

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Exelon Corporation	:	
	:	
Application for Confidential	:	01-0285
Treatment of Certain Reports	:	
Filed with the Illinois Commerce	:	
Commission Pursuant to	:	
17 CFR §250.58.	:	

ORDER

By the Commission:

On March 22, 2001, Exelon Corporation (“Exelon”) filed a verified application with the Illinois Commerce Commission (“Commission”) pursuant to Section 4-404 of the Public Utilities Act (“Act”)(220 ILCS 5/1-101 et. seq.) requesting that the Commission grant confidential treatment to certain reports to be filed by Exelon with the Commission.

The application states that Exelon, which was formed with the merger of Unicom Corporation and PECO Energy Company, is a registered holding company (“RHC”) subject to regulation by the Securities and Exchange Commission (“SEC”) under the Public Utility Holding Company Act of 1935 (“PUHCA”). The application states that Exelon has a number of subsidiaries, affiliates and associates that are engaged in non-utility energy related businesses.

Under PUHCA, an RHC generally must obtain prior approval from the SEC before “acquiring any other interest in any business” as defined by Section 9(a) of PUHCA. The application states that certain exceptions to this general requirement for non-utility activities are authorized under 17 CFR §250.58 (“Rule 58”). This rule permits an RHC to make investments in Energy Related Companies (“ERCs”) without prior approval subject to certain financial limits and reporting requirements. Under Rule 58, an RHC can invest up to 15% of the consolidated capitalization of the registered system in ERCs but, among other requirements, must provide quarterly reports on Form U-9C-3 regarding this activity to the SEC and to each state commission having jurisdiction over the retail rates of the public utility subsidiary companies of the registered system. (17 CFR §250.58(c)). The application states that these reports contain confidential financial information regarding operations of non-utility businesses that cannot be obtained from other sources. The application indicates that companies that are not subject to PUHCA carry on many of the same business activities as Exelon, but are under no comparable duty to make disclosures of the kinds of information required by Form U-9C-3. The application asserts that public disclosure of the

information contained in Form U-9C-3 would place Exelon at a significant competitive disadvantage with respect to market participants.

Exelon is seeking proprietary and confidential treatment of its quarterly reports filed with the Commission on Form U-9C-3 under Section 4-404 of the Act. Section 4-404 states:

Protection of confidential and proprietary information. The Commission shall provide adequate protection for confidential and proprietary information furnished, delivered or filed by any person, corporation, or other entity.

Exelon requests such treatment for all of its reports submitted on Form U-9C-3 from March 31, 2001 through March 31, 2005.

In support of its request, Exelon indicates in its application that it is common practice for companies subject to PUHCA to file the U-9C-3 reports on a confidential basis with state commissions. For example, Exelon states that Ameren Corporation obtained approval from the Commission for the filing of U-9C-3 reports on a confidential basis for the period from 1998 through 2004. (November 18, 1988 Order in Docket No. 98-0836). Exelon also indicates that the U-9C-3 reports are customarily filed with the SEC on a confidential basis pursuant to 17 CFR §104(b).

On April 18, 2001, Commission Staff ("Staff") filed a response to Exelon's request for confidential treatment. Staff recommends that the Commission accept Exelon's filings on Form U-9C-3 as confidential. In addition, Staff requests that Exelon submit a copy of each quarterly report to the Commission's Accounting Department Manager at the same time that Exelon files said report with the Office of the Chief Clerk of the Commission.

The Commission, having considered the entire record herein and being fully advised in the premises, is of the opinion and finds that:

- (1) Exelon is a registered holding company subject to regulation by the Securities and Exchange Commission under the Public Holding Company Act of 1935;
- (2) the Commission has jurisdiction over the subject matter of this proceeding;
- (3) the recitals of fact set forth in the prefatory portion of this Order are supported by the record and are hereby adopted as findings of fact;

- (4) Exelon's Form U-9C-3 reports submitted to the Commission from March 31, 2001 through March 31, 2005 should be exempt from public disclosure under Section 4-404 of the Public Utilities Act for a period of five (5) years from the dates on which they are filed;
- (5) Exelon should submit with each Form U-9C-3 report a cover letter indicating that proprietary treatment was granted in this Docket and identifying the date on which this Order was entered;
- (6) Exelon should provide a copy of each quarterly report on Form U-9C-3 to the Commission's Accounting Department Manager at the same time that it files the report with the Office of the Chief Clerk of the Commission.

IT IS THEREFORE ORDERED that the Form U-9C-3 reports filed by Exelon Corporation from March 31, 2001 through March 31, 2005 are afforded proprietary treatment and are exempt from public disclosure and will be accessible only by the Commission and the Commission Staff for a period of five (5) years from the dates on which they are filed.

IT IS FURTHER ORDERED that Exelon Corporation shall comply with the requirements in Findings (5) and (6) of this Order.

IT IS FURTHER ORDERED that subject to the provisions of Section 10-113 of the Public Utilities Act and 83 Ill. Adm. Code 200.880, this Order is final; it is not subject to the Administrative Review Law.

By order of the Commission this 9th day of May, 2001.

Chairman