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File #: 3288/138939

June 29, 2009

**VIA ELECTRONIC MAIL AND OVERNIGHT DELIVERY**

Honorable Marlane R. Chestnut  
Administrative Law Judge  
Pennsylvania Public Utility Commission  
1302 Philadelphia State Office Building  
Broad and Spring Garden Streets  
Philadelphia, PA 19130

**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, 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 Transaction Described in the Application; Docket Nos. A-2009-2093057, A-2009-2093058 and A-2009-2093059; **NRG WITHDRAWAL OF PETITION FOR CERTIFICATION OF A DISCOVERY RULING FOR INTERLOCUTORY REVIEW**

Dear Judge Chestnut:

On June 18, 2009, NRG Energy Center Pittsburgh LLC ("NRG Pittsburgh") and NRG Energy Center Harrisburg LLC ("NRG Harrisburg") (collectively "NRG Companies"), filed a "Petition for Certification of [Your Honor's June 15, 2009] Discovery Ruling for Interlocutory Review" ("Petition") in the above-referenced proceeding. On June 25, 2009, the NRG Companies filed a Brief in Support of the Petition and Exelon Corporation, Exelon XChange Corporation, and PECO Energy Company (collectively "Exelon") filed a Brief in Opposition to the Petition. None of the other parties filed briefs.

By Order entered June 25, 2009, the Pennsylvania Public Utility Commission ("Commission") limited the scope of the scheduled hearing to Exelon's proposal to effectuate a merger with NRG Energy, Inc. through its ongoing, hostile tender offer. As a consequence of the Order, the need for the discovery sought by the NRG Companies from Exelon has dramatically changed.

Honorable Marlane R. Chestnut  
June 29, 2009  
Page 2

On June 29, 2009, counsel for the NRG Companies and Exelon participated in a conference call to resolve the on-going dispute with regard to responses to NRG Interrogatories Set I-21 & 22 (*i.e.* the interrogatories for which the Petition was filed). To the extent that a complete resolution is not reached, the NRG Companies will submit alternate, focused discovery requests in consideration of the Commission's June 25th Order.

Accordingly, the NRG Companies hereby withdraw the Petition and their supporting Brief. In light of this request, the NRG Companies acknowledge that Your Honor's June 15<sup>th</sup> Discovery Ruling shall remain in effect.

Thank you for your attention to this matter. Please do not hesitate to contact me if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "David P. Zambito", with a long horizontal line extending to the right from the end of the signature.

David P. Zambito

Counsel for *NRG Energy Center Pittsburgh LLC*  
and *NRG Energy Center Harrisburg LLC*

DPZ/kmg  
Enclosure

cc: Per Certificate of Service

## CERTIFICATE OF SERVICE

Docket Nos. A-2009-2093057, A-2009-2093058, and A-2009-2093059

I hereby certify that I have this day served true copies of the foregoing Letter Withdrawing Petition for Certification of a Discovery Ruling for Interlocutory Review, upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

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DATED: June 29, 2009



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