The Exelon Way: A Snapshot of the Corporation Trying to Take Over Pepco

Trying to be Too Big to Fail

Exelon was formed in 2000 through a merger of Unicom Corporation (the former parent company of ComEd) and PECO, formerly named Philadelphia Electric Company. In 2012, Exelon acquired Constellation and its subsidiary, Baltimore Gas & Electric (BG&E) primarily to offset its failing nuclear generation business by securing a stable stream of revenue from BG&E's 2 million customers. On Exelon's takeover of Constellation, one analyst commented, ***"The reason these guys are doing this is to avoid having to sell in the wholesale market, where pricing has been brutal."*** [i]

The same impetus is behind Exelon's attempt to acquire Pepco Holdings Inc. and its nearly 2 million customers spanning service territories in New Jersey, Delaware, Maryland and Washington, D.C. Not only that, but the proposed takeover would, if approved, create the largest electric utility holding company in the country and give Exelon a monopoly in the mid-Atlantic region. This would allow Exelon to use its influence over its utilities to protect its generation interests at the expense of ratepayers and eliminate the independent voice of Pepco, which has taken positions that differ from – and in some cases served as a counterbalance to – Exelon in numerous forums including regulator matters, energy legislation and energy market proposals.[ii]

Opposing Programs That Are Good for Consumers, Environment

Exelon views the advancement of renewable energy and energy efficiency as a "cannibalization" of its core nuclear power generation. This conflict between Exelon's nuclear business and clean energy has made Exelon one of the leading opponents of renewable incentives at the federal level, as well as a foe of clean energy initiatives at the state regulatory and legislative level and in the wholesale market.

Exelon is a leading voice against the extension of the Production Tax Credit [PTC], which is the primary federal incentive for promoting land-based wind energy. Exelon's aggressive lobbying against wind incentives resulted in its ouster from The American Wind Energy Association. In response to why Exelon was booted from the trade group, a spokesperson said, ***"Exelon is publicly leading an organized campaign to kill the production tax credit that is our No. 1 priority as an industry."***[iii] It should be noted that nuclear power is the most heavily subsidized technology in the energy sector – by some estimates the U.S. nuclear industry has received $100 billion in government subsidies over the past half-century.[iv]

At the state level, this overt opposition to clean energy plays out through direct lobbying to defeat bills like the modest community renewable bill introduced in Maryland in 2014[v] that would have brought clean and locally produced power to individuals that often are excluded from the growing renewable energy market, or the Maryland bill that would have enabled energy generation using poultry litter as a feedstock.[vi] ***By contrast, Pepco Holdings did not oppose either of these clean energy efforts.***

In Illinois, where Exelon is headquartered, the mega-utility opposed fixing the state's renewable energy standard (RPS) because if the standard took effect, its nuclear fleet would face competition and depressed power prices with more wind power on the market – ***despite the fact that the fix would have saved ratepayers millions.***[vii]

Exelon supports taxing customers who install distributed rooftop solar – a policy driven by the utility trade association, Edison Electric Institute (EEI). EEI has advised its members to ***attack rooftop solar because it threatens or "disrupts" traditional utility business models, like Exelon's***.[viii]

Exelon is opposing the use of demand response in the wholesale energy market it competes in. Demand response is a low-cost resource for meeting energy demand by offering lower rates to customers who agree to cut back on power use during peak demand. Demand response stabilizes the grid and can reduce carbon pollution and lower electricity rates. The Electric Power Supply Association is representing Exelon and other utilities in a lawsuit challenging a federal rule that governs demand response in energy markets.[ix]

Putting Ratepayers on the Hook for Nuclear Power

On the other hand, Exelon lobbies to boost nuclear power, often at the expense of renewable energy and ratepayers. Exelon is lobbying for a bill before the Illinois General Assembly that would allow the company's nuclear plants in that state to receive "clean energy credits" just as solar and wind do. ***This would essentially shift support away from those renewables in favor of Exelon's nuclear fleet,*** which comprise 52 percent of its generation assets.[x] The bill, which Chicago Business reporters call the "Exelon-only" bill,[xi] would ***cost customers an additional $300 million a year to pay for nuclear plants*** that otherwise can't compete in the market.[xii]

In New York, Exelon petitioned the New York Public Service Commission (PSC) to force Rochester Gas & Electric (RG&E) to ***enter into an above-market contract for power from Exelon's Ginna nuclear power plant, which would cost ratepayers at least an additional $80 million a year***.[xiii]

Using Ratepayer Money and Charities as Tools of Influence

A Chicago Tribune investigation found that a portion of each utility bill issued by ComEd, Exelon's Illinois-based utility, ***included electricity delivery rates that were used for charitable donations.*** The utility's donations totaled $60 million over the past eight years, "millions of dollars" of ***which were directed to the "politically influential" with "power to aid the state's largest utility"*** or to those with "close ties to executives of ComEd or Exelon."[xiv] Exelon even shuttled Illinois ratepayer-funded donations to out-of-state charities in Maryland and Pennsylvania.

ComEd spent $10,000 of ratepayer money to help fund a 2012 cocktail reception where its chief executive Anne Pramaggiore received a "Woman of Achievement" award. World Business Chicago, Mayor Rahm Emanuel's economic development group and whose board Chris Crane serves on, received $736,000 from customer bills. Ratepayers paid $27,000 for a 2013 golf outing hosted by members of the Illinois Legislative Black Caucus, the newspaper found.[xv]

Exelon has leveraged charitable giving in the District as well. Exelon used its promise to continue the same level of giving awarded by Pepco to "encourage" recipients to attend public hearings on the deal and read statements of support for the merger. The Washington Post reported that just prior to the settlement between D.C. Mayor Muriel Bowser and Exelon being announced, ***charities were told that philanthropic contributions "could be jeopardized if the deal is not approved."***[xvi] And a report by WAMU in Washington, D.C., in which WAMU attempted to contact nearly every nonprofit that sent a letter to regulators in support of the takeover, revealed that many wouldn't go on the record to say why they supported the merger. Further,"***three of the groups said that despite their initial letters of support, they no longer back the Pepco-Exelon merger," but they "wouldn't go on the record for fear of jeopardizing their relationship with the power companies."*** [xvii]

Astroturfing and Funding Front Groups

Exelon uses not only aggressive political lobbying, but funds other groups to advocate for its interests and try to eliminate pro-clean energy policies that conflict with Exelon's bottom line. According to research conducted by the Energy and Policy Institute, ***Exelon teamed up with the American Energy Alliance (AEA), which is affiliated with the Institute for Energy Research (a group that receives funding from fossil fuel interests and is led by Thomas Pyle, a former Koch Industries lobbyist)***, to attack the wind production tax credit. Exelon sent $290,000 in 2012 and $236,000 in the first half of 2013 to AEA, according to the latest disclosures of Exelon's political spending. AEA and Exelon communicated "in weekly emails about how best to fight another extension of the [wind production] tax credit."[xviii]

In states like Massachusetts, New Jersey, Maryland, Illinois and Ohio, Exelon has worked with right-wing groups like American Legislative Exchange Council to defeat renewable energy initiatives supported by local stakeholders. ***And Exelon's subsidiary ComEd funds ALEC and was a sponsor at ALEC's 40th Annual Meeting in Chicago in 2013***.[xix]

In some cases, Exelon has employed astroturfing or the manufacturing of public support to push its agenda. In 2005, Exelon subsidiary ComEd formed Consumers Organized for Reliable Electricity (CORE) to win support for a rate hike.[xx] The group, which touted itself as a coalition of individuals, businesses and organizations, launched mass mail campaigns and was identified as sponsor of ***TV ads that warned of ComEd's impending bankruptcy and blackouts if state regulators did not approve the rate increase.*** ComEd was later forced to acknowledge that it had bankrolled the entire $15 million effort.[xxi]

Customer Service Hall of Shame, Short Falls

According to the American Customer Satisfaction Index released in spring 2015, ***Exelon has one of the worst customer satisfaction scores among energy companies*** coming in third to last among the investor-owned utilities in the survey.[xxii]

Like renewable energy, energy efficiency is a direct threat to Exelon's nuclear generation business. Exelon's opposition to demand response in the PJM market reveals one of the ways Exelon seeks to restrict programs that reduce the need for energy, but ***its inability to meet state efficiency goals demonstrates a lack of commitment at best and a willful attempt to undermine demand reduction programs at worst.***

According to research conducted by the Chesapeake Climate Action Network, in 2014, the Maryland Public Service Commission projected that PHI's subsidiaries, Pepco and Delmarva Power & Light, would achieve 99% and 199% of their 2015 energy savings goals respectively and 96% and 830% of their 2015 peak demand production goals respectively. By contrast, Baltimore Gas & Electric is projected to achieve only 67% of its 2015 energy savings goals and 76% its 2015 peak demand production goals. ***Similarly, in Illinois, where Exelon is the dominant utility, its subsidiary, ComEd, is projected to achieve a dismal 35% to 47% of their statutory efficiency goals over the next three years.*** [xxiii]

Endnotes:

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[i] http://www.chicagobusiness.com/article/20121110/ISSUE01/311109984/constellation-energy-takeover-not-working-out-as-planned-for-exelon
[ii] http://www.psc.state.md.us/wp-content/uploads/Order-No.-86990-Case-No.-9361-Exelon-PHI-Merger-Decision-with-Dissenting-Opinion-.pdf
[iii] http://www.politico.com/story/2012/09/wind-group-boots-exelon-from-board-081008
[iv] http://content.time.com/time/health/article/0,8599,1812540,00.html
[v] http://www.citizen.org/documents/maryland-organizational-letter-opposing-exelon-merger.pdf
[vi] Initial Post-Hearing Brief of the State of Maryland and the Maryland Energy Administration, March 3, 2015, Page 32.
[vii] http://midwestenergynews.com/2013/05/20/fix-for-illinois-renewable-energy-law-faces-opposition-from-utilities/
[viii] https://www.washingtonpost.com/national/health-science/utilities-sensing-threat-put-squeeze-on-booming-solar-roof-industry/2015/03/07/2d916f88-c1c9-11e4-ad5c-3b8ce89f1b89_story.html
[ix] https://www.washingtonpost.com/politics/courts_law/supreme-court-to-decide-if-utilities-must-offer-demand-response-rates/2015/05/04/d3bf4250-f27e-11e4-b2f3-af5479e6bbdd_story.html
[x] Initial Post-Hearing Brief of the State of Maryland and the Maryland Energy Administration, March 3, 2015, Page 54.
[xi] http://www.chicagobusiness.com/article/20150311/OPINION/150319950/exelons-nuke-bailout-bill-only-helps-exelon-but-heres-an-alternative
[xii] http://www.chicagotribune.com/news/local/breaking/ct-exelon-com-ed-bill-met-0227-20150226-story.html
[xiii] NIRS Report, *Killing the Competition*, at fn. 13 ("By the same formula used above for Davis---Besse. Ginna is a 582 MW reactor. Exelon's petition to New York PSC cites an average annual capacity factor for Ginna of 95%. Average market prices from 2009---13 in NYISO Zone B (Genesee), where Ginna is located, were $37.06/MWh
(NYISO Day---Ahead LBMP pricing data).
http://www.nyiso.com/public/markets_operations/market_data/pricing_data/index.jsp").

[xiv] http://www.chicagotribune.com/business/ct-utility-charitable-contributions-0222-biz-20150222-story.html
[xv] Id.
[xvi] https://www.washingtonpost.com/local/dc-politics/2015/09/17/1ceb5388-5d7d-11e5-b38e-06883aacba64_story.html
[xvii]
https://wamu.org/programs/metro_connection/15/10/16/power_of_the_purse_charities_get_caught_up_in_battle_over_pepco
[xviii] http://www.energyandpolicy.org/exelon-pepco-merger-exelon-history-anti-clean-energy-lobbying
[xix] Id.
[xx] http://articles.chicagotribune.com/2005-10-27/business/0510270031_1_exelon-comed-citizens-utility-board
[xxi] http://www.bloomberg.com/bw/stories/2008-03-14/the-secret-side-of-david-axelrodbusinessweek-business-news-stock-market-and-financial-advice
[xxii] http://www.chicagotribune.com/business/ct-utilities-customer-satisfaction-0511-biz-20150512-story.html
[xxiii] http://chesapeakeclimate.org/wp/wp-content/uploads/2014/11/10-Myths-Debunked-Exelon-Pepco-Merger.pdf