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VIA ELECTRONIC DELIVERY

Elizabeth M. Murphy
Secretary
Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549-1090

Re: Comments on Proposed Revisions to Forms S-3 and F-3
File Number S7-18-08; Release No. 33-9186

Dear Ms. Murphy:

Exelon Corporation (Exelon) submits this comment letter in response to the Commission's request for comments in its release entitled *Security Ratings*, Release No. 33-9186 (February 9, 2011) (Release). The proposal would eliminate the use of investment grade credit ratings as a criterion for the use of Form S-3 as a Transaction Requirement in General Instruction I.B.2. of Form S-3. Instead, the proposal would substitute a requirement that an issuer have issued at least $1 billion on non-convertible securities in transactions registered under the Securities Act of 1933, as amended, other than equity securities, for cash during the past three years (as measured from a date within 60 days of the filing of the registration statement) as a criterion for Form S-3 eligibility ($1 billion/3-year issuance test). We believe that the proposed $1 billion/3-year issuance test is, by itself, not an appropriate alternative standard for Form S-3 eligibility, because it would result in the loss of Form S-3 eligibility by a number of issuers of debt securities that are in fact well known and widely followed in the marketplace. We urge the Commission to adopt additional criteria to permit a company that has $1 billion in assets or $1 billion in outstanding debt securities and substantially all of whose equity is owned, directly or indirectly, by a parent that is a well-known seasoned issuer (WKSI) to use Form S-3. We believe that debt issuers meeting these alternate criteria would also be widely followed in the market and should be eligible to use Form S-3.

**Background on Exelon, its Subsidiaries, their debt issuance history and their use of Form S-3**

Exelon is one of the nation's largest electric utilities, with more than $18 billion in annual revenues. It is a well-known seasoned issuer with a market capitalization of over $26 billion that trades on the New York Stock Exchange under the symbol "EXC." Exelon is the holding company of three utility subsidiaries, Exelon Generation Company, LLC (Generation), Commonwealth Edison Company (ComEd), and PECO Energy Company (PECO). At December 31, 2010 Exelon had approximately $52 billion in total assets and over $12 billion in long-term debt outstanding on a consolidated basis, of which only $1.3 billion was issued by Exelon itself.

Generation was formed in 2000 as a result of a corporate restructuring. It is one of the world's largest power producers and wholesale marketers, with access to more than 31,000 megawatts of owned and contracted electricity, and a nationwide reach with strong positions in the Midwest, Mid-Atlantic, and Texas. Its division Exelon Nuclear is responsible for operating the largest nuclear fleet in the United States, with ten stations and 17 units located in Illinois, Pennsylvania and New Jersey that represent approximately 20 percent of the U.S. nuclear industry's capacity. Its division Exelon Power manages, operates and maintains the company's 104 fossil, landfill gas and hydroelectric units, 36 wind projects, and the nation's largest urban solar plant. At December 31, 2010 Generation had approximately $24.5 billion in total assets and $3.7 billion in long-term debt outstanding.

ComEd was formed in 1913 and its business consists of the purchase and regulated retail sale of electricity and the provision of electric transmission and distribution services to 3.8 million customers in northern Illinois, including the City of Chicago. At December 31, 2010 ComEd had approximately $21.7 billion in total assets and $5.2 billion in long-term debt outstanding.

PECO was incorporated in 1929 and its business consists of the purchase and regulated retail sale of electricity and the provision of electric transmission and distribution services to 1.6 million customers in southeastern Pennsylvania, including the City of Philadelphia, as well as the purchase and regulated retail sale of natural gas and the provision of distribution services to 490,000 retail customers in the Pennsylvania counties surrounding the City of Philadelphia. At December 31, 2010 PECO had approximately $9 billion in total assets and $2.4 billion in long-term debt outstanding.

Each of Generation, ComEd and PECO are reporting companies under the Securities Exchange Act of 1934, as amended, and maintain shelf registration statements on Form S-3 for the public offering of debt and other securities. These Form S-3 registration statements have afforded Generation, ComEd and PECO with significant flexibility in accessing the capital markets in order to finance their needs for capital expenditures and operations in an efficient and cost-effective manner. The ability to access the capital markets on short notice has enabled the companies to take advantage of favorable market conditions in order to reduce the cost of capital of the companies, thus benefiting both the shareholders of Exelon and the customers of ComEd and PECO who pay rates set, in part, with reference to the cost of debt.

Exelon recognizes the Commission's mandate under Section 939A of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank) to modify regulations to remove any reference to or requirement of reliance on credit ratings and to substitute a standard of creditworthiness as the Commission determines to be appropriate. However, as noted in the Release, the legislative history of Dodd-Frank does not indicate that Congress intended to change the type of issuers and offerings that could rely on Form S-3. In addition, neither Congress nor the Commission has found that issuers using investment grade credit ratings as the criterion for eligibility to use Form S-3 have presented any particular risk to investors or the markets or were associated with perceived abuses in the markets. Accordingly, we believe that any criteria adopted by the Commission to replace the investment grade credit rating criterion should be designed so as not to reduce the eligibility for the use of Form S-3 currently enjoyed by companies, such as Generation, ComEd, PECO and other utility subsidiaries that currently are permitted to use Form S-3 because they meet the investment grade criterion.

If the $1 billion/3-year issuance test for Form S-3 eligibility were to be adopted as proposed, Exelon's subsidiaries Generation and ComEd would currently remain eligible until late 2012 and late 2013, respectively, and PECO would lose eligibility in the second quarter of 2011. In reviewing the history of registered debt offerings by Exelon's subsidiaries over the past decade, while ComEd would have been eligible to use Form S-3 under the Commission's proposed rule change through the decade, PECO and Generation would have been only intermittently eligible due to the uneven frequency of their registered debt offerings. For each of the subsidiaries, the frequency and volume of debt issuances is irregular, depending on the timing of capital expenditures and refinancings. PECO would have been eligible for approximately two quarters in 2004 and from the first quarter of 2009, while Generation would also have been eligible for two quarters in 2004 and since the third quarter of 2009. The continued eligibility of the Exelon subsidiaries to use Form S-3 will depend on the frequency with which they issue registered debt securities and, based on their experience over the past decade, their needs to issue debt are episodic. Given the large amount of their debt outstanding, Generation, ComEd and PECO are widely followed by the investment community regardless of the frequency of their debt offerings. For this reason, we believe the frequency of their debt offerings should not be a deciding factor in their eligibility to use Form S-3.

The loss of eligibility to use Form S-3 would have a number of negative effects on ComEd, PECO and Generation and their customers. The use of Form S-1 to register debt offerings is not a practical alternative, as it would significantly increase the cost to prepare for the offering as well as remove the benefits of flexibility in timing as compared to the use of Form S-3 due to the need to wait for the Commission to review the registration statement and declare it effective. Alternatively, ComEd, PECO, and Generation could rely on non-registered (or Rule 144A) offerings. Such offerings might incur additional costs such as higher coupon rates. They have the additional disadvantage of not contributing to the future eligibility to use Form S-3 under the Commission's proposal and reducing the availability of registered debt offerings to investors in the capital markets seeking offerings from issuers such as ComEd, PECO and Generation that have a history of issuing high-quality debt. Any increase in financing costs is likely to be borne for the most part by utility ratepayers.

**Alternative S-3 Eligibility Criteria**

We believe that the issuance of $1 billion in registered non-convertible debt in the previous three years would be an indicator that an issuer is widely followed in the marketplace and thus would be a viable alternative to the current investment grade criterion. However, we believe that this criterion would be overly restrictive and would deny the use of Form S-3 to many creditworthy issuers. Accordingly, we believe that the Commission should also provide multiple alternative criteria for Form S-3 eligibility.

The Commission's proposed requirement of the issuance of $1 billion in registered non-convertible securities over the preceding three years sets a very high standard, one that many issuers that currently meet the investment grade test may not meet. This test is exceptionally high relative to tests applicable to other thresholds for the use of Form S-3 and is well above what can reasonably be thought necessary to ensure a wide following in the marketplace. For example, issuers with only $75 million of public equity float are eligible for unlimited use of Form S-3, and even smaller reporting companies with less than $75 million of public equity float can use Form S-3 in certain circumstances. Exelon believes that a subsidiary of a WKSI that is a reporting company with either $1 billion in assets or $1 billion in debt outstanding should be eligible to use Form S-3 provided that it otherwise meets the Registrant Requirements of General Instruction 1.A. of Form S-3. Subsidiaries having either $1 billion in assets or $1 billion in debt outstanding are large enough to ensure that the issuer would be subject to the level of scrutiny, market coverage and analysis cited in the Release as a proper substitute for an investment grade security rating as a criterion to permit the use of Form S-3. We believe that this level of outstanding debt or assets would be sufficient to ensure that the issuer attracts significant analyst and investor attention. Should the Commission be inclined to choose only one of the alternate criteria we propose, we believe that having $1 billion in debt outstanding would be a surer indicator of the likelihood of wide following in the investment community than the $1 billion in assets standard.

In this regard we would also propose that the non-convertible securities that would qualify under this additional alternative test include not only debt securities issued in primary registered offerings for cash, but also those issued in exempt offerings (such as Rule 144A offerings) and those issued in registered exchange offerings (provided that the securities were not double-counted, both when originally issued in an exempt offering and again when registered in an exchange offering). We understand that the market following for debt securities considers debt securities issued in primary registered offerings for cash, Rule 144A offerings, and exchange offerings interchangeably, because a substantial portion of the market for debt securities consists of institutional investors that are eligible to acquire debt in Rule 144A offerings as well as registered original issue or exchange offerings and thus do not need to distinguish among these types of offerings.

## Conclusion

The loss of S-3 eligibility would have a significant effect on Generation, ComEd and PECO and many similarly situated utility subsidiaries and other companies, which are widely followed debt issuers. For the reasons stated above, Exelon believes that the Commission should provide multiple tests to make Form S-3 available to substantially all companies that currently rely on the investment grade test. We believe these tests should permit a WKSI subsidiary having at least $1 billion in outstanding debt securities or $1 billion in assets to register the issuance of debt securities on Form S-3 because such a company would be widely followed in the marketplace.

Very truly yours,

Bruce G. Wilson
Senior Vice President, Deputy General Counsel, and Corporate Secretary
Exelon Corporation