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April 2, 2009

VIA ELECTRONIC FILING

James McNulty, Secretary
PA Public Utility Commission
Commonwealth Keystone Bldg.
2nd Fl., 400 North Street
P.O. Box 3265
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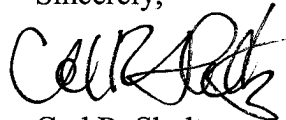
**Re: Application of Exelon Corporation, Exelon Xchange Corporation and PECO Energy Company for Certificates of Public Convenience Evidencing Approval of the Transfer of Ultimate Control of NRG Energy Center Pittsburgh, LLC and NRG Energy Center Harrisburg, LLC;
Docket Nos. A-2009-2093057; A-2009-2093058; A-2009-2093059**

Dear Secretary McNulty:

Enclosed is the original Petition to Intervene of Dauphin County, which was electronically filed in the above matter. As evidenced by the attached Certificate of Service, the parties of record have been served in the manner indicated.

If you have any questions regarding this letter, please contact us at your convenience.

Sincerely,



Carl R. Shultz
For WolfBlock LLP

CRS/jls
Enclosure

cc: Certificate of Service (w/enc)

HAR:89401.1/1-102049

CERTIFICATE OF SERVICE

I hereby certify that this day I served a copy of Dauphin County's Petition for Intervention upon the persons listed below in the manner indicated and in accordance with the requirements of 52 Pa. Code Section 1.54.

VIA E-MAIL &/OR FIRST CLASS MAIL

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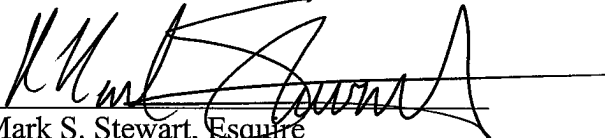
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Date: April 2, 2009



Mark S. Stewart, Esquire
Daniel Clearfield, Esquire
Carl R. Shultz, Esquire

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Exelon Corporation, Exelon Xchange Corporation and PECO Energy Company for certificates of public convenience evidencing approval of the transfer of ultimate control of NRG Energy Center Pittsburgh, LLC and NRG Energy Center Harrisburg, LLC, approval of the related affiliated transactions, and all other approvals or certificates appropriate, customary or necessary under the public utility code to carry out the transactions described in the application.	:	Docket Nos.	A-2009-2093057
	:		A-2009-2093058
	:		A-2009-2093059

**PETITION TO INTERVENE
OF DAUPHIN COUNTY**

Pursuant to 52 Pa. Code §§ 5.72 to 5.75 and the Pennsylvania Public Utility Commission (“PUC” or “Commission”) notice published on March 14, 2009, in the *Pennsylvania Bulletin*, 39 Pa.B. 1285, 1374, the County of Dauphin (“County” or “Dauphin County”) hereby petitions to intervene in the Application for the Transfer of Ultimate Control of NRG Energy Center Pittsburgh, LLC (“NRGP”) and NRG Energy Center Harrisburg, LLC (“NRGH”) filed by Exelon Corporation (“Exelon”), Exelon Xchange Corporation (“Exelon Xchange”) and PECO Energy Company (“PECO”).

In support of its intervention, the County states as follows:

INTERVENTION

1. Dauphin County is a county of the third class existing under the laws of the Commonwealth of Pennsylvania.

2. The County's attorneys in this matter are:

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3. On February 26, 2009, Exelon, Exelon Xchange, a wholly owned subsidiary of Exelon, and PECO, a wholly owned indirect subsidiary of Exelon (PECO, Exelon and Exelon Xchange are collectively referred to as the "Applicants"), filed an Application for the Transfer of Ultimate Control ("Application") of the NRG and NRGH (collectively referred to as the "Energy Centers") to the Applicants from NRG Thermal, LLC ("NRG Thermal"), which is an NRG Energy Inc. ("NRG") company.

4. NRGH is a jurisdictional public utility providing steam heat and other services to customers in portions of the City of Harrisburg ("City"). NRGH generates and distributes steam for use in space heating, domestic hot water heating, humidification and industrial processes. It serves approximately 270 downtown buildings, including (but not limited to) City-owned buildings (such as the Broad Street Market), the Capital Complex, PinnacleHealth System's Harrisburg Hospital and the Dauphin County Courthouse and Administration complexes.

5. The Commission's regulations allow intervention where a person has an interest in the proceeding which may be directly affected and which is not adequately represented by existing parties, and as to which the person may be bound by the action of the Commission in the proceeding. 52 Pa. Code § 5.72(a)(2). Intervention is also permitted where participation of the person may be in the public interest. 52 Pa. Code § 5.72(a)(3). A municipal corporation, such as

the County, can be a “person” under both the Commission’s statutory authority and regulations. *See, e.g.,* 66 Pa. C. S. § 102; 52 Pa. Code § 1.8; *Joint Application of Aqua Pennsylvania, Inc. and Country Club Gardens Water Company, Inc.*, PA PUC Docket No. A-210104F0066, Opinion and Order entered April 7, 2006, at p. 6-7.

6. The County meets the standards for intervention set forth in 52 Pa. Code § 5.72(a)(2). The County is a customer of NRGH, which provides steam heat and other services to buildings owned and/or operated by the County. Thus, the County will be bound by the action of the Commission in the proceeding. It follows that the County may be harmed by rate increases or inadequate service that may result from the approval of the Application.

7. The County’s intervention is in the public interest. There is a governmental interest in the adequacy of service furnished by a public utility within the its boundaries for the health, safety and economic vitality of its community. *See Franklin Township v. Pa. Department of Environmental Resources*, 499 Pa. 162, 167-172, 452 A.2d 718 (1982) (a municipality has a substantial, direct and immediate interest in "the protection and enhancement of the quality of life of its citizens.").

(a) The County has a legitimate interest and concern in the direct loss of jobs at NRGH’s facilities as a result of the transaction, as well as potential negative impacts on County businesses and the County’s economic development efforts. Thus, the County is interested and concerned that the transaction proposed by the Application may have an adverse effect upon the County, the County’s tax-base, and the public interest. *See the City of York v. Pa. PUC*, 449 Pa. 136, 139, 295 A.2d 825, 828 (1972); *Popowsky v. Pa. PUC*, 594 A.2d 583, 937 A.2d 1040 (2007).

(b) The County is further concerned that transaction proposed by the Application will have an adverse impact upon the Harrisburg Resource Recovery Facility, which is financially guaranteed by the City and the County. Dauphin County pledged its guarantee behind part of bonds used to renovate the Harrisburg Resource Recovery Facility.

8. Based on the foregoing, the County's interests in this proceeding (a) are unique, direct, immediate and substantial; (b) are not adequately represented by existing participants; and, (c) are not adequately represented by any other parties that may seek to intervene, including other municipal corporations. In order for the County to protect its governmental and public interests, it should be granted intervention. *See* 52 Pa. Code § 5.72.

9. At this time, the County continues to evaluate its position on the transaction proposed by the Application and will refine its position based on further study of the Application, review of discovery and additional input from other parties.

10. The deadline for intervention in this proceeding was Monday, March 30, 2009. Late intervention has been granted previously when: (1) the petitioner has a reasonable excuse for missing the initial due date; (2) the proceeding is contested at the time of the filing of a petition for intervention; (3) a grant of intervention will not delay the orderly progress of the case; and (4) the grant of intervention will not broaden significantly the issues or shift the burden of proof. *See, e.g., In re Pennsylvania- American Water Co.*, 2002 WL 1723685, 3 Pa PUC (2002) (*citing Re S.T.S. Motor Freight, Inc.*, 54 Pa PUC 343 (1980)).

(a) The County's reasonable excuse for filing out-of-time is that it only recently became aware of the potential implications of the current

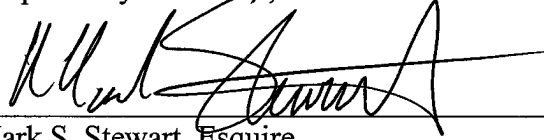
proceedings, and needed to follow its internal procedures for authorizing the filing of this petition for intervention.

- (b) This proceeding has been contested by other parties at the time of the filing of the County's petition for intervention.
- (c) A grant of intervention will not delay the orderly progress of the case. The County's petition for intervention is being filed on April 2, 2009, which is only three (3) days after the deadline. This petition for intervention is being filed prior to an evidentiary hearing. See 52 Pa. Code § 5.74(c). The County acknowledges that it will be bound by any record (if any) established in this proceeding prior to its grant of intervention.
- (d) The issues raised by the County will not broaden significantly the issues or shift the burden of proof. The County is only raising issues that have the potential to impact the County and the public interest.

CONCLUSION

WHEREFORE, the County respectfully requests that the Commission grant its intervention in this matter.

Respectfully submitted,



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Date: April 2, 2009

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