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April 7, 2009

**VIA ELECTRONIC FILING**

James McNulty, Secretary  
PA Public Utility Commission  
Commonwealth Keystone Bldg.  
2nd Fl., 400 North Street  
P.O. Box 3265  
Harrisburg, PA 17105-3265

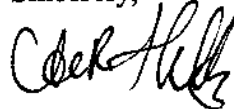
**Re: Application of Exelon Corporation, Exelon Xchange Corporation and PECO Energy Company for Certificates of Public Convenience Evidencing Approval of the Transfer of Ultimate Control of NRG Energy Center Pittsburgh, LLC and NRG Energy Center Harrisburg, LLC;  
Docket Nos. A-2009-2093057; A-2009-2093058; A-2009-2093059**

Dear Secretary McNulty:

Enclosed is the original Prehearing Memorandum of The City of Harrisburg, 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/dmk  
Enclosure

cc: Certificate of Service (w/enc)  
Hon. Marlane R. Chestnut

HAR:89503.1/1-102049

## CERTIFICATE OF SERVICE

I hereby certify that this day I served a copy of the City's Prehearing Memorandum 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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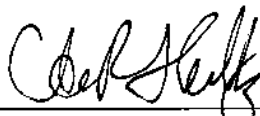
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Energy Users Group)*

Date: April 7, 2009



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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

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**PREHEARING MEMORANDUM OF  
THE CITY OF HARRISBURG**

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The City of Harrisburg (“City”) submits this prehearing memorandum pursuant to Section 333 of the Public Utility Code, 66 Pa. C.S. § 333, and the prehearing conference order issued by the Honorable Marlane R. Chestnut (“ALJ” or “Judge”).

**I. HISTORY OF PROCEEDING**

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 NRGP 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.

NRGH is a jurisdictional public utility providing steam heat and other services to customers in portions of the City. NRGH generates and distributes steam for use in space heating, domestic hot water heating, humidification and industrial processes. It also purchases

steam under a steam purchase agreement with the Harrisburg Authority (“Authority”). The Authority owns and operates a Municipal Waste Combustion facility in the City, which is known as the “Harrisburg Resource Recovery Facility” (“Facility”). The Facility, which converts waste to steam and electricity, is the oldest operating Energy-from-Waste Facility in the United States and is financially guaranteed by the City.

NRGH provides vital services to the City and the businesses located in the City’s central business district. NRGH 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 Administrative complexes. In fact, since the 1980’s, the majority of newly constructed buildings in the City have been added to NRGH’s system. As such, NRGH’s services, and the terms and conditions thereof, are critical in maintaining and expanding the City’s businesses and economic base, as well as ensuring the proper conditions for economic development in the City.

## **II. SERVICE LIST**

The City’s attorneys in this matter are:

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Daniel Clearfield, Esquire  
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### **III. ISSUES**

The City is interested and concerned that the transaction proposed by the Application may have an adverse effect upon the City, the City's tax-base, and the public interest. The City has preliminarily identified the following issues concerning the transaction:

- The City desires that steam lines and service be maintained within the City to buildings owned and/or operated by the City. Abandonment of steam heat lines and/or service may cause the City to incur expenses to install and maintain alternative heating systems.
- The City is concerned that the transaction proposed by the Application will have an adverse impact upon the City's economic development efforts. *See 52 Pa. Code § 5.72(a)(3)*. Specifically, the City is concerned that rate increases and/or enhanced line extension costs will serve as a disincentive for future economic development by the City. The City is also concerned that City-based jobs will be eliminated following the transaction proposed by the Application and that efforts may be taken post-transaction to erode the tax assessments on NRGH's facilities.
- The City is concerned that the transaction proposed by the Application will have an adverse impact upon the Harrisburg Resource Recovery Facility, which is financially guaranteed by the City. Efforts should be required to enable continued sales of steam from the Facility to NRG.

The City reserves the right to address other issues identified through its continued review and analysis of the filing or through discovery. The City also reserves the right to address other issues raised by other parties as they may affect the City's interests in this matter.

### **IV. WITNESSES AND SUBJECTS OF TESTIMONY**

The City continues to evaluate whether to present witnesses in this proceeding and the coordination with other parties with similar concerns of any testimony it may present. At this time, the City has not made a determination on whether to present witnesses in this proceeding or their identities. Nevertheless, the City reserves the right to add additional witnesses or change the identify of its witnesses at any time.

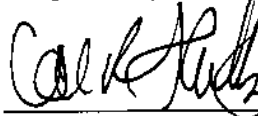
## V. PROPOSED LITIGATION SCHEDULE AND DISCOVERY

The City will participate in the development of a litigation schedule that is acceptable to the ALJ and the parties. The City does not oppose reasonable modifications to the Commission's discovery rules to facilitate resolution of this proceeding in a timely manner.

## VI. SETTLEMENT DISCUSSIONS

The City is willing to participate in settlement discussions.

Respectfully submitted,



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Date: April 7, 2009

Attorneys for the City of Harrisburg