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**TABLE OF EXHIBITS**

Exhibit PLC-S-1 *Excerpt of Deposition of Christopher Crane*

1 **I. Introduction**

2 **Q: Are you the same Paul Chernick who filed direct testimony in this**  
3 **proceeding?**

4 A: Yes.

5 **Q: What is the subject of your surrebuttal testimony?**

6 A: I respond to the rebuttal testimony of Exelon Witnesses Calvin Butler,  
7 Christopher Crane, Christopher Gould, Suedeem Kelly, Susan Tierney, and  
8 Robert Willig on the issues covered in my direct testimony: Exelon's incentives  
9 and record regarding renewable energy, energy efficiency, and consumer  
10 interests in the wholesale markets. I also present recommendations for condi-  
11 tions if the Commission decides to approve this merger.

12 **II. Exelon's Record on Energy-Efficiency**

13 **Q: Which Exelon rebuttal witnesses discuss Exelon's record in energy-**  
14 **efficiency program implementation?**

15 A: Witnesses Butler and Willig address this issue.

16 **Q: How does Mr. Butler defend Exelon's record?**

17 A: Mr. Butler responds to my presentation of the termination of growth in BGE's  
18 energy-efficiency programs following the Exelon-Constellation merger, and the  
19 dramatic reduction in PEPCo and DPL programs following announcement of the  
20 Exelon-PHI merger, as follows:

21 Q. Mr. Chernick states that since being acquired by Exelon, BGE's energy  
22 efficiency efforts have flagged. Do you agree?

1 A. Absolutely not. Contrary to Mr. Chernick’s allegations, BGE continues  
2 to be a strong supporter of energy efficiency and demand response  
3 efforts, and continues to be an active participant in the Commission’s  
4 energy efficiency proceedings.

5 Mr. Butler then goes on to list various data that show that BGE continued  
6 to fund energy-efficiency programs in 2012–2014 and testifies as follows:

7 Looking forward, BGE has also demonstrated its plans to continue to  
8 grow the energy efficiency programs with its 2015–2017 EmPOWER  
9 Maryland Plan,.... This plan includes an increase in energy savings by  
10 1.2 million MWh, 830,000 forecasted participants, and 14.5 million  
11 installed measures. I do not view these results and projections as indi-  
12 cative of “flagging” energy efficiency efforts.

13 Q. But Mr. Chernick compares BGE’s efforts against the other Maryland  
14 utility companies and suggests that BGE is falling behind. How do you  
15 respond?

16 A. It is wrong to suggest that BGE is somehow lagging the other Maryland  
17 utilities in terms of EmPOWER Maryland performance. Since the 2012  
18 Merger (and through the third quarter of 2014), BGE has spent  
19 approximately \$350 million on EmPOWER Maryland programs. And  
20 following the 2012 Merger, BGE’s average quarterly spending on Em-  
21 POWER Maryland programs increased to approximately \$35 million,  
22 up from approximately \$28 million before the 2012 Merger. This  
23 demonstrates Exelon’s and BGE’s strong commitment to energy  
24 efficiency and demand response efforts. (Butler Rebuttal at 16)

25 **Q: Do the numbers cited by Mr. Butler contradict the data you presented in**  
26 **your direct testimony?**

27 A: No, for a number of reasons. First, Mr. Butler does not respond to my actual  
28 testimony and the data I present. While I say in my introductory summary that  
29 BGE’s energy efficiency efforts have flagged, the point of my detailed analysis  
30 is that BGE’s spending on its energy-efficiency program suddenly stopped  
31 growing under Exelon ownership, and its annual energy savings have fallen,  
32 with projections for 2015–2017 lower than 2012 savings.

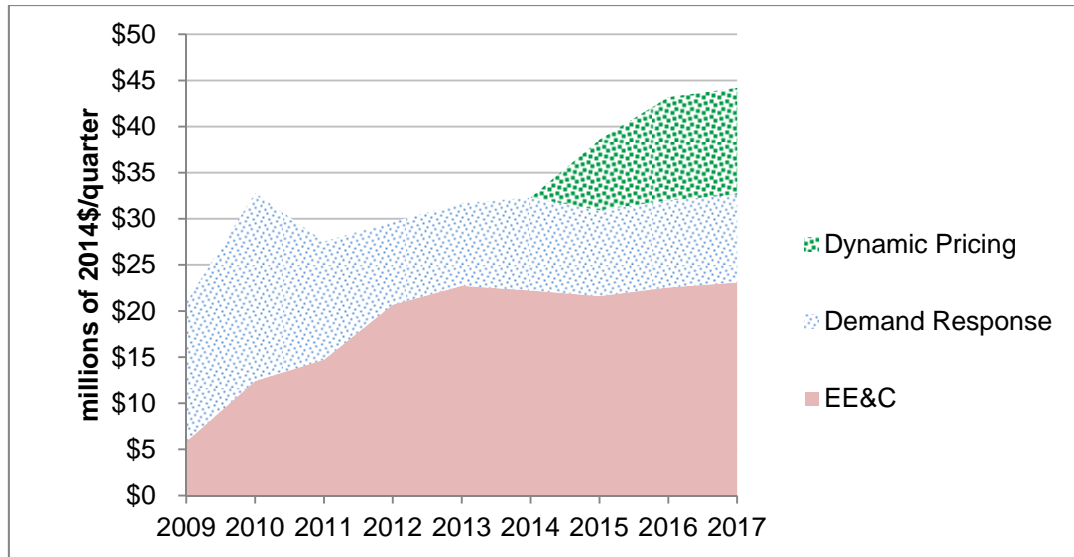
1           Second, Mr. Butler’s claim of “an increase in energy savings by 1.2 million  
2 MWh” is a bit of semantic wordplay. The annual energy savings for 2015–2017  
3 do not represent an increase in annual energy savings from 2012, 2013, or the  
4 2012–2014 average, but a decrease. If BGE continued savings at the 2012–2013  
5 level, savings in 2015–2017 would be 156,000 MWh higher than BGE now  
6 plans. By Mr. Butler’s definition, BGE could cut its energy-efficiency program  
7 by 90% and still claim an “increase in energy savings.”

8           Third, Mr. Butler compares BGE’s total spending on EmPOWER Mary-  
9 land during the pre-merger ramp-up energy-efficiency period to spending on the  
10 post-merger period in which BGE’s ramp-up essentially stopped. This  
11 comparison is irrelevant to my direct evidence for the following three reasons:

- 12       • Mr. Butler includes demand response and dynamic pricing, which have  
13       little effect on energy usage and thus on energy prices, as well as the  
14       energy-efficiency programs I focused on in my testimony.
- 15       • His comparison includes 2014 as a post-merger year, although many of the  
16       program decisions would have been carried over from pre-merger plans
- 17       • Since BGE was rapidly ramping up its energy-efficiency programs prior to  
18       the merger, its 2009–2011 savings were lower than its savings in 2012,  
19       which BGE held almost constant in 2013 and 2014. A plateau is always  
20       higher than the average of the slope leading up to it. Had BGE continued to  
21       grow its programs at the 2010–2012 rate, its 2014 and 2015 savings would  
22       be about twice as BGE’s current estimates.

23           Figure 1 shows BGE’s historical and projected spending on energy effi-  
24 ciency (which has been flat since the merger), demand response (which has also  
25 been flat) and dynamic pricing. In essence, BGE has replaced the pre-merger  
26 growth in energy-efficiency spending with post-merger growth in smart-meter  
27 spending.

1 **Figure 1: BGE EmPower Spending 2009–2017**



2  
3 Source: BGE 2015-2017 EmPOWER Maryland Program Filing, Case No. 9154, Attachment  
4 1—EmPOWER Maryland Summary and Program ES Tables, Table ES-4

5 **Q: What are Dr. Willig’s positions on Exelon’s energy-efficiency incentives?**

6 A: Dr. Willig denies the obvious reality that “Exelon has an incentive to hinder the  
7 adoption of energy efficiency, because energy efficiency reduces the demand for  
8 energy sourced from central generation,” on the basis that

9 ...the available evidence indicates that Exelon subsidiaries BGE and Com-  
10 monwealth Edison are leaders in the adoption of energy efficiency. For ex-  
11 ample, Exelon’s utility distribution companies’ service territories accounted  
12 for 82% of the 822 MW of energy efficiency capacity resources in PJM for  
13 the 2014/2015 delivery year. (Willig Rebuttal at 19)

14 Moreover, in the results of the most recent capacity market auction only  
15 1,339 MW of energy-efficiency capacity resources were selected as capa-  
16 city resources for the 2017/2018 delivery year, replacing only a small frac-  
17 tion of the generation that will retire over the same period. (Willig Rebuttal  
18 at 20)

19 **Q: Do Dr. Willig’s observations about the capacity cleared for the 2014/2015  
20 delivery year support his conclusions?**

21 A: No. To begin with, it is curious that Dr. Willig chose the 2014/2015 delivery year  
22 for this comparison, since the bids were submitted April 11, 2011, more than  
23 two weeks before the Exelon-Constellation merger was announced on April 28.

1 The BGE energy-efficiency plans and its bidding strategy in this capacity  
2 auction were developed without Exelon's oversight. Hence, Exelon had only  
3 two utilities bidding energy-efficiency savings into this auction.

4 In reviewing the energy-efficiency bids by Local Delivery Areas (LDA),  
5 which roughly correspond to utility or holding-company service territories, it is  
6 important to bear the following in mind:

- 7 • Parties other than the utility, such as large customers and energy service  
8 companies, can bid in demand resources. Thus, the energy-efficiency capa-  
9 city that cleared in the ComEd LDA may include efforts undertaken out-  
10 side the ComEd programs.<sup>1</sup>
- 11 • The capacity reductions that utilities bid into the initial auction (the Base  
12 Residual Auction or BRA) are generally smaller than the planned program  
13 effects.<sup>2</sup> In April 2011, the utilities had to estimate the scope of their  
14 energy-efficiency programs in 2011, 2012, 2013 and 2014; the savings that  
15 would be achieved; the percentage of 2014 savings that would be imple-  
16 mented by May 2014; and the capacity reduction that would be credited by  
17 the evaluation mechanisms acceptable to PJM. There are penalties for not  
18 delivering committed load reduction, and there are also later opportunities  
19 for bidding resources into the incremental auctions as the utility becomes  
20 more confident in its estimates. In my experience, most utilities understate  
21 their expected savings in the forward capacity auctions.

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<sup>1</sup>Unfortunately, PJM does not release a breakdown of cleared capacity by bidder or resource.

<sup>2</sup>The same is true for non-utility program administrators, such as in the District of Columbia and Delaware.

1 **Q: Do the 2014/15 BRA results demonstrate anything about the zeal for Exelon**  
2 **for energy-efficiency?**

3 A: Yes, but not what Dr. Willig thinks they demonstrate. This auction included only  
4 two Exelon utilities, ComEd and PECO. The level of energy-efficiency activity  
5 by each utility is driven in large part by the requirements and support in each  
6 state. Table 1 summarizes the cleared energy-efficiency capacity bids and the  
7 peak load for each LDA. While the ComEd LDA was a clear leader in efficiency  
8 bids, with almost four times the savings as a share of peak as the PJM average, it  
9 is the only Illinois utility in PJM, so the data does not indicate whether ComEd's  
10 performance resulted from Illinois mandates or ComEd's enthusiasm for  
11 efficiency. As a percentage of sales, the planned savings for the other  
12 restructured Illinois utility, Ameren, are about 30% lower than ComEd's, but  
13 both utilities were constrained by legislative funding caps. On the other hand,  
14 PECO can be compared to four other Pennsylvania utilities, and comes in dead  
15 last, with a little over half the ratios of Metropolitan Edison and PPL.<sup>3</sup>

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<sup>3</sup>The other Pennsylvania utilities are part of the APS and AEP LDAs.



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**Table 1: Efficiency Cleared in PJM 2014/15 BRA**

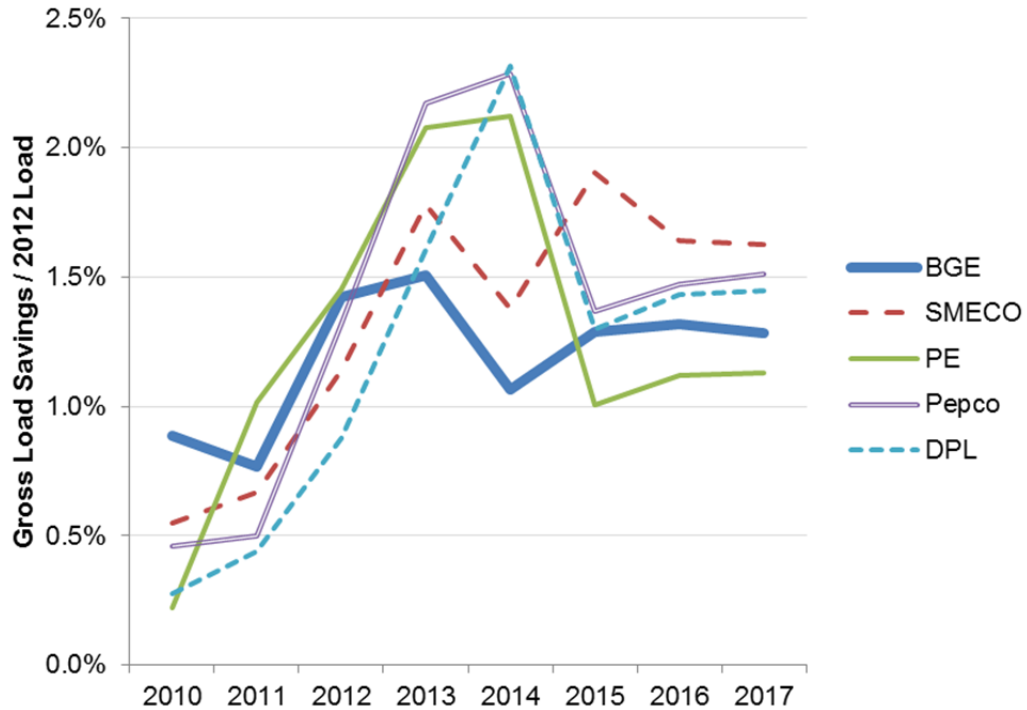
<b>Local Delivery Area</b>	<b>Cleared Efficiency (MW)</b>	<b>Forecast Peak (MW)</b>	<b>Percentage</b>
ComEd	546.2	23,649	2.31%
Maryland (at least in part)			
BGE	118.4	7,405	1.60%
PEPCo	42.9	6,996	0.61%
DPL	6.8	4,121	0.17%
APS	5.5	8,639	0.06%
Pennsylvania			
PECo	6.6	8,911	0.07%
MetEd	4.1	3,051	0.13%
PennElec	3.6	2,986	0.12%
PPL	9.7	7,584	0.13%
Duquesne	3.1	2,961	0.10%
Other	75.2	60,919	0.12%
<b>PJM Total</b>	<b>822.1</b>	<b>137,222</b>	<b>0.60%</b>

Sources: [pjm.com/~media/markets-ops/rpm/rpm-auction-info/20110513-2014-2015-base-residual-auction-results.ashx](http://pjm.com/~media/markets-ops/rpm/rpm-auction-info/20110513-2014-2015-base-residual-auction-results.ashx), page 6; [pjm.com/markets-and-operations/rpm/rpm-auction-user-info.aspx](http://pjm.com/markets-and-operations/rpm/rpm-auction-user-info.aspx), 2014/2015 Base Residual Auction Results (XLS).

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8  
9

Since BGE is the only LDA entirely in Maryland, it is difficult to determine much from the Maryland data in Table 1. As I noted in my direct, BGE’s energy-efficiency efforts started out strong before it was part of Exelon, but flattened out after the merger. Figure 2 corrects Figure 5 of my direct testimony (which was based on a spreadsheet containing some incorrect cell references) and shows that non-Exelon BGE’s energy savings exceeded those of most other Maryland utilities in 2011 (when it submitted the bids that Dr. Willig cites) and fell below the other utilities after the merger.

1 **Figure 2: Comparison of EDC Energy-Efficiency & Conservation Savings<sup>4</sup>**



2  
3 Sources: 2010–2013 gross savings from annual EmPOWER reports; 2014–2017 savings from filings in  
4 2015-2017 EmPOWER Maryland program filing (Case No. 9153–9157); annual Maryland sales from EIA  
5 861 2012 detailed data file ([www.eia.gov/electricity/data/eia861/](http://www.eia.gov/electricity/data/eia861/)).

6 **Q: Is Dr. Willig correct that the 1,339 MW of energy-efficiency resources that**  
7 **cleared in the 2017/2018 BRA were insignificant?**

8 A: No. The MEA estimates that each additional megawatt of energy-efficiency bid  
9 into the total PJM market would reduce the capacity price by about 5¢/MW-  
10 day.<sup>5</sup> The energy efficiency that cleared in the 2017/2018 BRA reduced the  
11 capacity price by about \$66/MW-day, or about \$440 million annually for the

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<sup>4</sup>Sources: 2010–2013 gross savings from annual EmPOWER reports; 2014–2017 savings from filings in 2015-2017 EmPOWER Maryland program filing (Case No. 9153–9157); annual Maryland sales from EIA 861 2012 detailed data file ([www.eia.gov/electricity/data/eia861/](http://www.eia.gov/electricity/data/eia861/)).

<sup>5</sup>[webapp.psc.state.md.us/Intranet/Casenum/NewIndex3\\_VOpenFile.cfm?filepath=C:\Casenum\9100-9199\9153\Item\\_502\VRRCurveCapacityDRIPE-3.pdf](http://webapp.psc.state.md.us/Intranet/Casenum/NewIndex3_VOpenFile.cfm?filepath=C:\Casenum\9100-9199\9153\Item_502\VRRCurveCapacityDRIPE-3.pdf)

1 roughly 17,400 MW of Exelon capacity that will receive that auction price.<sup>6</sup>  
2 Reductions in load that were not bid into the auction but are reflected in the PJM  
3 load forecast for summer 2017 would further reduce the market price.<sup>7</sup> The  
4 renewables also reduce market energy prices, which provide more revenue to  
5 nuclear plants than do the capacity markets.

6 **Q: Has Exelon explained why it made the investments in energy-efficiency that**  
7 **Mr. Butler and Dr. Willig cite?**

8 A: Yes. In his deposition (provided as Exhibit PLC-S-1) at 270, Mr. Crane agrees  
9 that the savings achieved through PECO and ComEd energy-efficiency programs  
10 were required by state regulation.

11 **Q: Has Exelon committed to returning to BGE's pre-merger growth in energy-**  
12 **efficiency savings or to reversing the drop in PEPCo and DPL's planned**  
13 **energy-efficiency savings since announcement of the proposed merger?**

14 A: No. To the contrary, Mr. Crane is not aware of any plans for Exelon to develop  
15 new energy-efficiency efforts and says only that Exelon is "committed to the  
16 current energy efficiency and demand response requirements" (Deposition at  
17 266).

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<sup>6</sup>The 18,400 MW that Exelon lists on its web site is the PJM capacity minus the three nuclear plants (Byron, Quad Cities and Oyster Creek) that Exelon revealed did not clear, and Exelon's share of Salem, which is in the PSEG LDA and cleared at that separate market price. Since PJM does not list the capacity that clears in the capacity market, I cannot tell whether all other Exelon capacity cleared. Most of the Constellation-owned contract solar installations (about 60 MW existing in PJM, plus the commitment to another 30 MW in Maryland) probably also cleared, but I do not know whether the contracts flow the capacity revenues to Exelon or the customer.

<sup>7</sup>Energy-efficiency installations are only eligible to be capacity resources for four years. Installations included in the 2013/14 BRA would be ineligible by the 2017/18 BRA, but would be reflected in the load forecast for 2017.

1 **III. Exelon’s Positions on Renewable Energy**

2 **Q: Does Exelon’s rebuttal offer any justification for its opposition to programs**  
3 **supporting wind energy, especially the production tax credit (PTC)?**

4 A: Yes. Mr. Gould denies that “that Exelon is motivated to oppose renewable  
5 energy because of theoretical adverse effects on Exelon’s existing nuclear  
6 generation plants” (Gould Rebuttal at 10). There is nothing “theoretical” about  
7 “the adverse effects on Exelon’s existing nuclear generation plants” from  
8 increased renewable output and energy efficiency. In my direct, I quoted Exelon  
9 positions discussing those effects. Mr. Gould’s description of supply and  
10 demand is very different from Mr. Crane’s public explanation, which focuses on  
11 the effects of “subsidies” for wind generation (as well as other renewables and  
12 state-supported gas-fired generation) on the economics of Exelon’s nuclear fleet.  
13 Mr. Crane has been quoted as saying “If the government believes that they’re  
14 improving the environment by subsidizing wind, they are wrong. It is going to  
15 shut nuclear plants down,” and that price pressure “is becoming more pro-  
16 nounced as more wind is coming on... [If the push to] over-develop [subsidized  
17 wind continues,] there is a very high probability that existing safe, reliable  
18 nuclear plants will no longer be competitive and will have to be retired early.”<sup>8</sup>  
19 Mr. Crane repeats his explanation of wind’s effect on nuclear profitability in his  
20 deposition in this case (attached as Exhibit PLC-S-1).

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<sup>8</sup>I quote Mr. Crane on this point in my direct testimony at 30–31. See also [www.chicagobusiness.com/article/20140621/ISSUE01/306219984/are-exelons-fortunes-blowing-in-the-wind](http://www.chicagobusiness.com/article/20140621/ISSUE01/306219984/are-exelons-fortunes-blowing-in-the-wind); [www.telegram.com/article/20130312/NEWS/103129967](http://www.telegram.com/article/20130312/NEWS/103129967). For other examples, see [articles.chicagotribune.com/2013-02-08/business/ct-biz-0208-exelon-div—20130208\\_1\\_exelon-nuclear-plants-power-plants](http://articles.chicagotribune.com/2013-02-08/business/ct-biz-0208-exelon-div—20130208_1_exelon-nuclear-plants-power-plants); [www.nationaljournal.com/congress/exelon-skips-utility-fly-in-to-lobby-on-wind-tax-credit-20121211](http://www.nationaljournal.com/congress/exelon-skips-utility-fly-in-to-lobby-on-wind-tax-credit-20121211); [articles.chicagotribune.com/2014-04-30/business/chi-exelon-pepco-20140430\\_1\\_exelon-ceo-christopher-crane-market-exelon](http://articles.chicagotribune.com/2014-04-30/business/chi-exelon-pepco-20140430_1_exelon-ceo-christopher-crane-market-exelon).

1 Mr. Gould’s new explanation of the basis for Exelon’s opposition to the  
2 PTC is as follows:

3 Instead, our opposition is based on a good faith belief that the PTC has  
4 served its purpose and no longer provides net public benefits. After more  
5 than 20 years, the wind PTC has achieved its goal of jumpstarting the in-  
6 dustry. In those 20 years, the cost of wind turbines has fallen dramatically,  
7 while operating efficiency has increased. Since 2012, more wind capacity  
8 has been installed than all other sources of power. Given this success and  
9 the tremendous reductions in the cost of adding new wind capacity, Exelon  
10 believes that the PTC has outlived its purpose. (Gould Rebuttal at 11)

11 **Q: Is Mr. Gould correct that “Since 2012, more wind capacity has been**  
12 **installed than all other sources of power”?**

13 A: No. Table 2 summarizes data from EIA on new capacity additions from 2011  
14 through October 2014 (the most recent period available). If Mr. Gould meant to  
15 include 2012 to the present, wind turbines accounted for less than 30% of total  
16 capacity additions. Gas, by contrast, averaged 41.5% of new installed capacity  
17 in this same period. If he meant to exclude 2012, the percentages are 12% wind  
18 and 52% gas. Some wind may have been completed in November and December  
19 2014, but it is unlikely to have increased total wind additions in excess of gas  
20 additions, let alone to more than half of all additions.

21 **Table 2: Capacity Additions 2011-2014 (MW)**

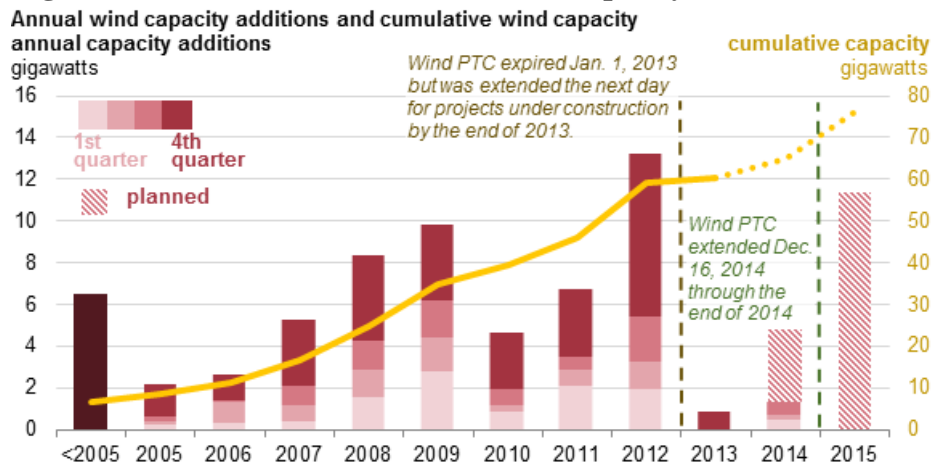
	<b>Months</b>	<b>Wind</b>	<b>Gas</b>	<b>Total</b>	<b>% Wind</b>	<b>% Gas</b>
2011	Jan–Dec	5,927	8,222	19,854	29.9%	41.4%
2012	Jan–Dec	11,173	8,056	25,136	44.5%	32.0%
2013	Jan–Dec	1,032	6,861	13,507	7.6%	50.8%
2014	Jan–Oct	1,517	4,624	8,391	18.1%	55.1%
<i>Total 2012–2014</i>		13,722	19,541	47,034	29.2%	41.5%
<i>Total 2013–2014</i>		2,549	11,485	21,898	11.6%	52.4%

*Source:* Electric Power Monthly, EIA, year-to-date data, Table 6.3,  
Feb 2012, Feb 2013, Feb 2014, Nov 2014

22 **Q: Is Mr. Gould correct that the reduction in wind costs demonstrates that the**  
23 **PTC is no longer needed to maintain a viable wind industry?**

1 A: No. When Congress failed to act on extending the PTC at the end of 2012, new  
 2 wind additions fell 92% in 2013. Approval of the PTC extension in January  
 3 2013 (covering all projects started by the end of 2013) resulted in some  
 4 additions in the fourth quarter of 2013, with more completions expected in 2014.  
 5 See Table 2 and Figure 3.

6 **Figure 3: Annual and Cumulative Wind Capacity Additions**



7  
 8 Source: "Wind power capacity additions expected to increase in last quarter of 2014,"  
 9 Today in Energy, EIA, December 18 2014,  
 10 www.eia.gov/todayinenergy/detail.cfm?id=19251.

11 **Q: Does Dr. Tierney discuss Exelon's position on the PTC?**

12 A: Yes. She asserts that "the policy issues involved are complex" and that "Exelon  
 13 has raised serious arguments in support of its positions" and dismisses the  
 14 intervenor testimony on Exelon's positions as a simple disagreement about  
 15 policy (Tierney Rebuttal at 53). As I show above, all of Exelon's arguments are  
 16 based on misrepresentations of the historical record, which shows that the PTC  
 17 is still necessary to expand wind generation. The record is also replete with  
 18 complaints from Mr. Crane that the PTC is producing too much wind energy and  
 19 hurting the profitability of Exelon's nuclear assets

20 Dr. Tierney actually rebuts Mr. Gould's testimony on the reasonableness of  
 21 the PTC (Tierney Rebuttal at 50). Unfortunately, she also complains that "the

1 parties have implied that Exelon’s interest in continuing the operations of its  
2 existing nuclear units is contrary to the goals of carbon reduction” (Tierney  
3 Rebuttal at 50). I do not know which parties she believes took this position, but I  
4 certainly did not.<sup>9</sup>

5 I object not to Exelon’s attempt to keep its nuclear units economic (or, more  
6 generally, to increase its profits from operation of the nuclear fleet), but to its  
7 strategy of attacking wind, renewables generally, and even energy efficiency to  
8 advance its nuclear agenda, rather than working with the wind interests to  
9 expand transmission, accelerate coal retirements, and increase storage capacity.  
10 Exelon has chosen to treat explicitly other low-carbon resources (at least in the  
11 east) as the enemy of its nuclear fleet; Dr. Tierney projects that zero-sum  
12 perspective onto “the parties,” based on her interpretation of the tone of one  
13 witness.

14 **Q: Do any Exelon witnesses address Exelon’s attitude toward other mechan-**  
15 **isms for facilitating development of renewable resources?**

16 A: Yes. Mr. Gould says that he does not believe that long-term renewable “con-  
17 tracts are in the best interest of customers” because “such contracts can prevent  
18 customers from benefiting from lower prices associated with new technologies  
19 and other improvements in energy production” (Gould Rebuttal at 12) Mr.  
20 Gould suggests that Maryland can acquire renewables at current costs today, and  
21 drop those resources and purchase lower-costs renewables in a few years.

22 **Q: Is Mr. Gould correct?**

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<sup>9</sup>The only witness that she directly links to this position is Mr. Arndt (Tierney Rebuttal at footnote 85).

1 A: No. That would only be true if the renewable developers are not smart enough to  
2 anticipate falling prices. If a developer has a potential 2015 project that would  
3 cost 12¢/kWh and expects technological progress to drop the cost to 8¢/kWh by  
4 2025, he might have to get 16¢/kWh in 2015 to recover his costs over the next  
5 20 years. Otherwise, the project would not be viable. Even if all the participants  
6 in the renewable market had perfect information about future prices, the average  
7 costs over the next 20 years would be just as high with Mr. Gould's preferred  
8 short-term purchases as with a long-term contract.

9           Unfortunately, no one has perfect information about future prices. Since  
10 renewable developers in the merchant market face considerable risks related to  
11 future market prices of energy, capacity and renewable credits, their costs of  
12 capital are higher than they would be with a contract. Utilities and regulators  
13 have found long-term purchases to be more attractive than reliance on the short-  
14 term market.

15           Utilities that have recently entered long-term contracts for renewable  
16 power purchases include Xcel (Minnesota and Colorado), Georgia Power, Duke  
17 Energy (in the Carolinas and Indiana), Pacific Gas & Electric, Southern  
18 California Edison, the Salt River Project, NorthWestern Energy, San Diego Gas  
19 & Electric, Idaho Power, Public Service Company of Oklahoma, Westar, Pacifi-  
20 Corp, and a number of cooperatives, municipal utilities, and smaller utilities.  
21 Major corporations, such as Microsoft, Google, Yahoo, and Ikea have signed  
22 similar contracts. Even where markets are restructured, as in New York, Illinois,  
23 Massachusetts, and Connecticut, utilities have been allowed (and in some cases  
24 required) to purchase renewable energy or credits under long-term contracts.

25           Utilities and regulators have often found that long-term renewable pur-  
26 chases are less expensive than the expected cost of spot purchases. For example,



- 1           • The Connecticut Public Utilities Regulatory Authority approved the pro-  
2           posal by that state’s utilities to proceed with 15-year contracts for purchase  
3           of RECs, pursuant to legislative authorization (Docket No. 11-12-06, April  
4           4, 2012).
- 5           • The Illinois Commerce Commission approved the Illinois Power Agency’s  
6           proposal to acquire renewable energy and RECs through competitive  
7           solicitations of 20-year contracts (Docket No. 09-0373, December 28,  
8           2009, at 115).
- 9           • The Massachusetts DPU found “that the bill impacts of [410 MW of wind  
10          project] contracts are not only acceptable, but actually advantageous to  
11          customers” (Docket No. DPU. 13-146 et al., February 26 2014, at 63), that  
12                    the predictable revenue stream of a long-term contract [for 110 MW  
13                    of new wind] with [NStar] as a credit-worthy counterparty will allow  
14                    Iberdrola to avoid the volatile short-term financing market.... We are  
15                    persuaded that such certainty is required to allow Iberdrola to commit  
16                    its internal funds to the...facilities (Docket No. D.P.U. 11-05, et al,  
17                    August 19, 2011, at 20)
- 18          that 10-year contracts for the solar RECs from 5 MW of solar plants “are  
19          likely to be below-market over their terms” (Docket No. DPU 12-98, May  
20          3 2013, at 28), and that the solar developer’s “financing commitment is  
21          contingent upon its ability to obtain long-term contracts” (ibid. at 13).

22   **Q: Does Exelon dispute the link between its nuclear interests and the behavior**  
23   **of its utilities?**

24   A: Yes, in the testimonies of Mr. Crane, Mr. Willig, and Dr. Tierney. Mr. Crane says  
25            The financial risks cited by the intervenors all seem to be related to their  
26            purported concern over Exelon’s non-regulated operations in general, and  
27            its ownership of substantial nuclear generation in particular. Not only are  
28            these supposed risks purely hypothetical, they would not impact Exelon’s  
29            utility operations. (Crane Rebuttal at 14)

1 He also claims that intervenor questions regarding “Exelon’s commitment to the  
2 development of clean energy technologies...are unrelated to how we would  
3 operate Pepco and Delmarva Power [and] are nevertheless unwarranted and  
4 untrue” (Crane Rebuttal at 19).

5 These risks to Exelon’s nuclear operations are neither “hypothetical” nor  
6 unrelated to the management of the distribution utilities. As I explained in my  
7 direct testimony, Exelon has been very concerned with the effect of renewables  
8 and efficiency on the profitability of its nuclear plants, and distribution utilities  
9 and transmission owners have many opportunities to interfere with development  
10 of renewables and especially distributed generation.<sup>10</sup> Mr. Crane does not  
11 explain why Exelon’s very strong interests in maximizing revenues from its  
12 nuclear assets (and to a lesser extent, other conventional generation assets)  
13 would not affect its operation of all of its distribution utilities.

14 Dr. Willig does not respond to my testimony, but takes MEA witness  
15 Richard Tabors to task for suggesting that that Exelon—with both distribution  
16 and generation interests to protest—would be more resistant to renewables and  
17 other distributed generation than a distribution-only utility like PHI. (Willig  
18 Rebuttal at 13–16) His assertions are too vague or illogical to respond to in any  
19 detail, such as the following of his claims:

- 20 • Exelon’s ownership of distribution companies somehow mitigates its in-  
21 centives to suppress competition with its generation operations (Willig  
22 Rebuttal at 16, lines 15–17).

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<sup>10</sup>Mr. Crane’s definition of “clean energy technologies” may include nuclear; whether or not Exelon is committed to development of new nuclear capacity, it is certainly committed to increasing the profitability of its nuclear fleet.

1 • Distributed resources would “predictably” advantage Constellation in  
2 competitive power supply (at 17).

3 • Exelon will promote distributed resources, because Constellation will get  
4 some fraction of that business (at 17, lines 1–11).<sup>11</sup>

5 He also asserts that the “focus on Exelon’s generation ownership as creat-  
6 ing a difference in incentives” for Exelon’s approach to distributed resources  
7 “presumes some potential incentive associated with Exelon’s generation,” and  
8 that assertions

9 that Exelon’s generation business suffers from distributed energy resources  
10 that compete with Exelon’s generation facilities.... does not withstand  
11 economic analysis that takes into account the actual context of the state of  
12 PJM capacity and its dynamics. (Willig Rebuttal at 16, 18)

13 He then asserts with respect to generation retirement and load growth:

14 As a matter of economic logic, generation owners like Exelon should be  
15 indifferent as to whether capacity needs in PJM from retirements and load  
16 growth are partially met by distributed generation or by some alternative,  
17 which is likely to be low-cost, efficient, combined-cycle generation (Willig  
18 Rebuttal at 19).<sup>12</sup>

19 Dr. Willig’s assertions are contradicted by Exelon’s focus on its nuclear  
20 generation, as evidenced by its decision to concentrate its voluntary develop-  
21 ment of renewables in areas that will not affect its generation fleet.

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<sup>11</sup>Dr. Willig’s discussion of this point is particularly ambiguous, but I think this is his intent.

<sup>12</sup>Dr. Willig discusses only capacity needs and the mix of new resources, and does not mention the effect of lower demand on the energy prices received by existing merchant generation, particularly Exelon’s nuclear plants. This focus is odd, given Exelon’s very public concerns about the role of renewables in reducing energy prices and thus its nuclear profits.

1 Dr. Tierney makes a similar point when she asserts,  
2 Conceptually, there is no reason to think that the Merger would fundament-  
3 ally change the incentives for Pepco and Delmarva Power vis-à-vis policies  
4 to allow for robust development of distributed energy resources (such as  
5 energy efficiency, demand-response, distributed generation such as solar  
6 photovoltaic (“PV”) and combined heat-and-power installations). At  
7 present, it is reasonable to expect Pepco and Delmarva Power (like any  
8 distribution utility) to view such policies as complicating its business  
9 model as the monopoly provider of delivery service to customers and its  
10 revenue-recovery outlook in a regulatory model in which rates are set to  
11 cover cost of service. (Tierney Rebuttal at 37)

12 It is not clear what concepts Dr. Tierney is applying to this issue, since I  
13 explained the differences in incentives clearly in my direct testimony (at 7). The  
14 distribution utilities have concerns with what Dr. Tierney calls “complications”  
15 that the Commission must address or overcome; a distribution utility that is  
16 owned by a large merchant generation has both the distribution concerns and  
17 much larger concerns with the generator’s profitability, which the Commission  
18 cannot directly address or overcome. The Commission does not regulate whole-  
19 sale power markets, or the Exelon Generation’s return, and has little ability to  
20 control the behavior of merchant generators.

21 The only distribution utilities affected by distributed resources deployed in  
22 Maryland are the Maryland utilities; they are in a position to negotiate solutions  
23 to those problems and the Commission has a vested interest in maintaining the  
24 financial health of those distributors. In contrast, distributed resources deployed  
25 in Maryland affect the prices that Exelon can realize from its market generation  
26 throughout much of PJM, and neither the Commission nor the State has any  
27 interest in the financial welfare of wholesale generators.<sup>13</sup> Given the great im-

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<sup>13</sup>As I noted in my direct, many merchant generators have gone bankrupt, without any obvious effect on the operation of their power plants.

1 portance of Exelon’s profits on its merchant nuclear operations, the vulnerability  
2 of those profits to increased competition, and the lack of regulatory support for  
3 merchant generation, it is inevitable that Exelon will be more resistant to any-  
4 thing that threatens those profits—renewable development, energy-efficiency  
5 initiatives, distributed generation, or consumer-friendly market rules—than PHI  
6 would be.

7 These are simple concepts, and I am surprised that Dr. Tierney failed to  
8 identify them. Perhaps she believes that PEPCo and DPL are so hostile to  
9 distributed resources that nothing, not even ownership by a major merchant  
10 generator, could worsen the situation. I do not see that level of hostility from  
11 PEPCo and DPL or from free-standing distribution utilities in general.

12 **Q: What specific problems does Dr. Tierney expect PEPCo and DPL to have**  
13 **with distributed resources?**

14 A: She refers to distributed resources complicating the administration of the distri-  
15 bution system (which might just be an opportunity to expand the utility’s busi-  
16 ness), but clarifies that she is really talking about a hypothetical situation in  
17 which “distributed energy resources are not combined with ratemaking policies  
18 to address adequate recovery of the cost of service in a fair manner,” resulting in  
19 “business-model and revenue recovery issues” (Tierney Rebuttal at 37–38). She  
20 does not explain why the fairness of cost recovery among customers is relevant  
21 to the utility’s issues, or what specific business-model issues she finds so  
22 troublesome. Dr. Tierney then says that revenue decoupling would not ensure  
23 utility “revenue protection,” but does not explain what revenue would not be  
24 protected by decoupling.

25 In short, Dr. Tierney’s claim of great harm to the distribution utilities from  
26 distributed resources is vague and hypothetical.

1 **Q: Which Exelon rebuttal witnesses testify as to Exelon’s commitment to**  
2 **development of renewable energy?**

3 A: Mr. Crane asserts,

4 Exelon is a leading developer of wind and solar generation. In fact, Exelon’s  
5 subsidiary Constellation NewEnergy, Inc. is by far the largest developer of  
6 commercial and utility scale solar generation in Maryland (and the third-  
7 largest developer of commercial distributed solar projects in the United  
8 States). (Crane Rebuttal at 19–20)

9 Mr. Crane then mentions Exelon-owned solar facilities at Mount St. Mary’s  
10 University and under construction at Perryman, wind energy in ten states  
11 (including the planned Fourmile Ridge plant in Maryland), and concludes,

12 Moreover, in recent years, Exelon has committed to invest hundreds of  
13 millions of dollars in distributed generation while Exelon’s utilities have  
14 facilitated the interconnection by thousands of customers of distributed  
15 generation, including solar. (Crane Rebuttal at 20)

16 Similarly, Mr. Gould says

17 Constellation is the country’s third-largest developer of commercial distri-  
18 buted solar projects with more than 180 MW of operating systems,  
19 including a dozen “behind the meter” customer-sited solar projects  
20 operating in Maryland;

21 Exelon is also a leading developer of utility-scale solar, including the 230  
22 MW Antelope Valley project located in California and the 16.1 MW Clean  
23 Horizons project at Mount St. Mary’s University in Emmitsburg, Maryland;

24 The Exelon utilities...have been in full compliance with escalating RPS  
25 requirements..., procuring millions of renewable and alternative energy  
26 credits (“RECs”) created by energy generators each year.

27 Each Exelon utility facilitates the interconnection of distributed generation  
28 systems, with thousands of customers (and over 100 MW of distributed  
29 generation) now participating in net metering programs;

30 Exelon is developing and deploying renewable energy technologies beyond  
31 wind and solar, including a state-of-the-art 27 MW power plant in Los  
32 Angeles fueled by digester gas to power one of the largest wastewater  
33 treatment facilities in the world.... (Gould Rebuttal at 5)

1 **Q: Is Mr. Crane correct that “Exelon is a leading developer of wind...  
2 generation”?**

3 A: No. Exelon has voluntarily developed very little wind, other than completing  
4 projects that were already in late-stage development at the time it acquired John  
5 Deere Renewables in 2010. According to Exelon’s web site, it owns about 1,300  
6 MW of wind in operation or development.<sup>14</sup> More than 70% of that total came  
7 from the Deere purchase and would be in operation with or without Exelon; see  
8 Table 3. The Deere purchase may have been good for Exelon shareholders, but it  
9 made little difference to the environment or the prices received by Exelon’s  
10 nuclear and other capacity.

11 **Table 3: Exelon Wind Projects (MW)**

Region	Total	Acquired from Deere as		Merger Stipulation	Voluntary Development
		Operating	Late Development		
In PJM	70	0		70	0
In MISO	489	258	231		0
Elsewhere	740	477			263
Total	1,299	735	231	70	263

12 *Source: [www.exeloncorp.com/energy/generation/wind.aspx](http://www.exeloncorp.com/energy/generation/wind.aspx)*

13 Interestingly, Exelon owns no wind in PJM, other than the 70 MW  
14 Criterion wind plant being developed as a condition of the Constellation merger,  
15 nor any wind in New York, and has developed no new wind plants in MISO.  
16 Since Exelon’s nuclear fleet is located entirely in PJM, MISO, and the NY ISO,  
17 Exelon’s small amount of new wind development (in Kansas, New Mexico,  
18 Idaho and Texas) does not affect the profitability of its nuclear plants.

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<sup>14</sup>[www.exeloncorp.com/assets/newsroom/downloads/docs/CompanyFactSheets/fact\\_excwind.pdf](http://www.exeloncorp.com/assets/newsroom/downloads/docs/CompanyFactSheets/fact_excwind.pdf).

1           The 263 MW of Exelon-developed wind is less than 0.5% of the 62,300  
2           MW of wind installed nationwide by late 2014, let alone the 13,600 MW under  
3           construction.<sup>15</sup>

4   **Q: What about Mr. Crane’s claim (Rebuttal at 20) that Exelon “continues to**  
5   **develop new wind projects across the country (including the Fourmile**  
6   **Ridge 40 MW project in Garrett County, Maryland)”?**

7   A: The information in Case No. 9315 indicates that Fourmile Ridge was originally  
8   developed by Synergics Wind as a 60 MW project. The only reference to  
9   Fourmile that I could find on the Exelon web site was mentions of construction  
10   start in the earnings reports for the first and second quarters of 2014. Exelon  
11   appears to have purchased (and possibly downsized) the project after develop-  
12   ment was complete. The Constellation merger settlement requires “125 MW of  
13   Tier 1 renewable resources by January 15, 2022,” excluding solar, and further  
14   that 50 MW must enter service by 2016 and at least 62.5 MW must be wind.<sup>16</sup>  
15   The Fourmile wind project, added to the 70 MW Criterion project, would bring  
16   Exelon close to meeting the merger requirement.

17   **Q: Is Mr. Crane correct that “Exelon is a leading developer of...solar**  
18   **generation”?**

19   A: Exelon’s web site does list large solar developments in California, totaling 230  
20   MW, as well as a 10 MW development in Exelon’s home town of Chicago,

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<sup>15</sup>[awea.files.cms-plus.com/FileDownloads/pdfs/3Q2014\\_AWEA\\_Market\\_Report\\_Public\\_Version.pdf](http://awea.files.cms-plus.com/FileDownloads/pdfs/3Q2014_AWEA_Market_Report_Public_Version.pdf).

<sup>16</sup>In the Matter of the Merger of Exelon Corporation and Constellation Energy Group, Inc., Case No 9271, Order No. 84698, Conditions of Approval at 105–106, 108–109 (February 17, 2012).



1 which probably generates good will, as well as earnings for shareholders.<sup>17</sup> This  
2 240 MW of Exelon-developed solar comprises less than 1.5% of the 17,500  
3 MW of national installed solar capacity.<sup>18</sup>

4 **Q: Did Mr. Crane make any specific claims about Exelon’s solar developments**  
5 **in Maryland?**

6 A: Yes. Mr. Crane (Rebuttal at 19) mentions that  
7 Exelon’s subsidiary Constellation NewEnergy, Inc. is by far the largest  
8 developer of commercial and utility scale solar generation in  
9 Maryland....[including the] 16.1 MW Mount St. Mary’s University solar  
10 facility...one of the largest in the State, although Constellation is currently  
11 seeking approval for an even larger solar facility—20 MW—at the Perry-  
12 man Generation Station.

13 **Q: Do these facts relieve your concern that Exelon is not supportive of renew-**  
14 **able energy development?**

15 A: No. The Mount St. Mary’s solar plant, like most of Constellation’s solar, appears  
16 to be a contract facility rather than merchant generation. In the case of Mount St.  
17 Mary’s, the power is purchased by the State and the University of Maryland,  
18 under the Maryland Energy Administration’s (MEA) Generating Clean Horizons  
19 program.<sup>19</sup> Construction on the project was started in September 2011, prior to  
20 the merger, and thus cannot be considered an Exelon project. The Perryman  
21 project would satisfy the non-Baltimore portion of the solar provision in merger  
22 settlement, which requires 30 MW of merchant solar, of which at least 10 MW  
23 must be in Baltimore.

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<sup>17</sup>Baltimore also negotiated for some solar located in Baltimore, as part of the Constellation merger settlement.

<sup>18</sup>[seia.us/smi2014q3](http://seia.us/smi2014q3) at 3.

<sup>19</sup>[energy.maryland.gov/News/documents/MEANewsletter\\_August2012.pdf](http://energy.maryland.gov/News/documents/MEANewsletter_August2012.pdf)

1 Constellation’s web site reports a total of 28.5 MW of solar in Maryland  
2 and 164 MW nationally “in operation or under construction for commercial,  
3 industrial and public sector customers.”<sup>20</sup> The MEA reports 173 MW of solar  
4 statewide, while the Solar Energy Industries Association reports 186 MW in  
5 Maryland, so Constellation is hardly dominant in Maryland.<sup>21</sup> Constellation’s  
6 164 MW nationally is less than 1% of total solar.

7 **Q: Is Constellation’s involvement in developing solar facilities for business**  
8 **customers inconsistent with Exelon’s broader resistance to renewables?**

9 A: Not really. Once a business or government entity decides it is interested in on-  
10 site solar, it is likely that the project will be developed with the assistance of one  
11 of several major on-site solar developers. Constellation had a piece of this  
12 business prior to the merger, and Exelon had no reason to abandon it. Given the  
13 relative size of Exelon’s solar and nuclear businesses, shareholder interest  
14 essentially requires that Exelon favor nuclear, where those activities conflict.

15 **Q: Is the rebuttal testimony of Messrs. Gould (at 9) regarding the compliance**  
16 **of the Exelon utilities with state RPS requirements responsive to your direct**  
17 **testimony?**

18 A: No. The rebuttal testimony states that, where state law requires utilities to  
19 purchase renewable energy credits (RECs), Exelon complies with the law. I  
20 agree that Exelon obeys state law in this respect. While Mr. Gould’s testimony  
21 that “ComEd’s energy supply mix included more than 2.6 million MWh of  
22 generation from wind and other renewable energy resources located in Illinois

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<sup>20</sup>[www.constellation.com/business-energy/solar/pages/solar-power.aspx](http://www.constellation.com/business-energy/solar/pages/solar-power.aspx);  
[www.elp.com/articles/2014/01/constellation-adds-38-mw-of-solar-power-in-2013.html](http://www.elp.com/articles/2014/01/constellation-adds-38-mw-of-solar-power-in-2013.html).

<sup>21</sup>[data.maryland.gov/goals/renewable-energy](http://data.maryland.gov/goals/renewable-energy); [www.seia.org/state-solar-policy/Maryland](http://www.seia.org/state-solar-policy/Maryland).

1 and adjoining states” might leave the false impression that ComEd procures that  
2 renewable energy, a state agency actually has that responsibility in Illinois. For  
3 PECO and BGE, he correctly states that the utilities procure the RECs required  
4 for the loads they serve.

5 Like Mr. Gould,

6 I fully expect each Exelon utility to continue to meet all of its increasing  
7 RPS obligations, resulting in the purchase of significant amounts of renew-  
8 able energy on behalf of the customers who rely upon BGE, PECO and  
9 ComEd for generation procurement. (Gould Rebuttal at 10)

10 I also fully expect each Exelon utility to continue to pay its taxes, comply with  
11 state labor regulations, and generally abide by applicable law. Compliance with  
12 the law is a minimum requirement for a utility (or any other corporation), not  
13 evidence of superior performance.

14 **Q: What does Dr. Tierney have to say about Exelon’s track record on clean  
15 energy?**

16 A: Dr. Tierney disagrees with her client’s position on the PTC, but says “that does  
17 not prevent me from talking positively about many aspects of Exelon’s positions  
18 on clean energy. I note...a recent report by CERES, the Natural Resources  
19 Defense Council and MJ Bradley and Associates” that ranked Exelon “as the  
20 nation’s second largest power producer...but 87<sup>th</sup> out of 92 power portfolio  
21 owners in terms of CO<sub>2</sub> emissions per MWh” (Tierney Rebuttal at 50–51).<sup>22</sup> She  
22 appears to suggest that this report supports the conclusion that Exelon has been

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<sup>22</sup>In fact, the “Benchmarking Air Emissions” report was “the product of a collaborative effort among Bank of America, Calpine, Entergy, Exelon, Public Service Enterprise Group (PSEG), Ceres, and the Natural Resources Defense Council (NRDC)” (report at iv). Dr. Tierney mentions Ceres and NRDC, but fails to mention the four generation firms, all of which are listed as contributors to the report. She cites it by the wrong title, but at the correct URL.

1 a leader in clean energy, and will not use control of the PHI utilities to under-  
2 mine development of renewables.

3 Based entirely on this report, Dr. Tierney concludes that the intervenors'  
4 concerns do “not constitute a harm to the public interest—particularly in light of  
5 Exelon’s impressive track record in advancing renewable resources and energy  
6 efficiency” (Tierney Rebuttal at 53).

7 **Q: How relevant is this report to assessing Exelon’s attitude toward**  
8 **development of clean energy?**

9 A: The report is not very relevant to that assessment. The report analyzes the output  
10 of Exelon’s 2012 generation, not the mix of energy delivered to its customers.  
11 Exelon’s low CO<sub>2</sub> emission rate follows from the fact that 80% of its generation  
12 output is from its nuclear plants; only 2% of Exelon’s 2012 generation was from  
13 renewables.<sup>23</sup> The nuclear generation was built between 1974 and 1990, and the  
14 renewables were mostly hydro built before 1970 and wind acquired from John  
15 Deere. A careful review of the data underlying the report cited by Dr. Tierney  
16 thus indicates that Exelon has not been a major factor in development of low-  
17 carbon electricity in the current century, post-restructuring.

18 Exelon has not demonstrated an “impressive track record in advancing  
19 renewable resources and energy efficiency.” In particular, Exelon’s renewables

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<sup>23</sup>Exelon’s fuel mix may be even less carbon-intensive today than in the report. Late in 2012, Exelon sold its Maryland coal capacity; since 2012, Exelon has sold three gas plants (in Massachusetts, Utah and Texas) that it acquired in the Constellation merger and its interests in two Pennsylvania coal plants, although it has two gas plants under development in Texas. Exelon’s sales of its fossil plants do not reduce their emissions, although the emissions are taken off Exelon’s books.

1 track record in the regions affecting its nuclear plants has been minimal.  
2 Tierney's dismissal of intervenor concerns is unwarranted.

3 **IV. Exelon's Recognition by Various Organizations**

4 **Q: Which of Exelon's witnesses attempt to establish Exelon's credibility on**  
5 **energy-efficiency programs by citing its recognition by outside**  
6 **organizations?**

7 A: This issue is raised in the testimonies of Messrs. Butler and Gould. Mr. Butler  
8 responds to the suggestion that "PEPCo and Delmarva Power's energy efficiency  
9 and demand response progress might be curtailed should they become part of  
10 the Exelon family of utility companies" as follows:

11           Additionally, BGE won the Environmental Protection Agency's Energy  
12           Star Partner of the Year Award in 2012 and 2013, and in both 2013 and  
13           2014 won the Energy Star Partner of the Year Sustained Excellence Award  
14           in Energy Efficiency Program Delivery. No other Maryland utility has  
15           received this honor. (Butler Rebuttal at 17)

16           Mr. Gould defends Exelon's record on renewables as follows:

17           Our sustainability commitment has been recognized by many organizations  
18           and environmental stakeholders. In 2014, Exelon was named to the Dow  
19           Jones North American Sustainability Index for the ninth year in a row  
20           based upon an in-depth analysis of our performance on a range of  
21           economic, environmental and social criteria, including climate-change  
22           strategies, energy consumption, human resources development, knowledge  
23           management, stakeholder relations and corporate governance. The Carbon  
24           Disclosure Project ("CDP") has also named Exelon to its S&P 500 Climate  
25           Disclosure Leadership Index for the past three years. (Gould Rebuttal at 6)

26           Thus, Exelon asserts that it must be doing a good job in delivering energy-  
27           efficiency programs and facilitating renewables, because it has been listed in  
28           various ways by Energy Star, Dow Jones, and the Carbon Disclosure Project.

1 **Q: Are the lists that Exelon cites relevant to its performance on energy-**  
2 **efficiency and renewable energy in Maryland and the rest of PJM?**

3 A: No.

4 **Q: What is the significance of Exelon being listed as an Energy Star partner?**

5 A: Then significance is not great. The Energy Star Partner of the Year award recog-  
6 nizes entities that incorporate Energy Star products and labeling into energy-  
7 efficiency efforts. While “Partner of the Year” sounds like an exclusive award,  
8 Energy Star designated 55 entities as Partners of the Year and another 72 as Part-  
9 ner of the Year—Sustained Excellence, and awarded an Award for Excellence to  
10 nine more. The list includes some 21 utilities, many of which do not show up on  
11 other lists of leading implementers of energy-efficiency programs. On the other  
12 hand, many utilities that are generally considered industry leaders are not  
13 represented on the Energy Star list.

14 **Q: Why would the Energy Star Partner of the Year designations be so different**  
15 **from the list of leading utilities?**

16 A: Energy Star uses a scoring system weighting management practices (35%),  
17 communication strategies (35%), and demonstration of energy savings (30%).<sup>24</sup>  
18 The scores appear to rely more on process and appearances than on substance.  
19 For example, the management practices section of the scoring is derived from a  
20 “simple table [that] compares your program to the Energy Star Guidelines for  
21 Energy Management” (ibid. at 2). Those guidelines list the following steps:<sup>25</sup>

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<sup>24</sup>See [www.energystar.gov/sites/default/files/asset/document/2015AppPOY\\_Energy\\_Management.pdf](http://www.energystar.gov/sites/default/files/asset/document/2015AppPOY_Energy_Management.pdf),  
Energy Star’s award application for 2015.

<sup>25</sup>[www.energystar.gov/buildings/tools-and-resources/energy-star-guidelines-energy-management](http://www.energystar.gov/buildings/tools-and-resources/energy-star-guidelines-energy-management)

- 1 Step 1: Make Commitment
- 2 Step 2: Assess Performance
- 3 Step 3: Set Goals
- 4 Step 4: Create Action Plan
- 5 Step 5: Implement Action Plan
- 6 Step 6: Evaluate Progress
- 7 Step 7: Recognize Achievements

8 Significantly, Energy Star does not identify optimization (e.g., maximizing  
9 energy reductions, minimizing energy costs, minimizing emissions) as a required  
10 or even preferred management practice to become an Energy Star partner. The  
11 focus is instead on raising awareness and establishing mechanisms.

12 The communication strategies scoring is based on identification of goals,  
13 targets and audiences; using a variety of marketing tactics and materials; and  
14 mentioning Energy Star.

15 The section of the Partner of the Year application instructions dealing with  
16 demonstration of energy savings does not describe an assessment measure for  
17 utilities and other implementers of energy-efficiency programs. The application  
18 form describes only the reporting requirements for commercial buildings and  
19 industrial facilities. Energy Star may score the utilities on their reporting of  
20 savings for their own buildings, rather than their programs for customers. In any  
21 case, the emphasis is on reporting mechanisms rather than total results.

22 **Q: What is the significance of Exelon being listed in the Dow Jones North**  
23 **American Sustainability Index?**

24 A: The Dow Jones North American Sustainability Index tracks the stock prices for  
25 group of companies that Dow Jones believes will sustain shareholder returns.  
26 Dow Jones describes its sustainability indices as “tracking the financial perform-  
27 ance of leading sustainability-driven companies” and providing an “integrated

1 assessment of economic, environmental and social criteria with a strong focus  
2 on long-term shareholder value.”<sup>26</sup> I have not been able to find any comprehens-  
3 ive list of the scoring criteria, but it appears that three areas—economic, environ-  
4 mental, and social criteria—are weighted equally, with 3% of the total based on  
5 environmental reporting. Dow Jones’s annual presentations of its review results  
6 contain descriptions of criteria as they change, which I summarize in Table 4.<sup>27</sup>

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<sup>26</sup>[www.sustainability-indices.com/images/DJSI\\_Review\\_Presentation\\_09\\_2014\\_final.pdf](http://www.sustainability-indices.com/images/DJSI_Review_Presentation_09_2014_final.pdf)

<sup>27</sup>See footnote 26 and [www.sustainability-indices.com/review/review-history.jsp](http://www.sustainability-indices.com/review/review-history.jsp)



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**Table 4: Dow Jones Sustainability Index Assessment Criteria**

<b>Criteria</b>	<b>Descriptions</b>
<i>Tax Strategy</i>	Added to address the growing risks relating to aggressive taxation policies. Aggressive and nontransparent tax optimization strategies can pose financial, operational and reputational risks for multinational companies.
<i>Social &amp; Environmental Reporting</i>	Information on public reporting on the environmental and social issues that are most material to the company. Integration of sustainability issues in the annual report and the link between sustainability initiatives and shareholder value creation
<i>Human-Capital Development</i>	How companies are measuring the success of their human capital development programs, the criterion aims to identify whether companies are able to measure a return on their investment, ensuring that expenditures in these areas are being efficiently managed and are having the desired positive benefits for the company.
<i>Environmental Criteria</i>	Climate Strategy, Operational Eco-Efficiency, Product Stewardship
<i>Stakeholder Engagement</i>	implementation and review of stakeholder engagement framework and activities
<i>Supply-Chain Management</i>	“supply chain awareness and risk exposure, risk management, sustainability strategy and opportunities in the supply chain and transparency with regards to supply chain risks and performance.”
<i>Labor-Practice Indicators &amp; Human Rights</i>	Includes senior management diversity, retention of female talent and equal remuneration; awareness and adoption of the “UN Framework and Guiding Principles on Business and Human Rights”
<i>Water-Related Risks</i>	Measurement of exposure to water-related risks, appropriate risk management systems to mitigate risks around quantity/quality of water, regulatory changes or stakeholder conflicts
<i>Brand Management</i>	
<i>Occupational Health &amp; Safety</i>	Lost Time Injury Frequency Rate; early identification of risks; incentives to promote employee health, safety and well-being.
<i>Talent Attraction &amp; Retention</i>	
<i>Corporate Citizenship</i>	Motivation for philanthropy and win-win community investments programs that benefit both the company and the communities; measuring costs to company
<i>Economic Criteria</i>	Risk and Crisis Management, Codes of Conduct, Compliance, Anti-Corruption & Bribery, Corporate Governance

2

While all of these criteria are relevant to investors who wish to minimize

3

risks to their portfolios, and many of them are laudable (I hope Exelon scored

1 well on dubious tax deductions, bribery, employee safety, human rights, and  
2 promoting women, among other criteria), most have little to do with sustain-  
3 ability in the sense relevant to renewables and energy efficiency.

4 The 2014 Report describes the selection rules as follows:<sup>28</sup>

5 Companies are...eligible for selection if their score is at least 40% of the  
6 highest score within the index universe [such as North American Utilities].

7 Best-in-class selection: Select 30% best companies per industry.

8 Error margin: Select companies outside the best-in-class interval if they are  
9 within an absolute 0.3 score distance of the last company selected.

10 Buffer rule: Select existing components if they are within the top 45% of  
11 their industry for country indices.<sup>29</sup>

12 **Q: What is the significance of Exelon being listed in the CDP Climate**  
13 **Disclosure Leadership Index?**

14 A: The Climate Disclosure Project, not surprisingly, focuses on disclosure and  
15 transparency. Other disclosure leaders include the fossil-fuel producers Repsol,  
16 Chevron, Hess, and the BG Group (an international natural-gas producer).

17 Exelon's greenhouse-gas reduction goal in its 2014 CDP filing is the  
18 updated Exelon 2020 goal to abate 17.5 million mtCO<sub>2</sub>e...achiev[ing] this  
19 goal included successful completion of our 25% Energy Reduction Chal-  
20 lenge, retirements of several older fossil generation plants, significant in-  
21 vestment in the expansion of clean energy and the development and  
22 executive [sic] of our award winning customer energy efficiency pro-  
23 grams.<sup>30</sup> (Response CC3.1d)

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<sup>28</sup>I have edited the original text for clarity and to remove confusing references to Dow Jones's indices for world and developing-country markets.

<sup>29</sup>See footnote 26.

<sup>30</sup>[www.cdp.net/sites/2014/13/6113/Investor%20CDP%202014/Pages/DisclosureView.aspx](http://www.cdp.net/sites/2014/13/6113/Investor%20CDP%202014/Pages/DisclosureView.aspx). Viewing the document requires registration and does not work with all browsers.

1           Table 5 lists the categories of climate-change mitigation that Exelon  
2           claimed for 2013 in its 2014 report. The claimed benefits are dominated by  
3           purchase and sale of RECs and operation of the mandatory energy-efficiency  
4           programs the Exelon utilities administer. Exelon takes credit for generating  
5           renewable energy credits (RECs) at a new California solar plant, for legally  
6           mandated purchases of RECs (including those procured by the Illinois Power  
7           Authority for ComEd), for purchases of RECs from contract solar projects, and  
8           for selling RECs to brokers.

9           There may be some double-counting in these categories, since Exelon  
10          companies can buy a REC from a Constellation solar installation, sell the REC  
11          to a broker, and then buy the REC for BGE's standard offer.

1 **Table 5: Exelon-Claimed Reductions for Climate Disclosure Program, 2014**

	<b>Estimated Annual CO<sub>2</sub>e Savings (metric tonnes)</b>	<b>Action</b>	<b>Annual Monetary Savings (\$M)</b>	<b>Investment Required (\$M)</b>	<b>Payback Period (years)</b>
<i>Process Emissions Reductions</i>	41,582	Schuylkill #2 retirement			
<i>Low-Carbon Energy Installation</i>	25,500	nuclear upgrades	revenue	\$45.5	4–10
	140,000	182 MW of solar PV in CA	\$0.1	\$680.0	4–10
<i>Energy-Efficiency: Building Services</i>	1,619	Post-merger consolidation of nearly 230,000 sq. ft. of offices	\$0.3		<1
<i>Fugitive Emissions Reductions</i>	9,052	gas distribution leaks	\$0.2	\$120.0	>25
	2,358	SF <sub>6</sub> replacement	\$0.0	\$0.8	>25
<i>Low-Carbon Energy Purchase</i>	1,798,245	REC purchases for load			<1
<i>Energy-Efficiency: Processes</i>	973,113	DSM Programs	\$240.0	\$265.0	1–3
<i>Low-Carbon Energy Installation</i>	12,989	REC purchases from distributed solar	\$3.3	\$100.0	4–10
<i>Energy-Efficiency: Processes</i>	81,679	Energy reductions from ESCo operations	\$16.0	\$98.4	4–10
<i>Low-Carbon Energy Purchase</i>	934,023	RECs sold for voluntary carbon emissions offset and investment			>25
	14,666	RECs purchased for PECO's LEED Certifications	\$0.0	\$0.1	>25
<i>Behavioral Change</i>	122,263	primarily office recycling and investment recovery programs	\$8.6	\$0.0	<1

Source: Exelon Corporation, Investor CDP 2014 Information Request, [www.cdp.net/sites/2014/13/61113/Investor%20CDP%202014/Pages/DisclosureView.aspx](http://www.cdp.net/sites/2014/13/61113/Investor%20CDP%202014/Pages/DisclosureView.aspx)

2 **V. The Loss of Independent Utility Voices**

3 **Q: What do Exelon witnesses say about the effect of the merger on Pepco**  
 4 **Holdings' role in Maryland and PJM?**

5 A: Dr. Tierney responds to this concern by saying that “the position ignores the fact  
 6 that there are numerous other entities in these same venues that take the types of

1 positions that the intervenors feel should be retained in policy discussions”  
2 (Tierney Rebuttal at 46).

3 Similarly, Ms. Kelly asserts,

4 The affiliation of Pepco and Delmarva Power with Exelon will not  
5 diminish either the resources or diversity of opinions currently available to  
6 the Commission to inform its decision-making processes. As a preliminary  
7 matter, BGE, Pepco, and Delmarva Power will all continue to have to  
8 address different issues on their respective systems requiring different  
9 responses, and resulting in different perspectives being brought to the  
10 Commission. Pepco and Delmarva Power are already distinct from one  
11 another from the perspective of the Commission, given their very different  
12 service territories and customer bases. (Kelly surrebuttal at 20)

13 ...regulators are constantly informing themselves of industry developments  
14 both within their own jurisdictions and in other jurisdictions. When state  
15 regulators are looking to become informed about a regulatory decision they  
16 must make or an industry development they desire to understand, they have  
17 available, and routinely use, a multitude of resources. (Kelly surrebuttal at  
18 20–21)

19 **Q: What is your response to these witnesses?**

20 A: While it is true that some municipal utilities, coops, and consumer represent-  
21 atives would still be at the table, the data, expertise, resources, and perspective  
22 of independent distribution and transmission companies would be lost. Dr.  
23 Tierney may not believe that PJM, FERC, or the Legislature pays any more  
24 attention to PHI and OPC than they would to OPC speaking alone, but I suspect  
25 that they do.

26 Ms. Kelly’s suggestion that BGE, PEPCo and DPL would take independent  
27 positions on policy positions is naïve. Similarly, I strongly doubt that Ms. Kelly  
28 relied on the other informal resources she lists—

1 other state and federal utility commissioners, staff of other state and federal  
2 regulatory commissions,... academics, academic literature, industry trade  
3 press, technical conferences, conferences and conventions, public  
4 speakers,... National Association of Regulatory Utility Commissioners  
5 (“NARUC”) publications, National Regulatory Research Institute  
6 publications, other periodicals, government reports, and reported speeches  
7 (Kelly Rebuttal at 19)

8 —to the extent that she would rely on a utility, especially on such issues as  
9 whether interconnection of renewable resources is feasible or the costs of utility  
10 compliance with proposed requirements. Even the “consultants [and] expert  
11 witnesses” (whom I assume Ms. Kelly expects to be hired by “Commission Staff  
12 [and] Maryland stakeholders”) (ibid.), who may contribute to the record, will  
13 still usually have less access to utility information than the utility itself, and will  
14 have no ability to produce actual results.

15 Only having a utility that can tell the Legislature and Commission “we can  
16 do that” and then proceed to do it will belie another utility (such as BGE under  
17 Exelon control) saying it cannot be done.

## 18 **VI. Recommendations**

19 **Q: How do you recommend that the Commission respond to the concerns you**  
20 **discuss above and in your direct testimony?**

21 A: As I noted in my direct testimony, the problems I identify above—the loss of the  
22 last independent EDCs in PJM, Exelon’s ability to interfere with renewable-  
23 energy development and energy-efficiency implementation—can be avoided by  
24 denying the merger, or by conditioning the merger on Exelon spinning off its  
25 distribution utilities from its merchant generation.

1 **Q: Are the benefits of an independent distribution utility voice in PJM and**  
2 **greater cooperation in development of renewable energy, distributed gen-**  
3 **eration and energy-efficiency components of the public interest?**

4 A: I believe that they are. In particular, the State of Maryland has established that  
5 renewables, energy-efficiency, and greenhouse-gas reduction are important to  
6 the public interest by enacting the renewable portfolio standard, establishing the  
7 EmPOWER Maryland goals, joining the Regional Greenhouse Gas Initiative,  
8 and enacting the Greenhouse Gas Emissions Reduction Act.

9 **Q: Were the Commission to approve the merger, are there any conditions that**  
10 **might mitigate the harms to the public interest that you have identified?**

11 A: Yes, although they will only reduce and not eliminate the damages from the  
12 merger. I suggest that the Commission impose the following conditions, some of  
13 which I listed in my direct testimony.

14 *With respect to energy-efficiency programs:*

- 15 • Exelon must accept the Commission's authority to transfer responsibility  
16 for energy-efficiency program planning and implementation to an inde-  
17 pendent third party, as well as agreeing not to appeal any Commission  
18 order or decision implementing such transfer. Exelon must also agree to  
19 cooperate with, provide customer data to, and collect funding for the third-  
20 party energy-efficiency utility, as ordered by the Commission.
- 21 • Exelon must commit to the following policy and implementation  
22 approaches for the EmPOWER Maryland:
  - 23 ○ quantifying non-energy benefits,
  - 24 ○ including those benefits in screening energy-efficiency programs,
  - 25 ○ pursuing all cost-effective energy-efficiency savings,

- 1           ○ increasing the EDCs' targets for net EmPOWER energy savings to
- 2           20% of 2020 energy requirements,
- 3           ○ increasing annual incremental gross energy savings to 2.6% of energy
- 4           requirements by 2017,
- 5           ○ keeping Maryland energy-efficiency efforts in the top ten US jurisdic-
- 6           tions, in terms of spending and savings per MWh of energy delivered.

7           *With respect to renewable energy:*

- 8           ● Exelon must commit to supporting legislative and regulatory initiatives:
  - 9           ○ supporting increases in renewable portfolio requirements to 25%xx
  - 10           by 2020xx and 40% in 2025,
  - 11           ○ eliminating the eligibility of black liquor and new municipal solid
  - 12           waste plants as renewable energy sources.
- 13           ● Exelon must agree to competitive procurement of renewable energy and
- 14           RECs from new generation connected to its Maryland utilities, through
- 15           long-term contracts of at least ten year duration, for energy equivalent to at
- 16           least 1% of each utility's deliveries in 2016, rising 1% annually to 10% in
- 17           2025. The acquired energy and RECs may be used to meet SOS require-
- 18           ments or sold into short-term markets.

19           *With respect to distributed generation:*

- 20           ● Exelon must commit to facilitating development of distributed generation,
- 21           including:
  - 22           ○ regularly publishing the capacity of each circuit (or circuit segment)
  - 23           to accommodate distributed generation, for solar, baseload, and other
  - 24           load-generation patterns of proposed distributed-generation
  - 25           technologies;
  - 26           ○ responding to queries regarding to interconnection at distribution
  - 27           voltage within 30 days of request;



- 1           ○ resolving issues related to distribution protective systems within 60  
2           days of interconnection requests;  
3           ○ agreeing to financial penalties for each violation of the commitments,  
4           at a rate of \$10 per kilowatt-month of affected generation (except  
5           where the Commission finds that delays are unavoidable or prudent).

6   **Q: Does this conclude your testimony?**

7   A: Yes.