in the Midwest ISO and its committed and active participation therein./41/

f. Discussion

Applicants have investigated the horizontal effects of their proposed merger associated with consolidating generation controlled by ComEd and PECO and the vertical effects associated with consolidating transmission and generation controlled by the merging companies. Intervenor challenge various aspects of Applicants' analysis and raise additional issues they believe to be relevant. We respond to those concerns in our discussion of the horizontal and vertical issues.

(i) Issues Related to Combining Generation

In regard to horizontal issues, we note that using economic capacity as a proxy for suppliers' participation in relevant geographic markets, merger-related increases in concentration exceed the Guidelines thresholds in the ComEd destination market in 10 of 11 time periods. Applicants contend that these results stem from employing a "conservative" assumption regarding the control area where PECO takes delivery of its 300 MW power purchase from ComEd. Nonetheless, Applicants propose to sell the 300 MW ComEd-to-PECO power purchase contract, if necessary, in order to avoid an evidentiary hearing.

Based on the facts of this particular case, we find that merger-induced increases in market concentration indicated by Applicants' analysis do not indicate that the merged company could raise and sustain higher market prices. Notwithstanding the analytical issues associated with the source of merger-induced increases in concentration in the ComEd market, we note that it would not be profitable for the merged company to withhold output in an attempt to drive up market prices. Our analysis of market supply and demand conditions in the ComEd destination market indicates that almost all of the merged company's economic capacity is relatively low-cost nuclear capacity and, for most hours of the year, market demand falls well within the critical region of market supply accounted for by such capacity./42/ As a result, market prices would respond insignificantly to a withholding strategy, undertaken alone or in coordination with other market suppliers. As we stated in the Merger Policy Statement:

If the concentration analysis indicates that a proposed merger may significantly increase concentration in any of the relevant markets, the Guidelines suggest examination of other factors that either address the potential for adverse competitive harm or that could mitigate or

and Answer at 14-16. Ex. APP-411 was filed as privileged information at the time of the Application. Applicants note that none of the intervenors have any issue concerning its adequacy.

41 Applicants' Answer at 5-8.

42 An examination of market supply conditions shows three reasons why a profitable withholding strategy by ComEd would be unlikely: (a) for most hours during the year, the supply curve is relatively flat, so withholding capacity would not significantly raise the market price; (b) for those hours during which it could successfully raise the market price, ComEd would have to forgo sales from its low-cost nuclear capacity; and (c) ComEd's only generation is nuclear which is difficult to ramp down or up so as to withhold output during the most profitable time periods.

counterbalance the potential competitive harm./43/

Based on these conclusions regarding the merged firm's inability to raise prices in relevant electricity markets, we find no need to require Applicants to sell the 300 MW ComEd/PECO power purchase contract.

Regarding Applicants' results based on available economic capacity showing that the Guidelines thresholds are exceeded in more than the ComEd market, such instances occur over a scattering of markets and time periods. Without a consistent pattern of merger-induced increases in concentration that exceed the Guidelines thresholds, we are generally not concerned that a proposed merger poses competitive concerns. Regarding Cities' analysis showing screen failures in the ComEd market even with the sale of the 300 MW contract, we agree with Applicants that Cities' analysis is flawed in that the analysis simply eliminates the 300 MW from the market without assigning the capacity to another market participant./44/

We also note that since ComEd has recall rights to the 300 MW during the highest summer peak period, PECO did not compete in the ComEd destination market during the highest summer peak period and thus the merger can not eliminate a competitor during this period.

On the basis of the foregoing, we do not believe that the horizontal aspects of the proposed merger related to consolidating generation will adversely affect competition.

(ii) Issues Related to Combining Generation and Transmission

We have stated in previous cases that a proposed merger can raise vertical competitive concerns associated with consolidating generation with an input (e.g., delivered gas or transmission) necessary for the production and/or delivery of electricity./45/ In such cases, our general concern is that the merger may create or enhance the ability and/or incentive for the merger to adversely affect electricity prices through, for example, raising rivals' costs, foreclosure or anti-competitive coordination. /46/

Applicants have investigated the possibility that combining their generation and transmission systems raises vertical competitive concerns. For example, Applicants note that combining their generation assets on either side of a constrained region could theoretically enhance their incentive to strategically dispatch generation to exacerbate existing constraints in the region in order to raise market prices. We find compelling Applicants' arguments that ComEd currently has little, if any, ability to engage in strategic generation dispatch, since it only operates nuclear units, which have little dispatch flexibility. Similarly PECO has no ability to engage in anti-competitive dispatch, since the dispatch of its generation units is subject to oversight by the PJM ISO We therefore agree with Applicants that the merged firm will not have the ability to strategically dispatch generation to frustrate competition and adversely affect electricity prices. Since both incentive and ability are necessary conditions for the merged firm to adversely affect such prices, we conclude that the proposed merger would not adversely affect competition through the strategic dispatch of generation. /47/

43 Merger Policy Statement at p. 30, 129.

44 Applicants' Answer at 33.

45 San Diego Gas & Electric Company and Enova Energy, Inc., et al., 79 FERC (P)61,372 (1997), order denying reh'g, 85 FERC (P)61,037 (1998) (Enova) and American Electric Power Company and Central and Southwest Corporation, Opinion No. 442, 90 FERC (P)61,242 (2000) (AEP/CSW).

46 AEP/CSW, 90 FERC (P)61,242 (2000).

47 We will accept Applicants' commitment to waive recall rights, on the terms previously stated, on the

With regard to Applicants' ability to use their transmission systems strategically to frustrate competition, we note that PECO has already turned over control of its transmission system to PJM. Moreover, ComEd has committed to turn over control of its transmission system either to the proposed ITC (operating under the Midwest ISO's oversight) or if the ITC coupled with oversight by the Midwest ISO does not meet the RTO standards, to the Midwest ISO.^{48/} These commitments satisfy us that the merged company will not be able to use its transmission system to frustrate competition^{49/} and we rely upon these facts in approving the merger.

WPPI asserts that the proposed merger would increase power flows from east-to-west and south-to-north, thereby adversely affecting transfer capability into Wisconsin. We are not convinced that such an outcome would result, such that the merged company could sell at higher prices into the highly concentrated Wisconsin destination markets. First, it is not clear that it is the proposed merger that would increase power flows from east-to-west and south-to-north and WPPI has offered no substantive analysis to support its assertion. Moreover, Applicants' analysis shows that merger-related changes in ATC into the Wisconsin markets are insignificant.^{50/} Second, as even WPPI recognizes, it is the divestiture of ComEd's fossil units, not the proposed merger, that causes the need for additional imports into ComEd's territory and, therefore, adversely affects transfer capability into Wisconsin. Finally, we find compelling Applicants' reasoning that ComEd does not have sufficient ability to strategically use its transmission system or generation dispatch to frustrate competition. As a result, we do not believe that the merger would have vertical anti-competitive effects in the Wisconsin destination markets. However, with regard to ComEd's plans to complete the 345 kV transmission lines at the Illinois/Wisconsin interface, we will accept Applicants' commitment to forgo any new off system sales that would reduce ATC into Wisconsin if the lines are not completed by the time of merger consummation.^{51/}

We disagree with Intervenor's comments and protests that our review of ComEd's proposal to form an ITC within the Midwest ISO should be consolidated with the proceeding to determine whether to approve the merger. Rather, the appropriate place for a review of the merits of the ITC proposal is in the ITC filing rather than the merger proceedings. In this regard, the Commission has reviewed the ITC proposal and provided guidance to the petitioners to assist their efforts in revising the proposal to form an RTO which will meet Order No. 2000 requirements.^{52/}

fossil units recently divested by ComEd. Ex. APP-411 and Applicants' Answer at 7-8. This commitment should ensure that the merged company cannot use such recall rights to adversely affect market prices in the ComEd destination market.

48 Exs. APP-300 at 51 and APP-400 at 11 and 16. As we noted previously, supra, note 10, before the Commission can find that the ITC coupled with oversight by the Midwest ISO meets our standards, we will require clarification on the division of functions between the ITC and Midwest ISO.

49 In addition, we note that ComEd is not a Security Coordinator and that MAIN, not ComEd, calculates ATC for ComEd's interfaces.

50 Exs. APP-400 at 50, APP-409 at 2 and APP-410 at 2. For example, Applicants estimate a 1 MW increase in both firm and non-firm ATC from ComEd to Wisconsin Electric for Summer 2000 resulting from the 100 MW transfer from ComEd to PECO.

51 WPPI has argued that this proposed mitigation measure does not solve the problem of decreased ATC into Wisconsin, since ComEd would not be engaging in any off-system sales when it is capacity deficient during peak summer periods. However, Applicants show that there is both firm and non-firm ATC on the Illinois/Wisconsin interface during Summer 2000 and ComEd is not capacity deficient during all hours of the summer. Thus, Applicants' commitment is not meaningless.

52 Commonwealth Edison Co., et al., 90 FERC (P)61,192 (February 24, 2000).

The Commission also finds APPA's arguments that the Commission should require Applicants to submit an analysis of the proposed merger based on PUHCA's integration requirements as misplaced. As we stated in our ruling approving the recent merger of Northern States Power Company and New Centuries Energies,⁵³ Section 203 of the FPA does not contain explicit integration requirements. Our analysis assumes that the proposed merger is implemented as proposed and our approval is based on the facts presented. If the SEC requires changes to Applicants' proposal, the Commission has the right under Section 203(b) to issue appropriate supplemental orders.

On the basis of the foregoing, we do not believe that the vertical aspects associated with combining Applicants' generation and transmission systems would adversely affect competition.

(iii) Issues Related to the Combination of Generation and Natural Gas Facilities

Applicants argue that the only potential vertical issue regarding the combination of natural gas and generation assets is combining PECO's limited role as an LDC in eastern Pennsylvania with ComEd's generation. We agree with Applicants' claim that since PECO only provides gas distribution to one 28 MW electric generator, the combination of PECO's natural gas facilities with ComEd's electric generation facilities does not pose serious concerns regarding raising rivals' costs or anti-competitive coordination.

3. Effect of the Merger on Rates

The Merger Policy Statement explains the Commission's concern that there be adequate ratepayer protection from any adverse effects caused by the merger. It describes various commitments that may be an acceptable means of protecting ratepayers, such as hold harmless provisions, open seasons for wholesale customers, rate freezes and rate reductions.⁵⁴

ComEd and PECO both supply wholesale power at negotiated, fixed rates to several municipal electric utilities or groups. PECO's wholesale power agreements all expire no later than December 31, 2004. ComEd's contract with its one Michigan full requirements customer also expires in 2004, and its contracts with three Illinois full requirements customers expire in 2007. The Illinois wholesale customers may terminate their contracts at the end of any contract year, beginning after the 14th contract year, with 24 months' notice.⁵⁵ Another feature of the Illinois contracts is a revenue cap, which limits the monthly bill for power and energy to 95 percent of the bill which would result if ComEd's retail Rate 6L were applied, a rate which is frozen through 2004. Under a contract that expires in 2005, ComEd also supplies some of the power needs of one other Illinois municipal electric utility under fixed rates for energy and rates for capacity which can vary only to reflect changes in the transmission charge. In addition, ComEd provides some of the power needs of the IMEA under a fixed-rate contract that expires in 2007.

Applicants state that under the fixed rate contracts, not only are their customers insulated from changes in underlying costs, but ComEd's requirements customers have additional protection in the form of the revenue cap and open season rights. Nonetheless, Applicants commit that they will not charge any of their wholesale customers with merger costs unless there are merger savings sufficient to at least offset those costs. This hold harmless commitment extends through the life of each contract or December 31, 2004, whichever occurs first. Applicants further indicate that after ComEd's existing wholesale contracts expire, ComEd will not enter into any new contracts to market power and energy at wholesale.

53 Northern States Power Co., et al., 90 FERC (P)61,020 (2000).

54 Merger Policy Statement at pp. 30,123-24.

55 Assuming no notice has been given at this time, this provision effectively means that the earliest date any of the contracts could be terminated is June 2002.

ComEd currently supplies cost-based transmission service under its OATT, but after the Midwest ISO becomes operational, transmission service over ComEd's system will be provided under the Midwest ISO OATT. PECO does not directly control the provision of transmission service over its facilities, as it has turned over the operational control of its transmission system to PJM. Except for a single instance, all use of the PECO transmission system, including use by PECO, is taken and paid for under the PJM OATT. However, each regional transmission owner in PJM, including PECO, retains the right to initiate filings under Section 205 of the FPA to change the revenue requirements associated with the provision of transmission service under the PJM OATT. The sole exception to provision of transmission service over PECO's facilities under the PJM OATT involves service PECO provides to one entity under a jurisdictional bilateral contract with fixed rates. Applicants state that PECO does not have the right to seek increases in the rates under this contract until September 5, 2003.

Applicants state that no changes to the PJM ISO or Midwest ISO operating agreements are planned as a result of the merger. They also indicate that the costs which underlie their transmission revenue requirements are unlikely to change materially as a result of the merger and thus suggest that there is unlikely to be any merger-related impact on the rates paid by transmission customers under the PJM OATT and the ComEd OATT or Midwest ISO OATT. Nonetheless, Applicants commit that through 2004, they will not seek to include in their transmission revenue requirement any merger-related transmission costs that are not fully offset by merger-related transmission savings. Applicants also commit that when the Midwest ISO OATT goes into effect, ComEd will notify the Midwest ISO of any such merger-related costs not offset by merger-related transmission savings so that the Midwest ISO can exclude such costs from ComEd's zonal rate and for computation of the Midwest ISO average rates. In addition, Applicants further commit that PECO will not exercise its right to seek a rate increase in its bilateral transmission contract as long as the current contract remains in effect after the closing of the merger.

Three intervenors raise questions about the merger's effect on rates and the adequacy of the ratepayer protection offered by Applicants. MAPSA alleges that certain inconsistencies between statements in the Application and testimony in support of the Application make the hold harmless commitments of Applicants ambiguous with respect to preventing the imposition of merger-related generation costs on PECO transmission customers.^{56/} Applicants answer that MAPSA's allegation appears, illogically to assume that the Commission would authorize a base transmission rate on the basis of generation costs. However, Applicants confirm that PECO's transmission customers under the PJM tariff are to be held harmless with respect to any adverse cost effects attributable to the merger. The Commission finds that Applicants' answer dispositive of MAPSA's concern.

The Pennsylvania Office of Consumer Advocate (PaCA) requests that the Commission investigate the extent of merger-related costs after first requiring Applicants to file additional information on costs and savings. The Commission rejects this request. As Applicants point out, these requests are contrary to the Merger Policy Statement, and the PaCA offers no compelling reason to depart from our well-established policy in this area.^{57/} We further note that should any subsequent proceeding involving a cost-based wholesale rate increase arise, at least through 2004, the burden would be initially on Applicants to show that merger-related costs, unless offset by merger savings, are not included in the cost support for the rate increase.

Cities contend that Applicants' proposed ratepayer mitigation measures are inadequate, observing that Applicants' guarantee of no rate increases until 2007 is a guarantee which they already have. They allege that the merger plan, coupled with: (1) the market power of a large, nuclear-based generating

56 MAPSA cites to the Application at 9 and Ex. APP-500 at 12-13.

57 See Merger Policy Statement at pp. 30,122-23.

company; (2) the lack of rate protection after the Mission Energy-ComEd contract expires; and (3) ComEd's failure to increase transmission capacity available to Cities, poses a significant risk for them./58/

Applicants respond that they have provided Cities with all of the ratepayer protection to which customers are entitled under the Merger Policy Statement, namely, that the customers suffer no harm under their present contracts due to the merger. Nevertheless, as noted previously, Applicants offer Cities an "open season" under which, prior to the effective date of the merger, either customer may request ComEd to release it from its contract, with the release to be effective as of the date the merger becomes effective. This commitment is to remain open for one year following the effective date of the merger, during which time the customer, upon 60 days' notice of its decision to cancel, will be released from its contract. If this option is exercised, Applicants pledge that ComEd will not seek to recover stranded generation costs from such customer. Also, Applicants note that the customer would be able to seek transmission service under the applicable OATT, subject to the appropriate transmission costs, including any costs associated with switching delivery point facilities.

The Commission notes that Applicants' open season commitment essentially advances the earliest date at which Cities may exercise open season rights. Assuming that at the present time neither customer has given 24 months' notice, the earliest date that either could be released from the present contract is June 2002. Under Applicants' open season offer, however, a request made at this time would enable the customers to be released from their contracts as early as the effective date of the merger, which Applicants hope will occur by September 2000. In addition, after the merger is consummated, the customers would be allowed to terminate their contracts, with 60 days' notice, at any time during the next year. There would be no window open for termination from the end of the first year following consummation of the merger to June 2002. The Commission presumes (and Applicants do not state otherwise) that if Cities do not act under the open season offer, they still retain the right to terminate their current contracts effective every June from 2002 through 2006 (with 24 months notice).

Cities are correct that they have no rate guarantee after their contracts with ComEd expire. However, they have the flexibility under their present contracts, coupled with their ability to obtain transmission service from either ComEd or the Midwest ISO, to acquire alternative, competitively-priced power supplies as early as June 2002 up to the end of the contract in 2007. Applicants' open season offer clearly increases the customers' flexibility to acquire competitive power supplies, without stranded cost penalty, by providing a window to terminate their contracts that extends from the present time to a year after the merger. This window covers most of the period prior to the first date, June 2002, at which they may terminate service under their current contracts. The Commission believes that the fixed rate nature of Applicants' wholesale contracts, the opportunity under the requirements contracts to acquire other sources of power as early as 2002, the hold harmless commitments with respect to both transmission rates and all wholesale rates and the additional open season commitment provide adequate ratepayer protection. Accordingly, we will accept Applicants' commitments in granting approval of the merger.

4. Effect of the Merger on Regulation

As explained in the Merger Policy Statement, the Commission's primary concern with the effect on regulation of a proposed merger involves possible changes in the Commission's jurisdiction when a registered holding company is formed, thus invoking the jurisdiction of the Securities and Exchange Commission (SEC). We are also concerned with the effect on state regulation where a state does not have

58 Cities allege that ComEd has failed to abide by terms of their existing power contracts, which Cities contend require ComEd to construct 138 kV transmission facilities to increase transmission capacity to Cities. Instead, accordingly to Cities, ComEd has constructed additional 34.5 kV facilities ComEd answers that Cities agreed to an amendment to the contracts that essentially permitted 34.5 kV facilities to be installed. In any event, although Applicants assert that Cities' claim is not merger-related, they state that ComEd will agree to install 138 kV delivery.

authority to act on a merger and has raised concerns about the effect on its regulation of the merged entity./59/

In this case, as noted earlier, the proposed merger would result in the formation of a public utility holding company system subject to regulation and registration under PUHCA. In view of the Ohio Power decision/60/ and the potential conflict between the SEC's and this Commission's regulation of intra-affiliate transactions involving non-power goods and services, Applicants have agreed to waive Ohio Power immunity from Commission regulation of non-power affiliate sales. In addition, Applicants agree for ratemaking purposes to follow the Commission's policy regarding treatment of costs and revenues of affiliate non-power transactions. Applicants further contend that the merger will not adversely affect state regulation, as both ComEd and PECO will remain subject to state regulation following completion of the merger.

The PaCA is the only party to raise regulatory concerns about the proposed merger, contending that unless Applicants are required to waive their Ohio Power immunity at the state as well as the federal level, state regulatory commissions will lose jurisdictional oversight. The Commission disagrees that the proposed merger will have any adverse effects in this regard. In this case, the Pennsylvania Public Utility Commission (PaPUC) has authority to approve or disapprove the merger and is currently conducting a proceeding concerning the merger. Therefore, the PaPUC can condition any approval of the merger as necessary to ameliorate concerns about pricing of intra-system transactions. The Illinois Commerce Commission (Illinois Commission) does not have authority to act on the merger, but has intervened (out of time) in this proceeding. However, neither it nor any other party located in Illinois has alleged that the merger will adversely affect the Illinois Commission's regulation of the merged entity.

Accordingly, in light of the facts and commitments stated above, we are satisfied that the proposed merger will not adversely affect state or federal regulation.

5. Accounting Issues

Applicants state that the merger will be recorded using the purchase method of accounting. The pro forma balance sheet provided with the application reflects approximately \$3 billion of goodwill that will be "pushed down" to ComEd's books. Goodwill is defined by Applicants as the excess of the purchase consideration over the assumed value of ComEd's assets and liabilities. The Commission in previous applications has approved the use of the purchase method of accounting/61/ and the related push down of goodwill./62/ Consistent with Commission precedent, we will approve Applicants' use of the purchase method of accounting and the related push down of goodwill.

Although we are approving Applicants' use of the purchase method of accounting, the filing is unclear as to whether it will be implemented in a manner that complies in all respects with the Commission's Uniform System of Accounts requirements. For example, Exhibit C indicates that ComEd plans to eliminate the accumulated provision for depreciation of utility plant and reduce the amounts recorded in Account 101, Electric Plant In Service by the same amount. This is inconsistent with our Uniform System of Accounts requirement that the amounts in Account 101 be the cost to the first person devoting utility property to public service with the related accumulated provision for depreciation stated

59 Merger Policy Statement at pp. 30,124-25.

60 Ohio Power v. FERC, 954 F. 2d 779, 792-86 (D.C. Cir.), cert. denied, 498 U.S. 73 (1992).

61 Entergy Services, Inc. and Gulf States Utilities Co., 65 FERC (P)61,332 (1993).

62 El Paso Electric Co. and Central and South West Services, Inc., 68 FERC (P)61,181 (1994).

separately and recorded in Account 108./63/ Therefore, ComEd shall comply with this requirement in accounting for the merger.

In addition, we will direct Applicants to submit their merger accounting to the Commission within six months after the merger is consummated./64/ The accounting submission should provide all accounting entries necessary to effect the merger, along with appropriate narrative explanations describing the basis for the entries.

The Commission orders:

(A) The untimely motions to intervene are hereby granted.

(B) Intervenors' requests for hearing are hereby denied.

(C) Applicants' Answer is hereby accepted to the extent discussed in the body of this order.

(D) Applicants' proposed merger is hereby approved.

(E) Applicants shall advise the Commission within 10 days of the date the merger is consummated.

(F) The foregoing authorization is without prejudice to the authority of the Commission or any other regulatory body with respect to rates, services, account, valuation, estimates, or determinations of cost, or any other matter whatsoever now pending or that may come before the Commission.

(G) Nothing in this order shall be construed to imply acquiescence in any estimate or determination of cost or any valuation of property claimed or asserted.

(H) The proposed use of the purchase method of accounting for the business combination is approved consistent with the body of this order. Applicants must inform the Commission of any change in the circumstances that would reflect a departure from the facts the Commission has relied upon in granting this approval. Applicants shall submit their merger accounting to the Commission within six months after the merger is consummated. The accounting submission should provide all accounting entries necessary to effect the merger, along with appropriate narrative explanations describing the basis for the entries.

(I) The Commission retains authority under Section 203(b) of the FPA to issue supplemental orders as appropriate.

63 Electric Plant Instructions 2 (A) and 5 B(2), 18 C.F.R. Part 101 (1999).

64 Electric Plant Instruction No. 5, Electric Plan Purchased or Sold, and Account 102, electric Plant Purchased or Sold, C.F.R. Part 101 (1999).

Appendix A

Interventions in Docket No. EC00-26-000

Allegheny Power
American Public Power Association*
Blackhawk Energy Services, L.L.C.+
Central Illinois Public Service Company, Union Electric Company, and Ameren
Services Company
Consumers Energy Company
Dynergy Power Marketing, Inc.
Electricity Consumers Resource Council*+
Illinois Cities*
Illinois Commerce Commission+
Illinois Industrial Energy Consumers
Illinois Municipal Electric Agency*
MidAmerican Energy Company
Mid-Atlantic Power Supply Association*
National Railroad Passenger Corporation
NewEnergy, Inc.+
Pennsylvania Office of Consumer Advocate
Philadelphia Area Industrial Energy Users Group
Potomac Electric Power Company
PP&L, Inc.
Wisconsin Electric Power Company
Wisconsin Public Power Inc.*

* protest

+ late filed

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

Commonwealth Edison Company)
)
Notice of transfer of generating assets and)
wholesale marketing business and entry into)
related agreements pursuant to Section)
16-111(g) of the Illinois Public Utilities)
Act.)

NOTICE OF TRANSFER OF ASSETS
AND WHOLESALE MARKETING BUSINESS

To the Illinois Commerce Commission:

Pursuant to Section 16-111(g) of the Illinois Public Utilities Act ("Act"), 220 ILCS 5/16-111(g), Commonwealth Edison Company ("ComEd" or the "Company") hereby notifies the Commission of the Company's intent to engage in all of the transactions and activities set forth in the agreements attached hereto as Appendices A-D. In general, pursuant to those agreements ComEd intends to transfer to an affiliate ("Exelon Genco") all of its nuclear electric generating assets ("Nuclear Stations"), together with certain related assets and obligations, and its wholesale marketing business, including any and all real and personal property used to conduct that business, in exchange for ComEd common stock. Additionally, ComEd will assign to Exelon Genco its rights and obligations under various power supply agreements. (The various steps involved in the transfer of assets, rights, obligations and the wholesale marketing business shall be referred to collectively as the "Transfer.")

Previously, on March 16, 2000, the Company filed a notice ("March 16 Notice") of its intent to transfer the nuclear assets and wholesale marketing business to Exelon Genco. The Commission set the March 16 Notice for hearing in Docket 00-0244. During the course of

that proceeding, the Company determined that it would be appropriate to transfer the Company's investment in Concomber, Ltd. ("Concomber") to Exelon Genco. Concomber is a wholly-owned subsidiary of ComEd that writes insurance policies for certain work performed by third-party vendors at the generating stations. On May 18, 2000, the Company voluntarily moved to dismiss Docket 00-0244.

Other than the transfer of the common stock of Concomber, the effect of the Transfer described herein on ComEd will be identical to that of the transfer under consideration in Docket 00-0244. From the date of the Transfer through 2004, ComEd will obtain all of its power supply from Exelon Genco. In 2005 and 2006, ComEd will obtain all of its power supply from Exelon Genco, up to the available capacity of the Nuclear Stations. ComEd will obtain any additional supply required from market sources in 2005 and 2006, and, subsequent to 2006, would obtain all of its supply from market sources, which could include Exelon Genco.

In connection with the Transfer, the Company intends to enter into various agreements with Exelon Genco, including a contribution agreement (the "Contribution Agreement") (generally in the form of Appendix A), an interconnection agreement ("Interconnection Agreement") (generally in the form of Appendix B) pertaining to each Nuclear Station, a facilities and easement agreement at the Zion Station ("Facilities Agreement") (generally in the form of Appendix C) and a power purchase agreement (the "PPA") (generally in the form of Appendix D).

Exelon Genco will be formed upon, and the Transfer will take place upon or shortly after, the closing of the merger of ComEd's parent, Unicom Corporation ("Unicom"), with PECO Energy Company ("PECO"). As ComEd has previously notified the Commission under Section 16-111(g) (the "Merger Notice"), Unicom has agreed to merge with a new holding

company affiliate of PECO to form Exelon, Inc. ("Exelon"). Prior to or at the time that ComEd transfers its assets, PECO also will transfer its electric generating resources and wholesale marketing operations to Exelon Genco. As a result of ComEd's and PECO's transfers, all of Exelon's generation and wholesale marketing operations will be under central control.

Beyond the benefits associated with centralizing generation and wholesale marketing operations, the Transfer offers two significant benefits for ComEd and its retail customers: (i) it will further separate ComEd's wires (transmission and distribution) function from the generation and wholesale marketing functions, and (ii) it will offer ComEd protection from certain operational and financial risks associated with its Nuclear Stations. By relocating the generating and wholesale marketing businesses, and shifting associated risks, to Exelon Genco, the Transfer is a further significant step in the restructuring of ComEd's operations to both facilitate and adapt to the development of competitive retail and wholesale markets.

The Transfer will bring these benefits to ComEd with no adverse effect on system reliability. The same management that recently has resurrected the nuclear plants' operating performance will continue to manage the plants. Exelon Genco will have access to the same sources of supply as ComEd, and will bring to the table the expertise of PECO's highly respected "PowerTeam" -- an industry leading wholesale energy group.

Further, as shown in Appendix L hereto, the Transfer will not negatively affect ComEd's rate of return on common equity ("ROE"), and therefore will have no adverse effect on retail rates. Moreover, the Transfer protects the Company's ROE from many of the risks associated with nuclear plant operation and the advent of retail competition.

In connection with the Transfer, ComEd will transfer all assets in its qualified and non-qualified nuclear decommissioning trusts to Exelon Genco, which will then be responsible

for administering the decommissioning trusts. Under the Contribution Agreement, ComEd will remain liable for the funding of the unfunded decommissioning liability, and will continue to collect decommissioning charges from customers. On May 17, 2000, the Company filed a petition to initiate a separate proceeding to address issues relating to post-Transfer decommissioning charge recovery.

The Company anticipates that the Commission will set this Notice for hearing. To allow the Commission to take full advantage of the 90 day period under Section 16-111(g), the Company includes with its Notice, as Appendices E and F, respectively, the direct testimony of two individuals: Mr. Robert McDonald, Unicom's Vice President Strategic Planning and Mr. Robert Berdelle, Unicom's Vice President and Comptroller.

I. Description of the Transfer

A. The Parties

The principal parties to the transfer are ComEd and Exelon Genco, which will be affiliates under common ownership by Exelon./1/

ComEd. ComEd is engaged in the production, transmission, distribution

and sale of electricity to wholesale and retail customers. ComEd provides service to more than 3.4 million customers (nearly 300,000 are commercial and industrial customers, and the rest

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/1/ As will be discussed, the Transfer will be achieved through the use of a new ComEd subsidiary, which will be created for the sole purpose of effectuating the Transfer.

residential) across northern Illinois, or 70 percent of the state's population, covering approximately one-fifth of the state of Illinois (including the city of Chicago).

ComEd's current net generating capability is approximately 9,550 megawatts (MW), supplied by five Nuclear Stations. (ComEd has a sixth Nuclear Station, Zion, which has been retired.) In December 1999, ComEd completed the sale of 9,772 MW of fossil plants to Edison Mission Energy ("EME"). The Commission previously approved that sale in Docket No. 99-0282. In connection with the EME sale, ComEd entered into certain PPAs with EME. The EME PPAs entitle ComEd to purchase capacity and energy from EME on specified terms through December 31, 2004.

Prior to the EME sale, ComEd had sold fossil plants to affiliates of Dominion Resources, Inc. ("Dominion") and Southern Company ("Southern"). ComEd had also entered into PPAs with Dominion and Southern. Additionally, going forward, ComEd has PPAs with several independent power producers (IPPs). (The PPAs with EME, Dominion, Southern and the IPPs shall be referred to as the "Fossil Agreements").

Exelon Genco. Exelon Genco will be a wholly-owned subsidiary of

Exelon that owns and operates to the generation assets and business of ComEd and PECO. As ComEd explained in the November 23 Notice, PECO has more than 100 years of generation plant management experience. PECO participates actively in the deregulated marketplace, trading wholesale power 24 hours a day in 47 states and Canada.

PECO is recognized as a leading nuclear operator across the industry and has managed other plants under service contracts. PECO's Energy Generation division is responsible for safe, reliable and efficient operation of PECO's power generating facilities, which includes a diverse fleet of nuclear, hydro, and fossil generating units. PECO's substantial nuclear fleet has

set new nuclear performance standards in safety, capacity factors, refueling efficiency and low operating and maintenance costs, while producing more than 33 billion kilowatt-hours of nuclear electricity in 1998. PECO also has coal, oil, natural gas, landfill gas fired generators, run of the river and pumped storage hydro facilities.

At the heart of PECO's wholesale power business is PowerTeam -- a five-year old unit that is a leading supplier of reliable electricity to other utilities, cooperatives and marketers all across the continental United States and Canada. PowerTeam's energy sales have grown in each of the past five years, and for the first time, wholesale deliveries exceeded PECO's retail sales in 1998. PowerTeam also has agreements to market full output of plants under construction or planned in Texas, Georgia and Oklahoma.

PECO also has an interest in AmerGen, a partnership with British Energy, which was formed in 1997 to acquire additional nuclear generating assets. Both PECO and British Energy have strong operating cultures for safety and reliability. AmerGen has acquired (with this Commission's approval) the Clinton Power Station in southern Illinois.

B. Assets and Obligations To Be Transferred

The specific assets ComEd intends to transfer to Exelon Genco are identified and described in the Contribution Agreement (Appendix A). ComEd intends to transfer and/or assign to Exelon Genco (as applicable): (i) all six of its Nuclear Stations, including the land on which they sit, and the equipment used in their operation; (ii) the Company's rights under the Fossil Agreements; (iii) various fuel supply agreements and other leases and contracts related to the generation business; (iv) all personal and real property, assets and obligations related to and used in the conduct of ComEd's wholesale marketing business (e.g., computers, trading floor equipment, trading floor lease, etc.); and (v) the capital stock of Concomber held by ComEd.

ComEd will also transfer to Exelon Genco all assets, including investments, held in ComEd's decommissioning trusts. ComEd will retain the obligation to collect unfunded decommissioning cost charges from customers, and to forward such funds to Exelon Genco.

ComEd will not transfer to Exelon Genco any transmission or distribution assets, except for the synchronous condensers at the closed Zion facility, and the parcels of land on which those condensers and certain other facilities sit. ComEd will retain the right to operate and control the condensers./2/ ComEd will continue to own and operate its transmission and distribution assets subject to any current or future obligations to the Midwest Independent System Operator.

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/2/ The Company notes that it is transferring certain step-up transformers, generator leads and related facilities. These assets, which are not reflected in transmission rates, and which are typically viewed as generating assets, are nonetheless considered to be jurisdictional (i.e., transmission) assets by FERC for purposes of Section 203 of the Federal Power Act. Accordingly, as will be discussed, ComEd has obtained FERC approval of the Transfer.

C. The PPA

A central feature of the Transfer is the PPA (Appendix D), a power supply agreement under which Exelon Genco will supply all of ComEd's requirements from the date of the Transfer through December 31, 2004 (the "Initial Term"), and will supply all of ComEd's requirements up to the available capacity of the Nuclear Stations in 2005 and 2006. The PPA will ensure ComEd a reliable source of supply, while at the same time protecting ComEd from both the risk of suboptimal performance of the nuclear units and many of the financial effects of load loss associated with the transition to a competitive retail market.

Under the PPA, Exelon Genco will be ComEd's sole external source of supply during the Initial Term of the PPA.^{/3/} Exelon Genco will supply all capacity and energy required by ComEd to serve its load, satisfy applicable reliability requirements, provide ancillary services and satisfy any and all other obligations that ComEd may have. To satisfy ComEd's requirements, Exelon Genco will rely on the same sources of supply that would otherwise be available to ComEd: the nuclear units; the Fossil Agreements; and other market sources. In this regard, then, Exelon Genco will rely on the same sources of supply that ComEd would rely on were the Transfer never to occur. However, the prices will be fixed for the Initial Term to protect ComEd from any increases in cost, whether due to operating costs, additional investment or market prices.

The PPA sets forth a schedule of energy prices, on- and off-peak, by month for the full term of the agreement. (ComEd will not pay a separate capacity charge.) The price of

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^{/3/} ComEd may still, from time to time, employ small generators (known as "distributed generation") throughout its system for reliability purposes. ComEd will also continue to make purchases from other entities to the extent required by law, such as under the Public Utility Regulatory Policy Act of 1978.

energy provided to ComEd under the PPA is intended to reflect the cost to ComEd of the same supply mix were the Transfer never to occur.

The monthly prices were developed on the basis of ComEd's cost of service associated with the Nuclear Stations, prices under the Fossil Agreements, and projections of energy market prices. The Transfer is not intended to lock in ComEd's power supply costs at an historical level that is higher than costs going forward. Accordingly, the Nuclear Station costs reflect both a projected write-down of investment in the Nuclear Stations at closing of the Unicom-PECO merger and the benefit of the improvement of the Nuclear Stations' operating performance in recent periods. In other words, the PPA pricing recognizes a reduction in plant investment and an increase in the units' operation at higher capacity factors than those at which they have historically operated.

The pricing in the PPA protects ComEd from risk that nuclear plant performance deteriorates during the term of the agreement. Naturally, ComEd does not expect that the same team that has rescued the nuclear units from the prior performance patterns and established an admirable operating record would allow the units to return to their prior performance patterns. Nonetheless, under the PPA, ComEd will no longer bear that risk; it will become Exelon Genco's risk. ComEd will pay prices based on high operating performance levels regardless of actual performance. This not only protects ComEd from nuclear plant operating risk, but also provides Exelon Genco with a significant incentive to keep the plants running well. Any operating performance slippage will accrue to the sole detriment of Exelon Genco.

The PPA pricing also allows ComEd's power supply costs to rise and fall with its load. ComEd will no longer have any fixed costs that it has to cover regardless of load levels. Rather, ComEd will only be required to pay for that energy which it needs. If ComEd's load

falls, its costs fall, as well, in proportion to the reduction in load. This feature protects ComEd's ROE from a significant risk associated with the level of load switching to other suppliers.

D. Post-Transfer Management

The Transfer reflects ComEd's effort to further restructure its operations to reflect the new environment. As ComEd explained in the Merger Notice, generation has become a more complex operation than it was in the past, with a different set of risks, and demands increasing levels of managerial attention. At the same time, ComEd is striving to improve its distribution and transmission system performance, which also requires an increasing amount of management's time. Further, ComEd needs to assure that the company will continue to be healthy financially as it faces increasing levels of competition.

The Transfer will separate Exelon's generation function from ComEd's transmission and distribution operations, and will not interfere in any respect with the operation of the transmission and distribution systems. ComEd will have a Distribution President, Mr. Carl Croskey, who will be responsible for delivery services. Because ComEd will no longer be in the wholesale power marketing business, the position of Distribution President will be able to focus principally on distribution operations.

Exelon Genco will continue the present focus on maintaining excellent performance at its nuclear plants. Mr. Oliver D. Kingsley, Jr. will be the Chief Nuclear Officer of the combined ComEd-PECO system.

E. Mechanics of the Transfer

The specific steps that will be followed to effect the Transfer are set forth on Appendix G.

II. Satisfaction of Regulatory Requirements

A. Provision of Information Required under Section 16-111(g)

Section 16-111(g) provides that an electric utility transferring ownership of electric generating assets must comply with the provisions of Section 16-128(c) and (d) of the Act, as applicable, and give the Commission certain information and at least 30 days notice of the transfer. ComEd provides the following information and commitment required by Section 16-111(g) of the Act:

- (i) a complete statement of the entries that the electric utility will make on its books and records of account to implement the proposed reorganization or transaction together with a certification from an independent certified public accountant that such entries are in accord with generally accepted principles and, if the Commission has previously approved guidelines for cost allocations between the utility and its affiliates, a certification from the chief accounting officer of the utility that such entries are in accord with those cost allocation guidelines

The statement of entries and required certifications are attached as Appendices H, I and J./4/

- (ii) a description of how the electric utility will use proceeds of any sale, assignment, lease or transfer to retire debt or otherwise reduce or recover the costs of services provided by such electric utility

The Transfer will not produce any proceeds for ComEd. The Transfer will be accomplished by making a capital contribution of the assets to Exelon Genco. In return, ComEd

/4/ Portions of Appendix H are confidential, and that Appendix is being submitted in both redacted and confidential form.

will receive ComEd common stock from Exelon, with no cash proceeds to ComEd. This exchange will permit ComEd to maintain a reasonable capital structure. The merger of Unicom and PECO Energy will result in significant goodwill being recorded on ComEd's books, thereby significantly increasing the equity component of ComEd's capital structure, absent other measures. The Transfer will result in a capital structure reasonably comparable to that which ComEd will have prior to the merger and Transfer.

- (iii) a list of all federal approvals or approvals required from departments and agencies of the State, other than the Commission, that the electric utility has or will obtain before implementing the reorganization or transaction

The Transfer requires approval from the following federal regulatory agencies: a) the FERC, under Section 203 of the Federal Power Act for the asset transfer, and under Section 205 of the FPA for the PPA, Facilities Agreements, and Interconnection Agreements; ComEd has received its Section 203 approval from the FERC; ComEd intends to make the Section 205 filing subsequent to the conclusion of any proceeding under Section 16-111(g); b) the Nuclear Regulatory Commission, for a transfer of ComEd's nuclear operating licenses; c) the SEC, under the Public Utility Holding Company Act of 1935; and d) the Federal Communications Commission, for a change in control of telecommunications licenses; e) the Illinois Environmental Protection Agency ("IEPA"), for a change in control of various permits; and f) the Illinois Department of Nuclear Safety with respect to radioactive material licensing. Additionally, the Company will seek appropriate tax rulings from the Internal Revenue Service, and the form of the Transfer is subject to receipt of such rulings.

- (iv) an irrevocable commitment by the electric utility that it will not, as a result of the transaction, impose any stranded cost charges that it might otherwise be allowed to charge retail customers under federal law or increase the transition charges that it is otherwise entitled to collect under this Article XVI

ComEd hereby irrevocably commits that it will not, as a result of the Transfer, either impose any stranded cost charges that it might otherwise be allowed to charge retail customers under federal law or increase the transition charges that it is otherwise entitled to collect under Article XVI of the Act.

- (v) cancellation of fuel adjustment clause.
ComEd's fuel adjustment clause was previously canceled;
- (vi)(A) a description of how ComEd will meet its service obligations under the Act in a safe and reliable manner.

The Transfer does not pose any risk to the safety and reliability of service provided by ComEd. As discussed above, ComEd will obtain its source of supply from Exelon Genco under the PPA. Exelon Genco, which will combine the ComEd and Power Team wholesale marketing talent and operations, will serve ComEd from the very same resources that ComEd has today: the ComEd nuclear units, the various Fossil Plant Agreements and market sources. Accordingly, the Transfer will not limit or reduce the resources available to serve ComEd.

Moreover, in no respect will the management of ComEd's power supply be inferior to the management of ComEd's resource portfolio today. To the contrary, the addition of the Power Team expertise to the management of ComEd's supply needs should enhance ComEd's reliability. As Mr. McDonald explains in his direct testimony, Power Team brings to the table a highly successful wholesale marketing operation, with a proven track record.

Further, the PPA provides for the same type of load and resource planning that ComEd engages in today. Under the PPA, each year ComEd and Exelon Genco will engage in a planning process for the following year. This process will enable Exelon Genco to procure

whatever resources may be necessary to satisfy ComEd's needs the following year. A load and resource plan for the 2000-2004 period is attached as Appendix K./5/

After the PPA expires, ComEd will obtain its then-required supply from market sources, which could include Exelon Genco. ComEd expects that the power supply market at that time will include many more supply options than it does today. A substantial amount of new capacity has been proposed in Illinois alone. While not all of the proposed capacity may come to market, ComEd anticipates that a significant level will and that there will be no difficulty procuring replacement supply upon expiration of the PPA. ComEd also notes that, with this Commission's approval, two other Illinois electric utilities, Illinois Power Company and Central Illinois Public Service Company, transferred their electric generating assets to a generating company affiliate and entered into supply contracts with those affiliates that expire on December 31, 2004.

ComEd will continue to own and operate its transmission and distribution systems. The Transfer will not affect, in any respect or to any degree, ComEd's obligations to the Midwest Independent System Operator.

The Transfer will not interfere with or disrupt the Company's continuing efforts to improve the performance of its distribution system. To the contrary, the Transfer will separate the distribution and generation functions, and will facilitate singular management focus on

/5/ Appendix K contains confidential information and is being submitted under seal.

distribution system operations. As explained in the November 23 Notice regarding the Unicom-PECO merger, the distribution and generation functions will report to separate managers.

The Transfer also will not adversely affect the Company's ability to invest in distribution system enhancements. As the Company's accompanying ROE analyses demonstrate, the Transfer will have no adverse effect on ROE. Accordingly, the Company's plans to improve its distribution system will be unaffected.

Likewise, the Transfer will not negatively affect the operating performance of the nuclear units. Indeed, the Transfer is not intended to effect any change in the way those plants are run or managed. The same team that has so dramatically turned around the performance of those plants in a short period of time will continue to operate and manage those plants. Moreover, PECO itself brings an admirable operating record to the table. Between them, Unicom and PECO intend to establish in Exelon Genco the single best nuclear operating team in the business.

(vi)(B) ComEd's projected earned rate of return on common equity, calculated in accordance with Section 16-111(d) of the Act, for the period 2000 through 2004, both with and without the Transfer.

Section 16-111(g) requires that the Company submit analyses of its ROE, both with and without the Transfer, for each year subsequent to the Transfer through 2004. The purpose of this requirement is to allow the Commission to assess whether the Transfer will result in the Company's ROE being so low that there is a strong likelihood that the Company would qualify for an exception to the base rate freeze. Section 16-111(d) authorizes electric utilities to request an increase in electric base rates where the utility's two year average ROE is less than the average return on 30-year treasury bonds for the same two-year period. The projections of

ComEd's annual returns on common equity ("ROE"), both with and without the Transfer, are set forth in Appendix L,^{/6/} and discussed in Mr. Berdelle's direct testimony. (App.F)

The ROE analyses provided by the Company amply demonstrate that the Transfer will not produce a strong likelihood that the Transfer will result in ComEd being entitled to request an increase in base rates during the mandatory transition period. To the contrary, the ROE analyses show that the Transfer will not decrease the Company's return on common equity during any study year subsequent to the transfer.

Moreover, the ROE analyses are extremely conservative. The Company tested the effect of the Transfer under widely varying load retention assumptions: i) retention of all load; and ii) retention of no load. At neither extreme does the Transfer have any significant downward impact on the Company's projected ROE. Also, as noted above, the Transfer minimizes risks embedded in the "no Transfer" base case -- the risk of a deterioration in nuclear operating performance and the risk of an increase in power supply costs. The Transfer fixes ComEd's power supply costs for the four year study period.

B. Compliance with Section 16-128(c)

Section 16-128(c) of the Act imposes certain obligations on the Company in connection with the Transfer. The obligations relate to the terms and conditions of employment for those current employees who are offered jobs with Exelon Genco, and to a transition plan for those employees who are not offered jobs.

^{/6/} Appendix L contains confidential information and is being submitted under seal.

Section 6.1(b) of the Contribution Agreement (App. A) sets forth the contract provisions necessary to comply with Section 16-128(c).

ComEd also commits to implement a transition plan, as required by Section 16-128(c) to the extent that any non-supervisory personnel are not offered employment after the transfer. However, a transition plan for employees who are represented by the Union will be the result of negotiations between ComEd and the Union. Accordingly, it would not be appropriate for ComEd to unilaterally put forth a detailed transition plan at this time.

Respectfully submitted,
Commonwealth Edison Company

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Verification

Robert K. McDonald, Vice President of Unicom Corporation, being first duly sworn, states that: head has reviewed the accompanying Notice of Transfer of Assets and Wholesale Marketing Business; he is familiar with the facts stated therein; and the facts stated therein are true and correct to the best of his knowledge.

Robert K. McDonald

Subscribed to and sworn before me
this 17th day of May, 2000.

Notary Public

List of Appendices

Contribution Agreement..... A
Interconnection Agreement..... B
Facilities Agreement..... C
Power Purchase Agreement..... D
Direct Testimony of Robert K. McDonald..... E
Direct Testimony of Robert E. Berdelle..... F
Mechanics of Transfer..... G
Statement of Accounting Entries..... H
Certification of Independent Certified Accountant..... I
Certification of Chief Accounting Officer..... J
Load and Resource Plan..... K
Return on Equity Analysis..... L

Exhibit I-1

List and Description of Subsidiaries and Investments Of Unicom
 Corporation (Other than "Public-Utility"
 Companies) As of June, 2000

Name	Jurisdiction	Description	Authority
Subsidiaries of Unicom			
Unicom Enterprises Inc	Illinois	First tier holding company for Unicom non-regulated investments	See below
Unicom Mechanical Services Inc	Delaware	design, build, test, repair, distribute products and finance heating, cooling, ventilation and industrial process systems, and high and low voltage electrical power systems for commercial and industrial customers	Rule 58(b)(1)(ii) and (vii); CINergy HCAR 35-26662
V. A. Smith Company	Illinois	Subsidiary of Unicom Mechanical Services Inc.	See Unicom Mechanical Services Inc
UMS Acquisition Corp	Delaware	Subsidiary of Unicom Mechanical Services Inc	See Unicom Mechanical Services Inc
MMCD, Inc	Illinois	Subsidiary of UMS Acquisition Corp	See Unicom Mechanical Services Inc
Access Systems Inc.	Illinois	Environmental control; building automation and security systems for commercial and industrial customers	See Unicom Mechanical Services Inc
Hoekstra Building Automation, Inc	Illinois	Environmental control; building automation and security systems for commercial and industrial customers	See Unicom Mechanical Services Inc
MMSD, Inc	Illinois	Subsidiary of UMS Acquisition Corp	See Unicom Mechanical Services Inc
Unicom Power Holdings Inc	Delaware	owns electric power production facilities; full service developer engaged in the design, construction, financing, ownership and operation of energy production facilities	Rule 58(b)(1)(vii) and (viii)

Name	Jurisdiction	Description	Authority
Unicom Investment Inc.	Illinois	formed to receive the proceeds from the fossil sale pending eventual use of those funds. Unicom has entered into a like-kind exchange transaction to minimize taxes due on the sale of its fossil fuel generating stations. The transaction involves acquisition of leasehold interest in generating facilities owned by two governmental entities with lease back to those entities. No Exelon affiliate will participate in any way in the operation of the generating facilities.	Passive tax advantaged investment in arrangement not involving a public utility company. Central and South West Corp., HCAR 35-23578.
Scherer Holdings 1, LLC		Special purpose entity relating to like kind exchange transaction; owned by Unicom Investment Inc.	See Unicom Investment Inc.
Scherer Holdings 2, LLC		Special purpose entity relating to like kind exchange transaction; owned by Unicom Investment Inc.	See Unicom Investment Inc.
Scherer Holdings 3, LLC		Special purpose entity relating to like kind exchange transaction; owned by Unicom Investment Inc.	See Unicom Investment Inc.
Wansley Holdings 1, LLC		Special purpose entity relating to like kind exchange transaction; owned by Unicom Investment Inc.	See Unicom Investment Inc.
Wansley Holdings 2, LLC		Special purpose entity relating to like kind exchange transaction; owned by Unicom Investment Inc.	See Unicom Investment Inc.
Spruce Holdings G.P. LLC		Special purpose entity relating to like kind exchange transaction; owned by Unicom Investment Inc.	See Unicom Investment Inc.
Spruce Holdings L.P. 2000 LLC		Special purpose entity relating to like kind exchange transaction; owned by Unicom Investment Inc.	See Unicom Investment Inc.
Spruce Equity Holdings L.P.		Special purpose entity relating to like kind exchange transaction; owned by Spruce Holdings G.P. LLC	See Unicom Investment Inc.

Name	Jurisdiction	Description	Authority
Spruce Holdings Trust		Special purpose entity relating to like kind exchange transaction; owned by Spruce Holdings G.P. LLC	See Unicom Investment Inc.
Unicom Energy Inc	Delaware	markets electricity and natural gas where retail competition is established	Rule 58(b)(1)(v)
Unicom Energy Ohio, Inc.	Delaware	markets natural gas where retail competition is established	Rule 58(b)(1)(v)
Unicom Energy Services Inc.	Illinois	distributed generation including microturbine and similar technology; turnkey energy and operational solutions; demand-side and supply side solutions; energy performance contracting and guaranties; custom lighting solutions; financing related thereto Unicom Distributed Energy division sells, finances, installs and maintains on-site generation and cogeneration Unicom Active Energy Management division provides a suite of energy information products and related consultative services (forecast daily energy usage and track historical energy consumption) eQuater provides energy information services	Rule 58(b)(1)(i), (vii) and (viii)
Unicom Gas Services LLC	Delaware	Markets natural gas where retail competition is established (To be merged with Unicom Energy Inc).	Rule 58(b)(1)(v)
Unicom Power Marketing Inc.	Delaware	wholesale electricity and natural gas marketing	Rule 58(b)(1)(v)
Unicom HealthCare Management Inc.	Illinois	management of SFAS 106 contingent medical plan liabilities	
UT Holdings Inc.	Delaware	district energy company; operates district cooling systems; district energy systems (chilled water, steam and/or hot water); construction and operating services for central energy plan	Rule 58(b)(1)(vi) and (vii)

Name	Jurisdiction	Description	Authority
Unicom Thermal Development Inc	Delaware	Subsidiary of UT Holdings Inc.	See UT Holdings Inc.
Unicom Thermal Technologies Inc	Illinois	Subsidiary of UT Holdings Inc.	See UT Holdings Inc.
Unicom Thermal Technologies Boston Inc.	Delaware	Subsidiary of UT Holdings Inc.	See UT Holdings Inc.
Northwind Boston LLC	Massachusetts	25% held by Unicom Thermal Technologies Boston Inc.	See UT Holdings Inc
Unicom Thermal Technologies Houston Inc.	Delaware	Subsidiary of UT Holdings Inc	See UT Holdings Inc
Northwind Houston LLC	Delaware	25% held by Unicom Thermal Technologies Houston Inc	See UT Holdings Inc
Northwind Houston LP	Delaware	25% held by Northwind Houston LLC	See UT Holdings Inc
Unicom Thermal Technologies North America Inc.	Delaware	Subsidiary of UT Holdings Inc (operates in Canada)	See UT Holdings Inc
Northwind Thermal Technologies Canada Inc.	New Brunswick	Subsidiary of Unicom Thermal Technologies North America Inc.	See UT Holdings Inc
Unicom Thermal Technologies Inc.	New Brunswick	Subsidiary of Northwind Thermal Technologies Canada Inc.	See UT Holdings Inc
UTT National Power Inc.	Illinois	Subsidiary of UT Holdings Inc	See UT Holdings Inc
Northwind Midway LLC	Delaware	Subsidiary of UTT National Power Inc.	See UT Holdings Inc
UTT Nevada Inc.	Nevada	Subsidiary of UT Holdings Inc	See UT Holdings Inc
Northwind Aladdin LLC (75%)	Nevada	Subsidiary of UTT Nevada Inc.	See UT Holdings Inc
Northwind Las Vegas LLC (50%)	Nevada	Subsidiary of UTT Nevada Inc.	See UT Holdings Inc
Northwind Chicago LLC (100%)	Delaware	Subsidiary of UT Holdings Inc.	See UT Holdings Inc
UTT Phoenix, Inc.	Delaware	Subsidiary of UT Holdings Inc	See UT Holdings Inc
Northwind Arizona Development LLC (50%)	Delaware	Subsidiary of UTT Phoenix Inc.	See UT Holdings Inc

Name	Jurisdiction	Description	Authority
Northwind Phoenix LLC (50%)	Delaware	Subsidiary of UTT Phoenix Inc.	See UT Holdings Inc
Unicom Resources Inc.	Illinois	[inactive]	
Unicom Assurance Company Limited	Bermuda	A direct sub of Unicom. Insurance captive	Columbia Insurance Corporation, Ltd. HCAR No. 27051
Subsidiaries of Commonwealth Edison			
ComEd Financing I	Delaware	Special purpose financing vehicle	New Century Energies, HCAR No. 26748; New Century Energies, HCAR 26750; Conectiv, HCAR 26833; Cinergy Corp., HCAR 26984; Dominion Resources, HCAR 27112 and SCANA Corporation, HCAR 27135
ComEd Financing II	Delaware	Special purpose financing vehicle	New Century Energies, HCAR No. 26748; New Century Energies, HCAR 26750; Conectiv, HCAR 26833; Cinergy Corp., HCAR 26984; Dominion Resources, HCAR 27112 and SCANA Corporation, HCAR 27135
ComEd Funding, LLC	Delaware	Special purpose financing vehicle	New Century Energies, HCAR No. 26748; New Century Energies, HCAR 26750; Conectiv, HCAR 26833; Cinergy Corp., HCAR 26984; Dominion Resources, HCAR 27112 and SCANA Corporation, HCAR 27135

Name	Jurisdiction	Description	Authority
ComEd Transitional Funding Trust	Delaware	Special purpose financing vehicle	New Century Energies, HCAR No. 26748; New Century Energies, HCAR 26750; Conectiv, HCAR 26833; Cinergy Corp., HCAR 26984; Dominion Resources, HCAR 27112 and SCANA Corporation, HCAR 27135
Commonwealth Research Corporation	Illinois	Engaged in research, development and testing activities to ensure a safe, economical and adequate electric power supply for ComEd; holds certain energy related patents	
Concomber Ltd	Bermuda	Captive insurance company	Columbia Insurance Corporation, Ltd. HCAR No. 27051
Edison Development Company	Delaware	Holds real estate; real estate joint ventures; for economic development and community development purposes; adjacent to ComEd facility.	Ameren, HCAR 35-26809
Lincoln Commerce Center		50% owned by Edison Development Company; owns improved and unimproved real estate; for economic development and community development purposes; adjacent to ComEd facility.	Ameren, HCAR 35-26809
Commerce Distribution Center		50% owned by Edison Development Company; owns improved and unimproved real estate; for economic development and community development purposes; adjacent to ComEd facility.	Ameren, HCAR 35-26809
Concepts II Building		50% owned by Edison Development Company; owns improved and unimproved real estate; for economic development and community development purposes; adjacent to ComEd facility.	Ameren, HCAR 35-26809
Concepts III Building		50% owned by Edison Development Company; owns improved and unimproved real estate; for economic development and community development purposes; adjacent to ComEd facility.	Ameren, HCAR 35-26809
Edison Development Canada Inc.	Canada	Exploration, development, mining and milling of uranium ore	Rule 58(b)(1)(ix)
Edison Finance Partnership	Ontario	Intercompany financing with Edison Development Canada and Northwind Thermal Technologies Canada	New Century Energies, HCAR No. 26748

 Non-subsidiary investments of Unicom

Name	Percentage ownership	Description	Authority
Apeco Corporation (Common Stock - \$.50 Par Value)	less than 5%		passive and/or de minimis; Ameren, HCAR 35-26809; WPL Holdings, HCAR 35-26856
Chicago Community Ventures, Inc.	less than 5%	enterprise small business investment company	passive and/or de minimis; Ameren, HCAR 35-26809; WPL Holdings, HCAR 35-26856
Chicago Equity Fund	less than 5%	funds rehab of low and moderate income housing	passive and/or de minimis; Ameren, HCAR 35-26809; WPL Holdings, HCAR 35-26856; economic development, Ameren HCAR 35-26809
Dearborn Park Corporation	less than 5%		passive and/or de minimis; Ameren, HCAR 35-26809; WPL Holdings, HCAR 35-26856
I.L.P. Fund C/O Chicago Capital Fund	less than 5%	venture capital small business fund	passive and/or de minimis; Ameren, HCAR 35-26809; WPL Holdings, HCAR 35-26856
Illinois Venture Fund (Unibanc Trust)	less than 5%	venture capital new technology in Illinois	passive and/or de minimis; Ameren, HCAR 35-26809; WPL Holdings, HCAR 35-26856

Non-subsidary investments of Unicom

Name	Percentage ownership	Description	Authority
Boston Financial Institutional Tax Credit Fund X, Related Corporate Partners IV, L.P.; Boston Financial Institutional Tax Credit Fund XIX; Related Corporate Partners XII, L.P., Boston Capital Corp. XIV, Boston Financial Institutional Tax Credit Fund XXI, Related Corporate Partners XIV, L.P., Summit Corporate Tax Credit Fund II, USA Institutional Tax Credit Fund XXII		Passive investments of tax advantaged affordable housing credit funds; total investment at March 31, 2000 approximately \$120 million	Ameren Corp., HCAR No. ----- 35-26809
Pantellos Corporation	less than 5%	Business to Business e-commerce business which will develop supply chain resources for utilities and others over the internet	Section 34; filed for certification as ETC
Automated Power Exchange	less than 5%	Competitive power exchange business; competes with California PX and in other states	Rule 58 (b)(1)(v)
UTECH Climate Challenge Fund, L.P.		venture capital investments in businesses engaged in developing or commercializing electrotechnologies and renewable energy technologies	Rule 58(b)(1)(ii); passive and/or deminimis; Ameren, HCAR 35-26809; WPL Holdings, HCAR 35-26856
Utility Competitive Advantage Fund II, LLC		venture capital investments in businesses engaged in communications, the Internet, customer service opportunities and companies with products or services to help utilities retain and build customer base, improve core operating efficiencies and generate new revenue sources	GPU, Inc. HCAR 27139; passive and/or deminimis; Ameren, HCAR 35-26809; WPL Holdings, HCAR 35-26856

Exhibit I-2

List and Description of Subsidiaries and Investments
 Of PECO Energy Company
 (Other than "Public-Utility" Companies)

As of June, 2000

Name	Jurisdiction	Description	Authority
----- Subsidiaries of PECO -----			
PECO Energy Capital Corp. (PECC), wholly owned by PECO	Delaware	financing vehicle for issuance of cumulative income preferred securities	New Century Energies, HCAR No. 26748; New Century Energies, HCAR 26750; Conectiv, HCAR 26833; Cinergy Corp., HCAR 26984; Dominion Resources, HCAR 27112 and SCANA Corporation, HCAR 27135
PECO Energy Capital, L.P.	Delaware	issue cumulative income preferred securities and lend the proceeds thereof to PECO	New Century Energies, HCAR No. 26748; New Century Energies, HCAR 26750; Conectiv, HCAR 26833; Cinergy Corp., HCAR 26984; Dominion Resources, HCAR 27112 and SCANA Corporation, HCAR 27135
PECC Trust 2		trust created for the issuance of a specific series of cumulative preferred securities	New Century Energies, HCAR No. 26748; New Century Energies, HCAR 26750; Conectiv, HCAR 26833; Cinergy Corp., HCAR 26984; Dominion Resources, HCAR 27112 and SCANA Corporation, HCAR 27135

Name	Jurisdiction	Description	Authority
PECC Trust 3		trust created for the issuance of a specific series of cumulative preferred securities	New Century Energies, HCAR No. 26748; New Century Energies, HCAR 26750; Conectiv, HCAR 26833; Cinergy Corp., HCAR 26984; Dominion Resources, HCAR 27112 and SCANA Corporation, HCAR 27135
PECO Energy Transition Trust (PETT)	Delaware	securitization of stranded costs; in March 1999 PECO Energy issued \$4 billion of transition bonds through PETT	New Century Energies, HCAR No. 26748; New Century Energies, HCAR 26750; Conectiv, HCAR 26833; Cinergy Corp., HCAR 26984; Dominion Resources, HCAR 27112 and SCANA Corporation, HCAR 27135
ATNP Finance Company, wholly owned by PEWI	Delaware	wholly owned by PEWI, was formed to manage the net securitization proceeds to maximize the return thereon	New Century Energies, HCAR No. 26748; New Century Energies, HCAR 26750; Conectiv, HCAR 26833; Cinergy Corp., HCAR 26984; Dominion Resources, HCAR 27112 and SCANA Corporation, HCAR 27135
PEC Financial Services, LLC (PEC), wholly owned by PEWI	Pennsylvania	manages the net securitization proceeds to maximize the return thereon	New Century Energies, HCAR No. 26748; New Century Energies, HCAR 26750; Conectiv, HCAR 26833; Cinergy Corp., HCAR 26984; Dominion Resources, HCAR 27112 and SCANA Corporation, HCAR 27135

Name	Jurisdiction	Description	Authority
Eastern Pennsylvania Development Company (EPDC), wholly owned by PECO	Pennsylvania	hold interests in subsidiaries conducting unregulated real estate and complementary operations	PECO is in the process of winding-up or selling-off each of its non-utility real estate businesses. Exelon requests that the Commission reserve jurisdiction for three years subsequent to the date of any order in this matter. See Cinergy Corp., ----- Holding Co. Act Release No. 26146 (October 21, 1994). Exelon will make a filing with the Commission as soon as it has dissolved or sold off the last of the identified entities.
Adwin Realty Company (ARCO), wholly owned by EPDC	Pennsylvania	real estate development and management company	See discussion under EDPC
Energy Assets f/k/a Energy Performance Services, Inc., 10% interest held by EPDC	Pennsylvania	specializes in the development, financing, implementation and construction of energy efficiency projects for large industrial, institutional, commercial and governmental facilities	Rule 58(b)(1)(i),(vii)
Adwin Equipment Company, wholly owned by PECO	Pennsylvania	leases equipment for co-generation and related activities	Rule 58(b)(1)(vi), (viii)
PECO Wireless, LLC (PEWI), wholly owned by PECO	Delaware	serves as a holding company for financing subs for securitization transactions and some telecommunications investments	New Century Energies, Holding Co Act Release No. 26748; supports utility operations
AT&T Wireless PCS of Philadelphia, LLC, 49% LLC membership interest held by PEWI		joint venture with AT&T Wireless Services formed to offer personal communications services in the Philadelphia Major Trading Area (MTA); an FCC license holder	Section 34 of the Act

Name	Jurisdiction	Description	Authority
PECO Hyperion Telecommunications (PHT), PECO is a 50% partner	Pennsylvania	competitive local exchange carrier that provides services such as local dial tone, long distance, Internet service and point-to-point (voice and data) communications	Section 34 of the Act
AmerGen Energy Company, L.L.C., PECO is a 50% owner	Delaware	joint venture with British Energy to acquire nuclear and complementary electric generating assets	EWG
AmerGen Vermont, LLC (AVT)	Vermont	Formed to own and operate nuclear generating facility in Vermont	EWG
Adwin (Schuykill) Cogeneration, Inc.	Pennsylvania	inactive	
Exelon Infrastructure Services, Inc. (EIS), PECO owns approximately 95%	Delaware	holding company for infrastructure services unit specializing in the design, construction, operation and maintenance of utility (electric, gas, water, cable television, and telecommunications) distribution networks	Rule 58(b)(1)(vii), (ix)
Exelon Infrastructure Services of PA, Inc. (EISPA)	Delaware	designs and engineers utility infrastructure for new residential development	Rule 58(b)(1)(i), (iv), (vii), (ix); New Century Energies, HCAR No. 26748; GPU, HCAR No. 27165
Chowns Communications, Inc. (CCI)	Delaware	utility contractor providing primarily telecommunications services, including conduit installation projects for Bell Atlantic, Inc.	Rule 58(b)(1)(vii); GPU, HCAR No. 27165
Fischbach and Moore Electric, Inc. f/k/a NEWCOFM, Inc. (FAMI)	Delaware	electrical contracting firm that constructs electrical infrastructure for commercial and industrial buildings and transit and traffic management systems for various government and private entities. Also performs infrastructure work for telecommunications companies and utilities	Rule 58(b)(1)(i),(ii), (vii); GPU HCAR No. 27165

Name	Jurisdiction	Description	Authority
Fischbach and Moore Incorporated (FMI)	New York	inactive entity that performed electrical contracting and construction work. Inactive subsidiaries include Fischbach and Moore Electrical Contracting, Inc.; T.H. Green Electric Co., Inc.; and A. S. Shulman Electric Company.	To be dissolved when various claims by and against FMI are resolved
MRU Technical Group, Inc. (MRM)	Delaware	gas contracting firm comprised of six subsidiary construction companies and several non-construction subsidiaries. The construction companies are: Mueller Pipeliners, Inc. (New Berlin, WI); Gas Distribution Contractors, Inc. (Aurora, MO); Mid-Atlantic Pipeliners, Inc. (Newark, DE); Mueller Energy Services, Inc. (Lorain, OH); Mueller Distribution Contractors, Inc. (Sanford, FL); and Aconite Corporation (St. Paul, MN). Other subsidiaries are: Mechanical Specialties Incorporated (produces gas metering equipment) and Rand-Bright Corporation (manufactures equipment for cylindrical finishing which has utility applications).	Rule 58(b)(1)(vii); GPU, HCAR No. 27165
Syracuse Merit Electric, Inc. (ME)	Delaware	industrial and commercial electrical contracting services including on-site electric facility, inside commercial facility electrical system and data system design and installation	Rule 58(b)(1)(i),(ii), (vii)
NEWCOTRA, Inc	Delaware	Holding company for FMI	See FMI above
Trinity Industries, Inc. (TII)		underground utility contractor installing natural gas pipeline mains and laterals	Rule 58(b)(1)(iv)(vii)(ix); GPU, HCAR No. 27165

Name	Jurisdiction	Description	Authority
OSP Consultants, Inc. (OSP)	Virginia	engineering and design services, construction-related services, craft services (cable splicing, installation and repair), project management and administrative functions on telecommunications infrastructure projects Subsidiaries include: International Communications Services, Inc. (Nevada); OSP, Inc. (Virginia); OSP Servicios, S.A. de C.V. (Mexico); OSP Telecom de Colombia, LTDA Colombia (being dissolved); OSP Telecom, Inc. (Delaware); OSP Telecomm de Mexico, S.A. de C.V. (Mexico); OSP Telecommunications, Ltd. (Bermuda); RJE Telecom, Inc. (Florida); and Utility Locate & Mapping Services, Inc. (Virginia). OSP is registered to do business in Canada. All of OSP's foreign subsidiaries are presently inactive.	Rule 58(b)(1)(vii)and/or Section 34 of the Act
Horizon Energy Company f/k/a PECO Gas Supply Company	Pennsylvania	sell competitively priced electricity and natural gas in deregulating retail markets; currently inactive	Rule 58(b)(1)(v)
East Coast Natural Gas Cooperative LLP, PECO holds a 16.66% LLP interest	Delaware	facilitate the coordinated use of certain natural gas capacity, storage, transportation and supply assets in order to improve service reliability and efficiency	New Century Energies, HCAR No. 26748
Energy Trading Company	Delaware	holds interests in two publicly-traded companies: Worldwide Web NetworkX Corporation and Entrade, Inc., each a developer and provider of business-to-business e-commerce solutions	Section 34 of the Act
Exelon Ventures Corporation (EVEN)	Pennsylvania	Holding company for ECAP	Section 34, of the Act and/or Rule 58(b)(1)(i), (ii) (vii)

Name	Jurisdiction	Description	Authority
Exelon Capital Partners, Inc. (ECAP)	Delaware	venture capital fund established to leverage the core businesses of utility infrastructure services and communications and PECO's other resources through investment in new businesses. Currently holds a 12% interest in Extant, Inc., a telecommunications company, (2) a 14.9% interest in Permits Now, an internet software company, (3) a 50% interest in CIC Global, LLC, an energy management and metering company, (4) a 16.8% interest in VITTS Network Group, Inc., a local exchange carrier, and (5) a 34.88% interest in OmniChoic.com, Inc., an internet based utility services agent.	Section 34 of the Act and/or Rule 58(b)(1)(i), (ii), (vii); GPU, Inc. HCAR 27139
Exelon Corporation f/k/a/ NEWHOLDCO Corporation	Pennsylvania	An inactive subsidiary of PECO which will be renamed Exelon Corporation and will become the Applicant as a result of the Merger	
Utility Competitive Advantage Fund, LLC; PECO holds 10% interest		venture capital investments in businesses engaged in communications, the Internet, customer service opportunities and companies with products or services to help HCAR 35-26856 utilities retain and build customer base, improve core operating efficiencies and generate new revenue sources	GPU, Inc. HCAR 27139; passive and/or deminimis; Ameren, HCAR 35-26809; WPL Holdings,
Dashiell Holdings Corp., wholly owned by EIS		Holds Dashiell Corporation	See Dashiell Corporation
Dashiell Corporation		designs, constructs, tests and maintains high and medium-voltage electric facilities, focusing on switchyards and substations for industrial, utility and independent power clients. Dacon Corporation is sole subsidiary, which constructs substations and overhead electric lines	Rule 58(b)(1)(vii); GPU, HCAR No. 27165

Name	Jurisdiction	Description	Authority
Dacon Corporation, wholly owned by Dasheill Corporation		see Dasheill Corporation	See Dasheill Corporation
VSI Group, Inc. (VSI), wholly owned by EIS		performs all activities necessary to support utility metering, including automated metering. Functions include meter installation, reading, turn on/off, call centers, engineering support, consulting	Rule 58(b)(1)(i), (ii), (vii) GPU, HCAR No. 27165
International Vital Solutions Group, Inc., wholly owned by VSI		see VSI Group, Inc.; focuses on meter installation	see VSI Group, Inc.
Michigan Trenching Service, Inc. (MTSI), wholly owned by EIS		underground utility construction contractor, activities include construction of gas mains and distribution facilities, horizontal and directional drilling, plant construction, engineering and design services	Rule 58(b)(1)(vii); GPU, HCAR No. 27165
Lyons Equipment, Inc., wholly owned by EIS		provides management to, and leases utility construction equipment to MTSI	Rule 58(b)(1)(vii); GPU, HCAR No. 27165