

126 FERC ¶ 61,010
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Sudeen G. Kelly, Marc Spitzer,
Philip D. Moeller, and Jon Wellinghoff.

Exelon Corporation

Docket No. TS04-286-002

ORDER ON REQUEST FOR CLARIFICATION AND REQUEST FOR
ADDITIONAL PARTIAL WAIVER FROM THE STANDARDS OF CONDUCT

(Issued January 8, 2009)

1. On June 29, 2007, the Exelon Corporation (Exelon), on behalf of its subsidiaries PECO Energy Company (PECO) and Commonwealth Energy Company (ComEd), filed a Motion for Clarification and additional partial waiver relating to the standards of conduct under Order No. 2004.¹ Specifically, Exelon requested that the Commission clarify that certain activities involving the purchase and/or sale of Renewable Energy Credits (RECs) either are not energy affiliate activities or are covered by the waivers and clarifications previously granted to PECO and ComEd.² In the alternative, if the Commission finds that additional waivers are necessary, Exelon requests that the Commission expand the existing waivers to explicitly cover the additional REC programs.

¹ *Standards of Conduct for Transmission Providers*, Order No. 2004, FERC Stats. & Regs., Regulations Preambles 2001-2005 ¶ 31,155 (2003), *order on reh'g*, Order No. 2004-A, FERC Stats. & Regs., Regulations Preambles 2001-2005 ¶ 31,161, *order on reh'g*, Order No. 2004-B, FERC Stats. & Regs., Regulations Preambles 2001-2005 ¶ 31,166, *order on reh'g*, Order No. 2004-C, FERC Stats. & Regs., Regulations Preambles 2001-2005 ¶ 31,172 (2004), *order on reh'g*, Order No. 2004-D, 110 FERC ¶ 61,320 (2005), *vacated and remanded as it applies to natural gas pipelines sub nom., National Fuel Gas Supply Corp. v. FERC*, 468 F.3d 831 (D.C. Cir. 2006) (Order No. 2004).

² Exelon Corp., June 29, 2007 Request for Clarification of Existing Waiver or, in the Alternative, Additional Partial Waiver of the Standards of Conduct, *citing Cinergy Servs., Inc.*, 111 FERC ¶ 61,512 (2005) (*Cinergy*) and *High Island Offshore Sys., L.L.C.*, 116 FERC ¶ 61,047 (2006) (*HIOS*).

2. On October 16, 2008, the Commission approved Order No. 717,³ which replaced the prior standards of conduct adopted in Order No. 2004. Among other things, Order No. 717 eliminated the concept of “energy affiliates” and replaced the corporate separation requirements with an employee functional approach that is based on whether an employee performs “marketing functions.” Because the Commission has made substantial changes to the standards of conduct requirements since Exelon made its filing in this docket, the Commission is dismissing the requests without prejudice. If Exelon wishes to request a waiver or clarification under the new requirements, it may do so.

The Commission orders:

The Commission dismisses Exelon’s pending filing in this docket, without prejudice, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

³ *Standards of Conduct for Transmission Providers*, Order No. 717, 73 Fed. Reg. 63,796 (October 27, 2008), FERC Stats. & Regs. ¶ 31,280 (2008), *reh’g pending*.