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April 21, 2008

Ms. Kimberly D. Bose
Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, DC 20426

Re: Docket No. RM07-19-000, AD07-7-000, Wholesale Competition in Regions
with Organized Electric Markets

Dear Madam Secretary:

Attached for electronic filing are Comments of Exelon Corporation.

Sincerely,

/s/ A. Karen Hill

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Vice President Federal Regulatory Affairs
Attorney for Exelon Corporation

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Wholesale Competition in Regions)	Docket Nos. RM07-19-000
With Organized Electric Markets)	AD07-7-000

COMMENTS OF EXELON CORPORATION

Pursuant to the Commission's Notice of Proposed Rulemaking (NOPR) issued in the above-captioned dockets on February 22, 2008,¹ Exelon Corporation (Exelon) hereby submits its comments on the Commission's proposed reforms to improve the operation of organized wholesale electric power markets.

EXECUTIVE SUMMARY

Exelon commends the Commission on both this process and this product. By issuing an Advance Notice of Proposed Rulemaking (ANOPR)² in this docket soliciting comments on broad topics relating to improving organized markets, the Commission developed a full record on which to base its specific proposals in this NOPR. In Exelon's view, the Commission's rulemaking proposals here are appropriately focused, are constructive and will help organized markets function more efficiently, reliably and effectively. The Commission was correct in rejecting efforts to broaden the scope of the rulemaking and in focusing this proceeding on

¹ *Wholesale Competition in Regions With Organized Electric Markets*, Notice of Proposed Rulemaking, 122 FERC ¶ 61,167 (2008).

² *Wholesale Competition in Regions with Organized Electric Markets*, Advance Notice of Proposed Rulemaking, 119 FERC ¶ 61,306 (2007)(ANOPR).

the solid record the Commission has developed to foster near term improvements that will enhance organized markets. (NOPR at P 17.)

Exelon champions the Commission's decision to require RTOs to develop pricing constructs that will allow demand resources more readily to see and obtain the value of those resources during times of tight electricity supply. In Exelon's experience, nothing is more important to encourage demand response than transparent price signals. And nothing is more important to optimal deployment of demand resources than consistent measurement and verification rules. Exelon agrees wholeheartedly with the Commission's other proposals to foster demand response, including facilitating demand resources supplying ancillary services, eliminating deviation charges for demand responders during emergencies, and allowing aggregators to provide demand response. In Exelon's view, RTOs should do everything practicable to facilitate demand response participation in energy and capacity markets, so long as the demand resources meet operational criteria that enable the RTO to optimize efficient use of all resources, just as the supply resources are required to do.

Exelon also agrees with the Commission's decision to hold RTOs accountable to improve their responsiveness to stakeholders without being prescriptive as to how to achieve that goal. We recognize that commenters disagreed about the benefits of advisory committees versus hybrid boards of directors that include stakeholder representatives. Exelon strongly believes that hybrid boards are antithetical to the independence of RTOs' governing boards.

I. COMMUNICATIONS

All correspondence, communications, pleadings, and other documents regarding these proceedings should be directed to the following persons:

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II. COMMENTS

A. Introduction

Exelon's business model is squarely built on a foundation of organized competitive electricity markets.³ The company operates principally within successful markets overseen by Regional Transmission Organizations (RTOs) and Independent System Operators (ISOs), and has a vested interest in the market improvements the Commission seeks to implement in this proceeding. Exelon participated with extensive comments at the ANOPR stage of this

³ Exelon is a holding company located at 10 South Dearborn Street, Chicago, Illinois. Exelon owns Commonwealth Edison Company (ComEd) and PECO Energy Company (PECO). Together ComEd and PECO own transmission and distribution systems and serve more than five million retail electric customers in northern Illinois and the Philadelphia area. ComEd and PECO are transmission-owning members of PJM Interconnection, LLC (PJM). ComEd and Exelon Generation also are non-transmission owning members of the Midwest Independent Transmission System Operator. Exelon also owns Exelon Generation, LLC (ExGen), which owns or controls approximately 30,000 megawatts of generating capacity. Exelon Power Team is the wholesale marketing division of ExGen and is a leading power marketer throughout the country and owns assets in and participates in the ISO-NE, ERCOT and SPP NYISO markets.

proceeding and welcomes the Commission's moving forward with a NOPR aimed at improving organized competitive wholesale markets.

Exelon applauds the Commission's decision to decline to initiate the broad, generic investigation of organized markets requested by a "group of 41" parties in these dockets. As the Commission described, it has proceeded in a focused manner to approve specific proposals that address specific issues to improve organized markets. (NOPR at PP 19-24.) Organized markets have steadily enhanced their function, such as instituting forward capacity markets last year in PJM. The new forward capacity market is fostering substantially more participation of demand resources in supplying capacity reserves.⁴ Exelon fully supports the Commission's wise decision in this proceeding to stay focused on the four areas it identified that are ripe for improvement: demand response and price signals; long-term power contracting; market monitoring policies; and responsiveness of RTOs and ISOs to stakeholders and customers. Exelon respectfully submits comments on selected topics for the Commission's consideration.

B. Demand Response and Pricing During Periods of Operating Reserve Shortages in Organized Markets

Exelon is a strong supporter of robust demand response as an important resource to the grid and agrees with the Commission's proposed reforms to eliminate barriers to demand response participation in organized markets. Specifically, Exelon agrees that RTOs and ISOs should be required 1) to accept bids from demand response resources for ancillary services on a basis

⁴ 2007 State of the Market Report, Market Monitoring Unit, at 27 (March 11, 2008).

comparable to other resources; 2) to eliminate deviation charges, during system emergencies, to buyers in the energy market for taking less electric energy in the real-time market than purchased in the day-ahead market; 3) to permit Aggregators of Retail Customers (ARCs) to bid demand response directly into the RTOs and ISOs organized energy markets, state law permitting; and 4) to modify their market rules to allow the market-clearing price accurately to reflect the value of energy during periods of operating reserve shortage.

1. Ancillary Services

With respect to ancillary services provided by demand response resources, the Commission proposes to require RTOs and ISOs to allow demand response resources to specify limits on the frequency and duration of service in their bids to provide ancillary services. (NOPR at P 62.) Such limits appropriately include a maximum duration in hours of dispatch, a maximum number of times dispatched during a day, and a maximum amount of electric energy that the demand response resource may be required to provide daily or weekly. Exelon agrees with the Commission that allowing such limits will encourage more demand response resources to participate in ancillary services markets and will not be harmful to the efficiency of RTO operations.

The Commission compares these parameters for demand response to generators' ability to limit dispatch by RTOs to specific terms as to price, quantity, startup and no-load costs, and minimum downtime between starts. (NOPR at P 62.) Exelon notes that generators are permitted to condition dispatch on comparable parameters in PJM. To the extent that RTOs and ISOs do not

already permit generators and demand resources to specify operational limitations that will not impair the operational efficiency of the markets, the Commission should require RTOs and ISOs to make such parameters available for all bids – demand and supply resources alike. Demand and supply resources should be treated on a comparable basis in providing reliable efficient capacity to RTOs. Exelon also agrees that the Commission should not prescribe minimum requirements for bidding parameters but rather should leave that up to the RTOs and ISOs, while requiring them to justify regional differences. (NOPR at P 64.)

2. Deviation Charges

The Commission proposes to require all RTO and ISO tariffs to eliminate deviation charges to buyers in the energy market for taking less electric energy in the real-time market than they committed to take in the day ahead market, in the limited circumstance where the RTO or ISO declares an operating reserve shortage or requests load reductions to avoid an operating reserve shortage. (NOPR at P 72.) A “deviation charge,” the Commission explains, (NOPR at P 72, n. 82) recovers costs, such as generators’ start-up costs, that exceed energy market revenues when real time demand is less than forecast in the day ahead market. These generator costs that are not covered by energy revenues are called “uplift.” Normally, uplift is paid by means of deviation charges to generators and loads that do not perform as bid in the day ahead market, since it is their deviation from commitments that cause the uplift costs. The Commission’s proposal would waive the deviation charge for “demand response from LSEs and other buyers that consume less total energy in real time during

system emergencies than they had scheduled in the day-ahead market.” (NOPR at P 76.) The Commission notes that the proposal is intended to ensure that buyers are not penalized when they voluntarily reduce load to improve system reliability at the request of a system operator. (NOPR at P 77.)

Exelon favors the Commission’s proposal to eliminate deviation charges for demand response resources that reduce demand in real time below what they committed to buy in the day ahead market, in response to the RTO declaring an emergency or asking for load reductions. Exelon agrees that waiving the deviation charge is appropriate to encourage demand resources to respond to a system emergency to help maintain reliability.

The Commission asks for comments on whether the proposal to waive deviation charges during an emergency should extend to virtual purchasers. (NOPR at P 78.) The Commission reasons that virtual purchases in the day ahead market do not cause unneeded generation to be committed to the market during an emergency, since an emergency, by definition, is a time when the system needs all the generation that is available. Therefore, virtual purchases in the day ahead market likely would not cause significant additional costs during an emergency in real time. (NOPR at P 77.)

Exelon supports policies that will foster optimal use of demand and supply resources to reliably serve load. Exelon believes that encouraging virtual purchases is likely to have the salutary effect of increasing convergence of the day ahead and real time markets and market clearing prices. Therefore, Exelon believes that eliminating deviation charges during an emergency for virtual

purchasers is like to have a positive impact on the market. Exelon is concerned, however, about the possibility of unintended consequences given the complex interrelationships of market elements. Therefore, Exelon suggests that, instead of *requiring* the RTOs and ISOs to eliminate deviation charges for virtual purchasers, the Commission *allow* RTOs to do so after a stakeholder process explores the likely consequences in the day ahead and real time markets.

The Commission also proposes (NOPR at P 77) that “since demand response during system emergencies can be instrumental in maintaining system reliability and reducing overall energy prices, . . . these costs [should] be allocated to all loads of the RTO or ISO.” Exelon agrees that uplift costs created by demand resources responding to a system emergency or request by the RTO by reducing load in real time from their day ahead commitment should be paid by all load.

3. Aggregation of Retail Customers

The Commission proposes to require RTOs and ISOs to amend their market rules as necessary to permit an ARC to bid demand response on behalf of retail customers directly in to the RTO’s or ISO’s organized markets, unless the retail regulatory authority precludes such participation. (NOPR at P 86.) The Commission declined to adopt specific market rules for ARCs, instead proposing to require tariff amendments developed by RTOs and ISOs to meet certain criteria and asking for comment on those criteria. The Commission’s criteria for ARCs are as follows:

- Bids from ARCs must meet the same requirements as from other entities, e.g., must be verifiable under measures comparable to other demand resources, and must not be treated differently;
- Membership in the RTO may be required if required for other demand resources;
- Single aggregated bids from a single area may be required by the RTO or ISO;
- Appropriate restrictions may be required to avoid counting the same demand response more than once;
- Explicit notification from the relevant retail regulatory authority is required to disqualify a bid from an ARC.

Exelon fully supports allowing ARCs to bid demand response into capacity and energy markets. Exelon believes that the Commission's decision to allow RTOs and ISOs to develop reasonable requirements governing such participation by ARCs is appropriate and Exelon agrees with the Commission's criteria. Exelon would emphasize the importance of comparable treatment of ARCs as demand response providers to avoid uneconomic preferential treatment of ARCs over other demand or supply resources, contrary to the goal of optimum efficient use of all resources in economic dispatch.

4. Potential Future Demand Response Reforms

Exelon fully supports the Commission's continuing to explore ways to make demand response more robust in organized markets. Exelon is requesting to participate in the Technical Conference the Commission will convene on May 21, 2008, to discuss future reforms. Exelon believes that transparent price signals and consistent measurement and verification rules are the most crucial market elements to encourage optimal demand response in both the energy and capacity markets.

Therefore, as we discuss below, Exelon believes that a sensible scarcity pricing construct in the energy market is essential to inducing demand response to avert supply crises during peak load periods. And Exelon believes that the forward capacity market PJM initiated under its Reliability Pricing Model (RPM) has been crucial in giving demand resources the stable capacity price needed to support the dramatic increases in demand response participation in capacity markets.⁵

In addition, Exelon supports reforms that will establish better measurement and verification procedures.⁶ Reforms that improve the accuracy of measuring the baseline load of demand resources⁷ will better enable the RTO to use all resources optimally. Reforms also are needed to establish objective criteria for identifying inappropriate market activity and allowing RTOs to take steps to preclude gaming. Every RTO and ISO's goal is to optimize the efficient use of all resources. It is crucial to achieving that goal for the RTO to know accurately what those resources are and what their value is. To that end, all resources, including demand resources, need to bid accurately into the day ahead market so that the RTO can optimize its plans for meeting load in real time.

⁵ The PJM MMU State of the Market Report points out that demand resources have flooded into the RPM capacity market compared to demand participation in PJM's previous capacity market without forward price signals State of the Market Report, *supra*, n. 4. See also, PJM Demand Management Update (April 17, 2008) showing that Interruptible Load Response (ILR), which is capacity that can bid into the capacity market 3 months in advance, has increased dramatically since RPM was implemented. Total installed capacity now participating in PJM's Load Management Program is 4,467.2 MW.

⁶ See, *PJM Interconnection, Inc.*, Docket No. ER08-841 (filed April 17, 2008) (proposed revisions to the PJM OATT and Operating Agreement that, *inter alia*, clarify language related to settlement rules for demand response).

⁷ The baseline load is the estimate of how much electricity a customer would have used had it not reduced its use in response to day ahead and real time price signals. The customer baseline is used to calculate how much a participant is paid for reducing use.

5. Market Rules Governing Price Formation During Periods of Operating Reserve Shortage

Exelon believes that along with accurately measuring demand response, getting the price signals right is a critically important condition to developing optimal demand response in organized markets. As Exelon argued in its ANOPR comments (ANOPR Comments at p. 9), the biggest obstacle to more robust energy demand response is the failure of wholesale energy prices to reflect the true value of the supply resources. Price mitigation that masks price signals during peak demand periods while energy shortages are developing impede demand elasticity in response to prices. Therefore Exelon applauds the Commission's determination to require organized markets to develop reforms "to ensure that the market price for energy accurately reflects the value of such energy during periods of scarcity." (NOPR at P 117.)

Exelon believes the Commission's third approach will be the most effective, but we recommend an improvement. The Commission's third approach (NOPR at P 125) would establish real time prices at specific pre-determined values during an operating reserve shortage. The price level would increase with the severity of the shortage. This approach to scarcity pricing "will ensure that market prices reflect tight conditions on the grid without altering any of the market power mitigation restrictions on either supply offers or demand bids." Exelon believes that this approach will help to induce additional demand response during periods of peak demand, but Exelon believes that allowing market forces more play would improve this approach.

Exelon recommends that instead of administratively setting the price – thereby administratively establishing the value – of energy as supply dwindles closer to reserve margins, the Commission should allow the market to establish the price of energy within a cap that ratchets higher as the shortage deepens. This would have the same advantages the Commission identifies regarding its approach – that market prices reflect tight conditions without eliminating price caps – but it also would allow the market to determine the price within the cap. Under the Commission’s proposal, the price would be administratively set at a certain point when supply is at a certain level. Under Exelon’s approach, the administratively set price would function as a cap rather than a set price and the market would determine the value of the supply, up to that administratively set price.

Exelon’s ANOPR comments, at pp. 15-16, described this proposal in greater detail. There Exelon explained that as a capacity shortage develops, the bid cap should be raised in stages. For example, when PJM’s reliable supply⁸ is within 120% of the minimum operating reserve requirement, either within a local zone or throughout the footprint, market based offers at or below \$350/MWh would be accepted and not be subject to mitigation procedures. The bid cap would rise as the reliable supplies dipped closer to the minimum operating reserve requirement. Thus, by way of illustration, when PJM’s reliable supply is within 115% of the operating reserve requirement, market based offers at or below \$500/MWh would not be mitigated; at 110% of minimum reserve

⁸ “Reliable supply” refers to generation considered capable “of meeting demand under normal economic dispatch conditions” without invoking Maximum Emergency Generation procedures, as defined in PJM’s tariff.

requirement, the cap would be \$750/MWh; at 105%, \$900/MWh; and at 100%, the cap would be \$1,000/MWh.⁹

Exelon believes that this pricing construct recognizes the growing crisis and would elicit demand response to alleviate the shortage, before it becomes a real crisis. It is similar to the Commission's approach of using a demand curve for operating reserves and an administratively set price at different levels on that curve.¹⁰ But Exelon believes its proposed pricing construct is superior because it allows the market to determine the value of supply, within the cap, rather than requiring the market administrator to impose a value.

Exelon also believes that this moderate approach to allowing market prices to signal the value of demand response is necessary to elicit investment in demand response technology. As Exelon argued in its ANOPR comments (pp. 17-18), significant demand response can be effective without universal installation of high-tech meters and other expensive equipment. For example, ComEd has highly successful demand response programs for both large and residential customers that are not dependent on universal deployment of advanced metering. ComEd installs such equipment in response to requests from customers – both large and residential – who sign up for demand response. As ComEd's experience shows, only a small percentage of residential users of

⁹ These caps are illustrative. Some commenters have suggested that caps on operating reserves during shortages should be higher. See e.g., William W. Hogan, "Reliability and Scarcity Pricing: Operating Reserve Demand Curves," Harvard Electricity Policy Group Presentation (March 2, 2006), available at http://ksghome.harvard.edu/~whogan/Hogan_hepg_030206.pdf.

¹⁰ The State of the Market Report also endorsed a pricing construct that recognizes stages of scarcity, rather than the single step now in PJM's tariff. (Report at 15.) The Report suggests establishing an administratively set price at each stage, like the Commission's approach. As explained above, Exelon believes allowing the market to establish the prices at each stage is superior.

electricity will opt at this time to switch from fixed rates to time-of-use or hourly rates. But Exelon believes that more responsive price signals would elicit more interest from both large and small customers in providing demand response, which, in turn, would justify investment in more widely deployed advanced meters. In the meantime, price signals can be communicated and can elicit demand reductions that would have a mitigating effect on supply shortages. Demand response is growing under the current regime, but it would grow faster with more accurate price signals.

PECO also offers increasingly successful demand response programs. One program offers savings for customers who can reduce load during periods of high wholesale electricity prices and is administered by PECO. PECO also works with PJM to implement PJM's ILR program. All PECO customers that are able to reduce load by at least 100 KWs can participate in both programs. No special metering is necessary. In addition, because an Automated Meter Reading (AMR) system (using one-way satellite communication technology) is installed across PECO's service territory, the PECO zone hosts significant aggregation of demand response activity since the AMR System does permit access to interval meter data.

Thus not only are demand resources dramatically increasing direct participation in PJM's energy and capacity markets, retail programs also are flourishing in response to price signals in both markets. These increases in demand response already are resulting in lower peak energy prices even without the widespread use of remote retail meter control technology. More demand

resources are responding as prices are more transparent reflections of the value of energy and capacity and all consumers are benefiting from the increased participation in demand response. The Commission should not delay price signals waiting for more demand response technology. The technology will follow the demand for it, and the demand will follow the price signals.

C. Long-Term Power Contracting in Organized Markets

Exelon agrees with the Commission's decision to require RTOs and ISOs to establish a web-based bulletin board for long term contracts. (NOPR at P 155.) Exelon also agrees that the Commission should not prescribe a specific structure for such bulletin boards. Further, Exelon agrees that the RTOs and ISOs should not be liable for the information posted on the bulletin boards and that the Commission should make clear that is its intention in this regard.

D. Market-Monitoring Policies

Exelon was an active participant in the settlement proceeding involving the complaint of certain parties against PJM regarding the independence of the Market Monitoring Unit.¹¹ and is satisfied with the resolutions there of the structure, functions, data sharing responsibilities, and confidentiality requirements of the MMU, which are consistent with the Commission's proposals in this docket. In addition, Exelon agrees with the Commission's other proposals on the topic of market monitoring policies.

¹¹ *Allegheny Elec. Coop., Inc. et al. v. PJM Interconnection, Inc.*, 122 FERC 61,257 (2008).

E. Responsiveness of RTOs and ISOs to Stakeholders and Customers

Exelon agrees with the Commission's proposal to allow each RTO or ISO to develop its own structure and mechanism for achieving responsiveness to its stakeholders, but to hold each RTO and ISO accountable for that goal. Exelon strongly believes that hybrid boards for RTOs are inconsistent with the requirement that RTOs be independent of all stakeholders. Hybrid boards are governing boards that include individuals from stakeholder sectors. In Exelon's view, as we stated in our ANOPR comments (at pp. 30-31), stakeholder members have a fiduciary duty to act in the best interests of their own corporations, which creates an irreconcilable conflict with the fiduciary duty of a member of an RTO governing board to act in the best interests of the RTO. The best interests of the RTO will not always coincide with the best interests of any given stakeholder, but the board member cannot take his or her corporate hat off and vote against the interest of his or her corporation.

The RTO governing board needs to comprise knowledgeable, committed and honorable individuals who do not have a fiduciary responsibility to any stakeholders of the RTO. Therefore, Exelon believes that a board advisory committee, such as the Liaison Committee developed in PJM, is a more appropriate vehicle for ensuring access by stakeholder members to the board.

III. CONCLUSION

Exelon supports the incremental improvements the Commission is requiring RTOs and ISOs to develop in this rulemaking. Exelon believes the Commission has found the right balance between being prescriptive about what

improvements must be made and allowing flexibility in implementing those improvements. Exelon also believes that the Commission appropriately will continue to explore additional ways to improve organized electricity markets to ensure that the potential is realized for the most efficient and reliable electricity service to consumers.

Respectfully submitted,

/s/ A. Karen Hill

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Dated: April 21, 2008