

NRG ENERGY, INC.
Form DFAN14A
February 02, 2009

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

SCHEDULE 14A

(RULE 14a-101)

SCHEDULE 14A INFORMATION

Proxy Statement Pursuant to Section 14(a)
of the Securities Exchange Act of 1934

Filed by the Registrant

Filed by a Party other than the Registrant

Check the appropriate box:

Preliminary Proxy Statement.

Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2)).

Definitive Proxy Statement.

Definitive Additional Materials.

Soliciting Material Pursuant to §240.14a-12.

NRG ENERGY, INC.

(Name of Registrant as Specified in its Charter)

EXELON CORPORATION

(Name of Person(s) Filing Proxy Statement, if Other Than the Registrant)

Payment of Filing Fee (Check the appropriate box):

No fee required.

Fee computed on table below per Exchange Act Rules 14a-6(i)(1) and 0-11.

(1) Title of each class of securities to which the transaction applies:

(2) Aggregate number of securities to which the transaction applies:

(3) Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11 (set forth the amount on which the filing fee is calculated and state how it was determined):

(4) Proposed maximum aggregate value of the transaction:

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.. Fee paid previously with preliminary materials.

.. Check box if any part of the fee is offset as provided by Exchange Act Rule 0-11(a)(2) and identify the filing for which the offsetting fee was paid previously. Identify the previous filing by registration statement number, or the form or schedule and the date of its filing.

(1) Amount Previously Paid:

(2) Form, Schedule or Registration Statement No.:

(3) Filing Party:

(4) Date Filed:

On February 2, 2009, Exelon began using the following slides at the Credit Suisse 2009 Energy Summit in discussions with investors:

Exelon
+
NRG:
Committed,
Moving
Forward
William A. Von Hoene, Jr.

Executive Vice President and
General Counsel
Credit Suisse 2009 Energy Summit
February 2-3, 2009

Important Information

This presentation relates to the offer (the Offer) by Exelon Corporation (Exelon) through its direct wholly-owned subsidiary Exelon Xchange Corporation (Xchange), to

exchange
each
issued
and
outstanding
share
of
common
stock
(the
NRG
shares)
of
NRG
Energy,
Inc.
(NRG)
for
0.485
of
a
share
of
Exelon
common
stock.

This
presentation
is
for
informational
purposes
only
and
does
not

constitute an offer to exchange, or a solicitation of an offer to exchange, NRG shares, nor is it a substitute for the Tender Offer
Statement
on
Schedule
TO
or
the
Prospectus/Offer
to
Exchange
included
in
the
Registration

Statement

on

Form

S-4

(Reg.

No.

333-

155278) (including the Letter of Transmittal and related documents and as amended from time to time, the Exchange Offer Documents)

previously

filed

by

Exelon

and

Xchange

with

the

Securities

and

Exchange

Commission

(the

SEC).

The

Offer

is

made

only

through

the

Exchange

Offer

Documents.

Investors

and

security

holders

are

urged

to

read

these

documents

and

other

relevant

materials as they become available, because they will contain important information.

Exelon expects to file a proxy statement on Schedule 14A and other relevant documents with the SEC in connection with the solicitation of proxies (the NRG Meeting Proxy Statement) for the 2009 annual meeting of NRG stockholders (the NRG M

Exelon will also file a proxy statement on Schedule 14A and other relevant documents with the SEC in connection with its

solicitation of proxies for a meeting of Exelon shareholders (the Exelon Meeting) to be called in order to approve the issuance of shares of Exelon common stock pursuant to the Offer (the Exelon Meeting Proxy Statement) Investors and security holders are urged to read the NRG Meeting Proxy Statement and the Exelon Meeting Proxy Statement and other relevant materials as they become available, because they will contain important information.

Investors and security holders can obtain copies of the materials described above (and all other related documents filed with the SEC) at no charge on the SEC's website: www.sec.gov. Copies can also be obtained at no charge by directing a request for such materials to Innisfree M&A Incorporated, 501 Madison Avenue, 20th Floor, New York, New York 10022, toll free at 1-877-75

Investors
and
security
holders
may
also
read
and
copy
any
reports,
statements
and
other
information
filed
by
Exelon,
Xchange
or

NRG with the SEC, at the SEC public reference room at 100 F Street, N.E., Washington, D.C. 20549. Please call the SEC at 1-800-333-0330 or visit the SEC's website for further information on its public reference room.

Exelon, Xchange and the individuals to be nominated by Exelon for election to NRG's Board of Directors will be participants in the solicitation of proxies from NRG stockholders for the NRG Meeting or any adjournment or postponement thereof. Exelon and

Xchange
will
be
participants
in
the
solicitation
of
proxies
from
Exelon
shareholders
for
the
Exelon
Meeting
or
any
adjournment

or
postponement
thereof.

In
addition,
certain
directors
and
executive
officers
of
Exelon
and
Xchange
may
solicit
proxies
for
the
Exelon

Meeting and the NRG Meeting. Information about Exelon and Exelon's directors and executive officers is available in Exelon's

statement, dated March 20, 2008, filed with the SEC in connection with Exelon's 2008 annual meeting of shareholders. Information

about

Xchange

and

Xchange's

directors

and

executive

officers

is

available

in

Schedule

II

to

the

Prospectus/Offer

to

Exchange.

Information

about

any

other

participants

will

be

included

in

the

NRG
Meeting
Proxy
Statement
or
the
Exelon
Meeting
Proxy
Statement, as applicable.
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Forward-Looking Statements

This presentation includes forward-looking statements. These forward-looking statements include, for example, statements regarding benefits of the proposed merger, integration plans and expected synergies. There are a number of risks and uncertainties that could cause actual results to differ materially from the forward-looking statements made herein. The factors that could cause actual results to differ materially from these forward-looking statements include Exelon's ability to achieve the synergies contemplated by the proposed transaction, Exelon's ability to

promptly and effectively integrate the businesses of NRG and Exelon, and the timing to consummate the proposed transaction and obtain required regulatory approvals as well as those discussed in (1) Exelon's 2007 Annual Report on Form 10-K in (a) ITEM 1A. Risk Factors, (b) ITEM 7. Management's Discussion and Analysis of Financial Condition and Results of Operations and (c) ITEM 8. Financial Statements and Supplementary Data: Note 19; (2) Exelon's Third Quarter 2008 Quarterly Report on Form 10-Q in (a) Part II, Other Information, ITEM 1A. Risk Factors and (b) Part

I,
Financial
Information,
ITEM

1.
Financial
Statements:
Note

12;
(3)
Exelon's
preliminary

prospectus/offer to exchange that is contained in the Registration Statement on Form S-4 (Reg. No. 333-155278) that Exelon has filed with the SEC in connection with the offer; and (4) other factors discussed in Exelon's filings with the SEC. Readers are cautioned not to place undue reliance on these forward-looking statements, which apply only as of the date of this filing. Exelon does not undertake any obligation to publicly release any revision to its forward-looking statements to reflect events or circumstances after the date of this filing, except as required by law.

Statements made in connection with the exchange offer are not subject to the safe harbor protections provided to forward-looking statements under the Private Securities Litigation Reform Act of 1995.

All information in this presentation concerning NRG, including its business, operations, and financial results, was obtained from public sources. While Exelon has no knowledge that any such information is inaccurate or incomplete, Exelon has not had the opportunity to verify any of that information.

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Full and Fair Offer

On November 12, 2014, Exelon launched an exchange offer for all of the outstanding shares of NRG common stock

Filed Form S-4 with the SEC

Fixed exchange ratio of 0.485 Exelon share for each NRG common share

Represents

a
37%
premium
to
the
October
17
NRG
closing
price
4
th
th

5

Committed to Execution

* Notice filing only

Q4 2008

Q2 2009

Q4 2009

Q3 2009

2/25: Exchange

Offer Expires

10/19:

Announce Offer

11/12:

Exchange Offer

Filed

Proxy Solicitation

NRG and Exelon

Shareholder

Meetings

Make Filings and Work to Secure Regulatory Approvals

(FERC, NRC, DOJ/FTC, PUCT, NYPS, PAPUC, CPUC, ICC*)

Expected

Transaction Close

Q1 2009

Receive Regulatory

Approvals

Strong Initial Exchange Offer Results

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As of January 6 , 45.6% of NRG shares had been tendered into the exchange offer

Many NRG shareholders have informed Exelon they want to

see meaningful discussions, and due diligence, sooner rather than later

NRG board and management appear not to have heard the message sent by the very large contingent of shareholders that have already tendered into our exchange offer

Exchange offer extended until February 25

Seeking highest possible level of NRG shareholder support to facilitate a negotiated transaction between Exelon and NRG
Initial tender results demonstrate strong support for an EXC / NRG combination

We remain committed to and are moving forward with the transaction
th
th

Moving Forward with Proxy Solicitation

Pursuing, and soliciting proxies for, two
shareholder actions at NRG annual meeting

Proposed an expansion of the NRG board from 12 to 19
directors

Nominated nine well-qualified, independent candidates who we believe will act in the best interest of NRG and the NRG shareholders

Encouraging NRG shareholders to support the proposed slate

Materials will be sent to NRG shareholders, including a proxy and instructions on how to vote for the slate of new directors

Vote will take place at the NRG annual shareholder meeting, likely to occur in May or June

NRG shareholders deserve independent, well-qualified NRG directors to act in their best interest

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Making Progress on Regulatory Approvals

Initial filings have been made with the following

(1)

:

FERC (Docket #EC09-32-000)

Hart-Scott-Rodino (DOJ/FTC)

Request for additional information was issued by the DOJ on January 16 , extending HSR waiting period

State regulatory commissions, including

Texas (Docket #36555)

New York (Docket #08 E 1486)

Filings will also be made with the following:

NRC

Pennsylvania and California state regulatory commissions

Various state siting
commissions

Notice filing in Illinois

1.

As of January 29, 2009

Regulatory hurdles are manageable

8

th

Financing Is Not an Obstacle

Believe we can obtain committed financing for the entire ~\$8 billion of NRG debt, if needed, at the appropriate time

Decision to defer commitments allows us to take advantage of

improving credit markets

Exelon's relationships with many of NRG's banks should facilitate arrangements for new credit facilities when current conflicts are eliminated

Believe a negotiated combination can be structured in a way to reduce refinancing requirements to \$4B or less

We believe that the contemplated structure would not trigger the change of control provision for NRG's \$4.7B of Senior Notes, and would substantially improve credit metrics for those bondholders

9

Reflecting our confidence that we can obtain committed financing at the appropriate time, our offer is not subject to a financing condition

Appendix
10

Full and generous price
upfront premium of 37%

Tax-free opportunity to participate in the future growth
of the largest and most diversified US power company,
with a substantially improved credit profile and access

to liquidity

Requisite scope, scale and financial strength

Stronger credit metrics and investment grade balance sheet

Best-in-class nuclear and fossil operations

Low-cost generator, operating in the most attractive markets

Exelon 2020 principles will be adapted to the combined fleet

Potential for substantial synergies

Manageable regulatory hurdles to close
Compelling Value for NRG Shareholders

11

Without
Premium
0
1,000
3,000
2,000
With

Premium

Conservative

DCF Estimate

Replacement

Costs

NRG Stock Value

NRG Long-Term Value

975

1,350

2,050

3,000+

Price per Kilowatt Comparison for Texas Baseload Generation

Even with premium, purchase

price is 66% of conservative

long-term DCF value

\$/kW values are for 5,325 MW of Texas baseload which includes Parish coal, Limestone and STP; values implied by NRG stock

are determined by subtracting value of other NRG assets from NRG

enterprise value based on October 17th close.

Exelon Unlocks NRG Value

Price

(\$/kilowatt)

12

Less than 45% of

replacement value

Combination Expected to Create
Substantial Synergies

Exelon

Operations & Maintenance:

\$4,289

Maintenance & Other Opex:

\$950

General & Admin Expenses:

\$309

Other COGS:

\$454

Pro Forma

Combined Non-fuel Expenses:

\$6,002

Estimated Annual Cost Savings:

\$180 -

\$300

% of Combined Expenses:

3%-5%

Costs to Achieve

\$100

NPV of Estimated Synergies:

\$1,500-\$3,000

13

(\$ in Millions)

Transaction

expected

to

create

\$1.5

\$3

billion

of

value

through

synergies

with

opportunity

for

more

Reflects no revenue or fuel cost synergies. Excludes transaction and other costs of \$654 million and excludes increased interest expense related to refinancing of NRG debt.

1. Company 10-K for 2007 and investor presentations.

2. Based on a preliminary analysis of publicly available information. Subject to due diligence investigation.

1

2

NRG

1

Market
capitalization as
of 10/17/2008
\$5.3 billion
\$0.4
Value to NRG
Shareholders

\$2.4 billion

\$5.1

\$2.0

Market cap as of
10/17/08

Premium to NRG

Value of estimated
synergies

Market cap as of
10/17/08

+ premium

+ synergies

Additional upside to
NRG shareholders

Market
capitalization as
of 10/17/2008

\$5.3 billion

(1)

(2)

\$7.7 billion

(3)

(4)

\$12.8 billion

NRG Shareholders Capture Value

14

Value Creation

to NRG

Shareholders

(\$ billions)

Creates compelling value for NRG shareholders today and allows them to
share in growth of Exelon stock.

Value to NRG

shareholders

44% of market cap

\$12.8 billion

= \$46.50 per NRG share

> NRG's 52-week high

Percent Contribution of Free Cash Flow

15

1. NRG's 12/1/2008 NRG's Path to Shareholder Value presentation, slide 4. Implied ownership based on a 0.485x exchange ratio

2. PECO PPA assumes market prices as of 11/30/2008. Assumes carbon at \$10-20 per tonne. Not necessarily representative of either company's internal forecast or indicative of results for any other year.

NRG states they contribute 30% of the free cash flow while getting 17% ownership of the pro-forma company based on offer