

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 35-27978]

### Notice of Proposal To Amend Articles of Incorporation; Order Authorizing the Solicitation of Proxies

**June 1, 2005**

Notice is hereby given that the following filing has been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the declaration for complete statements of the proposed transactions summarized below. The declaration and any amendments are available for public inspection through the Commission's Branch of Public Reference.

Interested persons wishing to comment or request a hearing on the declaration should submit their views in writing by **June 24, 2005** to the Secretary, Securities and Exchange Commission, Washington DC 20549-0609 and serve a copy on the declarant at the address specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should specifically identify the issues of facts or law that are disputed. A person who so desires will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After **June 24, 2005**, the declaration, as filed or amended, may be granted or permitted to become effective.

#### **Exelon Corporation (70-10291)**

Exelon Corporation ("Exelon"), 10 South Dearborn Street, 37<sup>th</sup> Floor, Chicago, Illinois, 60603, a registered holding company, has filed a declaration, as amended ("Declaration") under sections 6(a), 7 and 12(e) of the Public Utility Holding Company Act of 1935 as amended ("Act"), and rules 54 and 62 under the Act.

Exelon seeks authority to amend its Amended and Restated Articles of Incorporation to increase the amount of the Exelon's authorized capital stock and authority to solicit the proxies of the holders of common stock of Exelon.

On December 20, 2004, Exelon and Public Service Enterprise Group Incorporated ("PSEG"), an electric and gas utility holding company that claims exemption from registration pursuant to rule 2 under section 3(a)(1) of the Act, entered into an Agreement and Plan of Merger ("Merger Agreement").<sup>1</sup> Under the terms of the Merger Agreement, PSEG would merge into Exelon ("Merger"), thereby ending the separate corporate existence of PSEG. Each PSEG shareholder will be entitled to receive 1.225 shares of Exelon common stock for each PSEG share held and cash in lieu of any fraction of an Exelon share that a PSEG shareholder would have otherwise been entitled to receive. Exelon common stock will be unaffected by the Merger, with each issued and outstanding share remaining outstanding following the Merger as a share in the surviving company. Upon completion of the Merger, Exelon will change its name to Exelon Electric & Gas Corporation ("Exelon").

As the surviving company in the Merger, Exelon will remain the ultimate corporate parent of Commonwealth Edison Company ("ComEd"), PECO Energy Company ("PECO"), Exelon Generation Company, LLC ("Exelon Generation") and the other Exelon subsidiaries, and become the ultimate corporate parent of Public Service Electric and Gas Company ("PSE&G"), a public utility company under the Act, and the other PSEG subsidiaries.

Exelon will continue to be a registered public utility holding company under the Act, and ComEd, PECO and PSE&G will continue to be operating franchised public utility companies. Exelon

---

<sup>1</sup> The Merger is subject to a number of conditions, including the approval of the Commission under the Act and other regulatory approvals. On March 15, 2005 Exelon filed an application with this Commission seeking approval of the Merger and related transactions. SEC File No. 70-10294.

will remain headquartered in Chicago, but will also have energy trading and nuclear headquarters in southeastern Pennsylvania and generation headquarters in Newark, New Jersey. PSE&G will remain headquartered in Newark. PECO will remain headquartered in Philadelphia and ComEd will remain headquartered in Chicago.

Under the terms of the Merger Agreement, Exelon and PSEG have agreed to convene meetings of their respective shareholders for the purpose of obtaining required stockholder approvals relating to the Merger. Exelon will seek to obtain the affirmative vote of a majority of votes cast by holders of the outstanding shares of the common stock of Exelon (“Exelon Shares”) represented at the Exelon shareholders meeting (“Exelon Shareholders Meeting”) (provided that at least a majority of the Exelon Shares are represented in person or by proxy at such meeting). Exelon is seeking authority to solicit proxies with respect to proposals for Exelon shareholders to approve the issuance of shares of Exelon common stock as contemplated by the Merger Agreement, and an amendment to Exelon’s Amended and Restated Articles of Incorporation to increase the number of authorized shares of Exelon common stock from 1,200,000,000 to 2,000,000,000. In addition, Exelon’s shareholders will be asked to vote on the election of five directors to Exelon’s Board of Directors, the ratification of the Company’s independent accountants for 2005, and the approval of the Exelon 2006 Long-Term Incentive Plan and the Exelon Employee Stock Purchase Plan for Unincorporated Subsidiaries.

Exelon further asks the Commission to issue an order authorizing Exelon to amend its Amended and Restated Articles of Incorporation to increase the number of authorized shares of Exelon common stock from 1,200,000,000 to 2,000,000,000.

Fees and expenses in the estimated amount of \$2,140,750.00 are expected by Exelon to be incurred in connection with the proposed transactions (including costs associated with the solicitation of

proxies). Exelon states that no state or federal commission, other than this Commission, has jurisdiction over the transactions proposed in the Application.

Exelon has filed its proxy solicitation materials and requests that its proposal to solicit proxies be permitted to become effective immediately, as provided in rule 62(d) under the Act. It appears to the Commission that the Declaration, with respect to the proposed solicitation of proxies, should be permitted to become effective immediately under rule 62(d).

IT IS ORDERED, under rule 62 under the Act, that the Declaration regarding the proposed solicitation of proxies be, and it hereby is, permitted to become effective immediately, subject to the terms and conditions contained in rule 24 under the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland

Deputy Secretary