Energy Choice Matters

November 10, 2008

Reliant Energy to Unwind Large C&I Business

Reliant Energy gave its clearest indication yet it intends to completely exit the large C&I sector, saying it is in the process of winding down C&I sales during an earnings call Friday.

While Reliant had previously said it would reduce large C&I sales to lower collateral needs, in past presentations it has stopped short of saying it was leaving the sector entirely to focus on the mass market (Matters, 10/1/08). Now Reliant has said it could accelerate the wind down, or even pursue a sale of the large C&I business, to speed its collateral reduction efforts.

Reliant confirmed reports that it is not renewing current large C&I contracts, and that it is not seeking new business in the segment. As Reliant has previously disclosed, it's C&I strategy was predicated on the $0.40/MW capital cost embedded in the soon to be unwound Merrill Lynch credit sleeve. Executives disclosed on an analysts call that C&I margins are inadequate to cover collateral obligations without the sleeve.

Reliant reported a pre-tax loss from continuing operations of $1.6 billion for the quarter, which included $1.69 billion in net unrealized losses from energy derivatives. Year-ago results produced net income of $224 million.

Adjusted EBITDA was $239 million for the quarter, down from $443 million a year ago, due to retail losses from the impacts of Hurricane Ike. The hurricane lowered sales volumes, led to the sale of excess supply at a loss, and forced the cancellation of planned price increases, Reliant said.

Gross margin for Reliant's retail unit fell to $47 million in the quarter, down from $335 million a year ago. Contribution margin was negative $100 million, versus positive $206 million in last year's quarter. Mass market gross margin fell from $244 million to $30 million. C&I gross margin slid to negative $5 million from positive $101 million.

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NRG Hammers Exelon Bid as Opportunistic, Cites Risk from Exelon Management, Business Structure

NRG Energy's board unanimously rejected an unsolicited merger offer from Exelon, proclaiming that the proposal was "opportunistically timed," and "manifestly undervalues" NRG on both an absolute basis and relative to Exelon's share value. NRG CEO David Crane and Chairman Howard Cosgrove blasted the deal as too risky in a scathing letter to Exelon CEO John Rowe, which questioned Exelon's utility structure and cited Exelon's self-serving pursuit of carbon legislation.

Based on the proposed fixed exchange ratio of 0.485, NRG stockholders would own 17% of the combined company while contributing 30% of the combined company recurring cash flow in 2008, which NRG called a critical "inequity."

In Exelon's publicly announced offer, NRG accused Exelon of coming in, "with a lowball exchange ratio vastly below the price range you had mentioned in setting up the September 30th meeting."

The proposal is also highly conditional as Exelon has yet to obtain committed financing and has had its credit rating downgraded, NRG added, which presents real risks of non-consummation to NRG's shareholders.

In their letter to Rowe, Crane and Cosgrove said, "Your obvious difficulties on both the debt financing and credit rating front since your public bid supports our conclusion that, even apart from your proposal's substantial undervaluation of NRG, your proposal is so highly conditional that it has severe implementation risk for which NRG shareholders are in no way compensated. As to your November 3rd suggestion that we work together to secure bondholder consent, or some other

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Energy Savings Income Fund Grows by 55,000 Despite "Record" U.S. Churn

Energy Savings Income Fund said its 55,000 net customer additions during the quarter shows it has turned around its customer acquisition trends, even as it battles record attrition in the U.S.

Gross customer additions were a record 137,000. However, excluding Energy Savings' acquisition of CEG Energy Options' British Columbia book (Matters, 8/21/08), total gross customer additions were down by 3% in the current quarter versus the same period last year.

Gas attrition in the U.S. was particularly high at 33%, above the marketer's target of 20%. Energy Savings cited record home foreclosures in the U.S. which have led to utility disconnections, as well as actions filed by the Attorneys General of Illinois and New York (with the New York matter settled), for the churn. Energy Savings expects U.S. churn to remain above target levels for the foreseeable future given the current economic climate. While U.S. electricity attrition at 15% is currently below the target of 20%, the marketer believes that U.S. electricity attrition generally will be higher in coming quarters.

Energy Savings Income Fund Sales Volumes

	2Q09	2Q08
Natural gas (GJ)		
Canada	15,993,939	17,263,318
United States	1,585,258	1,310,420
Total gas	17,579,197	18,573,738
Electricity (MWh)		
Canada	1,435,337	1,599,709
United States	451,536	151,899
Total electricity	1,886,873	1,751,608

Energy Savings Income Fund Acquisition Costs

	YTD (Cdn$)	Target Fiscal 2009
Natural gas		
Canada	$1.97/GJ	
United States	$1.60/GJ	
Total gas	$1.73/GJ	$1.60/GJ
Electricity		
Canada	$17.03/MWh	
United States	$11.07/MWh	
Total electricity	$12.95/MWh	$14.25/MWh

Adjusted net income, excluding mark-to-market impacts, was Cdn$6.9 million, down from Cdn$8.4 million a year ago. On a GAAP basis, Energy Savings posted a net loss of Cdn$924 million, versus net income of Cdn$4.8 million a year ago, on Cdn$1 billion in negative mark-to-market impacts.

Seasonally adjusted gross margin was up 7% at Cdn$61.8 million. Adjustments only impact results from the Ontario, Manitoba and Quebec gas markets. Contracted future gross margin of underlying customer contracts and supply increased from Cdn$810.2 million to Cdn$856.5 million over the quarter.

Margin growth was attained through a 1% growth in gas volumes and 7% growth in electric volumes year-over-year, and through higher realized margins per customer. Gains were mitigated by impacts of Hurricane Ike in Texas, including loss of load and long supply positions.

In the U.S., sales for the second quarter were Cdn$78.9 million, an increase of 14% from Cdn$69.4 million in the prior year's quarter. U.S. gross margin was Cdn$9.7 million, up 41% from Cdn$6.9 million a year ago.

Gas sales in the U.S. increased 32% from Cdn$17.7 million to Cdn$23.3 million on a 21% increase in actual customer consumption and higher selling prices. U.S. gas margin increased 117% for the quarter to Cdn$3.2 million from Cdn$1.5 million.

U.S. electricity sales were up at Cdn$55.5 million versus Cdn$51.7 million a year ago. U.S. electric gross margin rose to Cdn$6.5 million from Cdn$5.4 million in the prior year's quarter. The increases were from higher average sales prices in Texas and significant improvements in profitability in New York. The results were mitigated by a Cdn$10.5 million loss from selling excess supply at lower prices due to Hurricane Ike, in addition to reduced volumes.

Bad debt across the company rose to Cdn$2.5 million from Cdn$760,000 a year ago.

Energy Savings continues to be on the lookout for acquisition opportunities, noting the current credit market turmoil could create potential acquisitions of customers at very attractive prices. The acquisition cost of the CEG deal was less than half the cost of new acquisitions through agents, Energy Savings said. Margins for the former CEG customers, however, are a bit lower than those of other

Energy Savings customers.

Marketing expenses, including commissions paid to independent sales contractors as well as an allocation of corporate marketing costs, rose to Cdn$17.3 million from Cdn$15.6 a year ago.

Energy Savings would not substantively comment on its corporate structure strategy given recent changes in financial regulations in Canada impacting Specified Investment Flow-through Entities, which will subject Energy Savings to taxes on distributions of certain income earned from investments in its subsidiaries, starting with the taxation year ending December 31, 2011.

BlueStar Given Seven Days to Amend ABC Complaint

BlueStar Energy Services has been given seven business days to state the nature of its interest in the violations of Illinois' ABC law alleged in its complaint against three brokers, or the complaint will be dismissed, an Illinois Commerce Commission ALJ ruled Friday (08-0364, Matters, 9/11/08).

As first reported in *Matters*, (Matters, 6/5/08), BlueStar filed a complaint against American Energy Solutions, Affiliated Power Purchasers International, and Lower Electric, alleging various violations of Illinois' 2007 ABC law. Although the ICC has not yet implemented rules for the law, the law contains a code of conduct that took effect on the law's effective date.

Part of the code requires ABCs to, "disclose in plain language in writing to all persons it solicits the total anticipated remuneration to be paid to it by any third party over the period of the proposed underlying customer contract," which is the main issue in BlueStar's complaint

The three brokers had moved to dismiss the complaint on various grounds, citing a lack of standing, a lack of stated interest, BlueStar's stated lack of knowledge about the complaint, the nature of the disputed promotional materials, and the premature nature of the complaint given the ICC's ongoing rulemaking to implement the ABC law.

The ALJ rejected all of those positions, except the brokers' argument that BlueStar failed to state its interest in the complaint, as required by ICC rules of practice. The rules of practice require, for any formal complaint, "a plain and concise statement of the nature of each complainant's interest and the acts or things done or omitted to be done in violation, or claimed to be in violation, of any statute." What is missing from the complaint, the ALJ said, is a statement of BlueStar's connection to the controversy -- that is, the interest that will impel BlueStar to affirmatively push this actual and specific controversy to resolution.

In choosing to file a complaint, rather than a petition for investigation, BlueStar assumed the burden of proof and persuasion assigned to a complainant, the ALJ said.

"Whereas an investigation petitioner urges the Commission to act in the public interest (as expressed by statutory enforcement), without further action by the petitioner, a complainant takes on the responsibility of convincing the Commission to act in the public interest. Accordingly, Rule 200.170(c) obliges complainants to state their interest in undertaking that task," the ALJ noted.

BlueStar, in a response, subsequently did state its interest in the complaint, arguing that as a competitor in the retail market it is impacted by the alleged marketing standard violations.

That interest would be enough for standing to pursue the complaint, the ALJ said. The relevant laws, "unquestionably reflect a preference for competitive retail electricity supply," the ALJ explained, reasoning that competitive supply is dependent upon the promotion of the "effectively competitive electricity market" mandated by law. Alternative retail electric suppliers and ABCs are essential components of that market, and when an ARES acts to protect its own interest as a supplier against misleading marketing practices of its competitors prohibited by law, it is thus advancing competition in the market, the ALJ said.

Had BlueStar stated its interest in the original complaint, the complaint would withstand the brokers' motion to dismiss. Since BlueStar omitted such a statement, the ALJ held that BlueStar has seven business days to amend its complaint to include such a statement; otherwise, the complaint will be dismissed.

Other arguments from brokers to dismiss the complaint were rejected by the ALJ. In terms of standing, the ABC law does not oblige a complainant to allege injury to itself in order to have standing under that statute, the ALJ said. While BlueStar expressly disclaimed personal knowledge of whether any violations of the ABC law occurred, the ALJ determined that such a statement does not compel dismissal of the complaint, as the Commission determines whether violations have actually occurred, and a complainant need only allege facts that, if true, would warrant a finding of violation.

The ALJ was not persuaded by arguments that the marketing materials cited by BlueStar, which lacked the required compensation disclosure, are not covered by the law because they are general, pre-contracting documents. To the extent the materials may qualify for certain exemptions from the remuneration disclosure, such a factual judgment cannot be made at this point in the proceeding and cannot be used to dismiss the complaint, the ALJ said.

Additionally, the ALJ noted that the law's disclosure requirement arises when an ABC "solicits" someone, and held that solicitation precedes contracting. Thus, even pre-contracting documents need to disclose the compensation the broker is to receive, the ALJ said.

"The very purpose of subsection 16-115C(e)(1) is to protect the solicited party from the impact of an undisclosed interest (remuneration) on the solicitor's message. Simply put, it would be senseless to provide such information - information that the legislature deems essential to the customer's decision to enter into the contract in the first place - after the contract is created," the ALJ said.

As to arguments the complaint is premature, the ALJ found that no rulemaking is necessary for the Commission to consider violations of, or impose the penalties in, the relevant subsection of the law. The law took effect on October 11, 2007, and the General Assembly did not order the Commission to promulgate rules implementing the code of conduct subsection.

Pa. Court Backs PUC on Met-Ed/ Penelec Rate Cap Petition

The Pennsylvania Commonwealth Court affirmed a PUC decision denying Met-Ed and Penelec's application to raise generation rates prior to their scheduled expiration on December 31, 2010, and also upheld the PUC's decision to include congestion costs in transmission rather than generation rates.

Met-Ed and Penelec, both subsidiaries of FirstEnergy, had sought to increase their generation rates in April 2006 due to rising costs of purchased power. Specifically, Met-Ed and Penelec had entered into long-term contracts for baseload Provider of Last Resort (PLR) power, but did not do so for peak power. Peak needs were met via a partial requirements agreement with affiliate FirstEnergy Solutions. However, when it became apparent that the cost of peak power would exceed the rate cap levels, FirstEnergy Solutions terminated the agreement, as was its right under the contract.

Met-Ed/Penelec petitioned for a generation rate increase based on the exception for "significant increases" in fuel or purchased power prices that are outside the control of the utility. However, the PUC denied the application, finding that the utilities failed to establish that the increases in the price of purchased power were outside of their control.

While Met-Ed/Penelec argued that it was not possible for them to enter into long-term contracts for peak load PLR power, the PUC found that that the utilities could have entered into a full requirements contract for both baseload and peak load needs, instead of a partial requirements contract with FirstEnergy Solutions. Thus, the utilities were subject to increased prices as a result of their own business decisions, the PUC ruled.

On appeal, Met-Ed/Penelec argued that the PUC lacked evidence in the record to find that any long-term full requirements contracts were available. However, the Court agreed with the PUC, citing testimony offered by Richard La Capra, for consumer advocates, that was in the record. La Capra testified that when Met-Ed and Penelec merged with FirstEnergy, their ability to obtain PLR supply was enhanced, due to FirstEnergy's generation ownership. Met-Ed and Penelec could have entered into long-term contracts with their affiliate generation companies to meet their PLR load at capped rates, as PECO, PPL and West Penn Power did, La Capra said.

"This credible testimony by La Capra constitutes substantial evidence to support the PUC's finding that the Utilities could have entered into long-term contracts for PLR power but, instead, made a business decision to enter into a short-term contract with affiliate FES, betting that the market price of power would not exceed the rate cap before the rate cap expired," the Court ruled.

The Court also denied an appeal from the Office of Consumer Advocate, which had argued that the PUC erred in placing congestion costs in the Transmission Service Charge (TSC) Rider. OCA contended that because a generation cost is associated with congestion on a transmission grid, congestion costs should be considered generation costs and be subject to generation rate caps.

The Court disagreed, finding that, "the cost of switching electric generators and the cost of upgrading transmission facilities are costs directly or indirectly incurred to provide transmission services to customers," and thus fall under "transmission and distribution costs" under the Competition Act.

Calpine Sees Higher Earnings from Texas Units

Calpine earnings in the third quarter fell to $136 million from $3.8 billion a year ago, as the prior year's income included reorganization benefits. Excluding last year's reorganization gains, on a pre-tax basis, Calpine net income improved to $54 million from a loss of $95 million a year ago.

Adjusted EBITDA was $593 million for the quarter, up 17% from a year ago, mostly from higher commodity margin. Higher market spark spreads and plant availability, together with prudent risk management following Hurricane Ike, boosted commodity margin $100 million year-over-year to $842 million. Texas commodity margin rose 62% from a year ago to $272 million. Commodity margin in the North was also lifted by higher spark spreads, growing from $79 million to $96 million year-over-year.

West commodity margin fell $40 million to $345 million on lower realized margins from hedged positions, as well as from the negative impact of natural gas held in storage given the decrease in gas prices. Southeast commodity margin decreased $6 million to $106 million on lower spark spreads.

During an earnings call, Calpine executives reported that they expect many new build generation projects to halt due to the current credit market.

Competitive Renewable Energy Zone development in ERCOT will be slower than initially thought, they added. Stakeholders in ERCOT are going to have to decide who will pay for ancillaries needed to firm wind, and whether wind will need to pay its own way, or whether end users will be allocated the costs. Either way, Calpine expects more revenue for more flexible generation due to the expansion of wind.

Edison Mission Earnings Flat

Earnings from continuing operations were flat at Edison Mission Group, inching to $208 million from $207 million in the year-ago quarter.

Higher gross margins at Homer City and Midwest Generation were offset by a $26 million charge related to hedge contracts with Lehman Brothers, lower interest income and other items.

Midwest Generation's all-in average realized price rose to $60.29/MWh from $54.08 a year ago. Average realized gross margin increased to $43.38/MWh from $40.20.

Coal fleet performance benefited from higher energy prices and capacity payments although operating costs were higher. Coal costs at Midwest Generation were also higher due largely to contract cost escalation and a contract rollover.

Given the current credit markets, Edison Mission is going into capital conservation mode, and will limit new construction to only those projects where financing is assured. The strategy will allow continued development of the IPP's 5,000 MW wind project pipeline, with focus on building projects that will deploy existing turbine commitments.

Edison Mission will also continue its solar development, and said it may find some good development opportunities in renewables or gas-fired generation as other market participants with less financial flexibility seek to unload partially developed projects or assets.

Edison Mission Marketing and Trading income was $46 million, up from $41 million a year ago.

Parent Edison International reported net income of $439 million, down from $461 a year ago.

Compressed Dark Spreads Trim Mirant Earnings

Adjusted EBITDA at Mirant fell in the third quarter to $278 million from $323 million a year ago, primarily from compressed dark spreads and their negative impact on Mid-Atlantic gross margins.

GAAP net income was $1.6 billion, versus $642 million a year ago, on $1.4 billion in unrealized hedging gains.

Mid-Atlantic realized gross margins fell to $311 million during the quarter from $345 million in the prior-year quarter. Northeast realized gross margins were down at $48 million from $77 million a year ago from the April shutdown of the Lovett unit and lower realized values from hedges. California gross margins were flat at $35 million.

Mirant still expects falling reserve margins to lead to higher heat rates, which should lead to higher capacity prices.

As fuel oil prices decline, Mirant expects some incremental pickup at its oil-fired units. The IPP is just now starting to see fuel oil get competitive with natural gas in New England, particularly in the wintertime months where there's a very large gas basis for delivery into the New England markets.

Shell Says Southern Co. Auction Needs More Sellers

A bid-based, day-ahead and hour-ahead energy auction for excess Southern Company generation needs to include third-party sellers to mitigate market power, Shell Energy North America said, while industrials sought to make sure the auction won't raise retail rates (ER09-88).

The auction would include all of Southern's available capacity, defined as all capacity owned or controlled by Southern, except capacity reasonably expected to serve retail and captive wholesale load, capacity needed for operating reserves and existing third-party sales, and capacity otherwise unavailable for dispatch.

The offered price of a given block would not exceed the sum of: (1) 110% of the mean of the average variable cost of each of the associated units operating at maximum load; (2) the combined commitment costs of those units; and (3) a FERC-approved demand charge, which Southern is proposing at a level of $21.43/MWh.

Shell raised concern about Southern being the only authorized seller in the auction, arguing more sellers ensure price discipline and price formation.

If the auction market is not reasonably liquid, buyers potentially would face pressure to enter into transactions with Southern outside of the auction process, at market-based rates, with Southern’s ability to exercise market power undiminished, Shell reasoned.

Although Southern proposed cost-based offer caps, Shell sees them as having little effect to mitigate market power. The auction's proposed uniform clearing price structure would allow Southern's resources to earn revenue significantly above their offer caps, Shell said.

A must-offer requirement also meant to deter market power would also have little value, Shell said, because Southern's available capacity is conditional on several factors, including the volume of capacity it would be unable to sell at market-based rates outside of the auction process.

If buyers do not have confidence in the availability of short-term power through the auction, they will face pressure to enter into transactions with Southern at market-based rates set outside the auction. "This is a self-reinforcing process, in which an increase in Southern's market-based transactions will further reduce liquidity in the 'Southern-only' auction and further degrade any potential of its auction to discipline market-based transactions," David DeRamus of Bates White said on behalf of Shell.

The Southeast Electricity Consumers Association, meanwhile, urged FERC to ensure that the auction will not expand beyond the scope specifically stated in Southern's filing. The industrial group is concerned that the auction will result in much higher wholesale market prices within the Southern Balancing Area Authority than there would otherwise be if Southern were not granted market-based rate authority within its balancing area.

Briefly:

Arizona Sets Retail Competition Workshop

The Arizona Corporation Commission has scheduled a workshop on retail electric competition for Nov. 14. Issues to be discussed are a review of retail electric competition in Arizona, discussion of whether retail electric competition is in the public interest, and discussion of potential risks and benefits of retail competition.

FERC Clarifies RSG Calculation

FERC on Friday clarified that there is no mismatch between the numerator and denominator in the current calculation of the Midwest ISO Revenue Sufficiency Guarantee charge, thus affirming that no under-recovery occurs. A previous Commission statement in a rehearing order erred, FERC said, by incorrectly stating that the divisor of the charge includes all virtual supply, rather than just virtual supply offered by market participants withdrawing energy (ER04-691-088). The order was limited to a MISO compliance filing and did not address any new RSG rate design.

FERC OKs CAISO Delay in CRR Load Migration Adjustment

FERC accepted the California ISO's proposal to postpone the adjustment of Congestion Revenue Right eligibility resulting from load migration until after the 2009 allocation process (Matters, 9/1/08). The delay is needed due to complications with the monthly load migration methodology.

ICC Names Statewide SmartGrid Facilitator

The Illinois Commerce Commission has selected Erich Gunther of EnerNex as the third-party facilitator for the Statewide Smart Grid Collaborative, which will include both Ameren and ComEd. ComEd also has as separate Smart Grid collaborative.

Pa. PUC Sets Another Wholesale Hearing

The Pennsylvania PUC has set a third hearing on wholesale electric markets for Dec. 18.

Reliant ... *from 1*

On a dollar per megawatt-hour basis, mass market gross margin was $3.59/MWh versus $27.41 a year ago. C&I gross margin fell to negative $0.43/MWh from positive $8.51 a year ago.

Selling and marketing expenses for the retail unit increased to $49 million from $34 million a year ago. Bad debt rose $1 million to $31 million.

Select Reliant Customer Data:

Electricity Sales to End-Use Retail Customers (GWh):	**3Q08**	**3Q07**
Mass:		
Residential:		
Houston	4,113	4,740
Non-Houston	2,692	2,774
Small Business:		
Houston	817	926
Non-Houston	450	467
Total Mass	8,072	8,907
Commercial & Industrial:		
ERCOT	9,768	10,491
Non-ERCOT	1,901	1,364
Total Commercial & Industrial	11,669	11,855
Market usage adjustments	47	12
Total	19,788	20,774

Weighted Average Retail Customer Count (thousands):	**3Q08**	**3Q07**
Mass:		
Residential:		
Houston	995	1,052
Non-Houston	552	571
Small Business:		
Houston	109	115
Non-Houston	40	37
Total Mass	1,696	1,775
Commercial & Industrial	89	91
Total	1,785	1,866

Total customer count dropped to 1.785 million from 1.866 million year-over-year, with a 79,000 customer loss in the mass market. The biggest decline came in the Houston-area residential count, falling 57,000 to 995,000. Non-Houston residential customers fell 19,000 to 552,000.

Small business customers in Houston fell 6,000 to 109,000, while small business customers outside of Houston grew 3,000 to 40,000. Large C&I customers fell 2,000 to 89,000.

Reliant is modifying its retail supply strategy to stabilize earnings, although it will result in higher expected supply costs over time. To reduce earnings variability, Reliant is undertaking several changes to its retail hedging approach, including matching supply and load by zone, buying flexible supply for volumes above two standard deviations in some months, reviewing energy sales in purchase contract language, and considering weather and additional gas hedges to mitigate extreme events. Reliant does not believe it will be able to pass the costs of such measures along to customers.

Open contribution margin from Reliant's wholesale unit, which excludes hedging impacts, fell to $234 million from $272 million a year ago on milder weather and higher coal prices. Open energy unit margin was $23.97/MWh in the quarter, down from $25.66 a year ago.

Reliant and Merrill Lynch have agreed to further extend the November 6 date for unwinding the credit sleeve to December 5.

NRG ... from 1

structural solution to keep the bonds in place, it would seem that your own experience over the past two weeks would have caused you to conclude that this credit environment is not the most opportune time to refinance all or a major portion of NRG's long-term debt."

"[W]e could not be more certain in our belief that your proposal is opportunistic, serving only as a means for Exelon to extract a severely disproportionate percentage of the current and future value of NRG and its assets from its rightful owners, NRG's shareholders, and transfer it to Exelon and its shareholders," Crane and Cosgrove said.

Crane also cited other risks, claiming NRG’s third quarter results exceeded expectations while Exelon's moved in the other direction.

Management is important, Crane asserted, noting, "Exelon itself is a very traditional utility holding company and your management team is made up of utility veterans and executives from other industries."

"Indeed, as best we can tell, we see no evidence of even a single senior executive at Exelon with any experience whatsoever working at a true competitive power generation company. As such, we have a serious concern as to whether Exelon Generation's current management is best suited to run NRG's assets," Crane said.

Referencing Exelon's commitment to maintain investment grade ratings of only BBB-/Baa3, Crane chided, "It is surprising to us, that in the wake of the rating downgrade-driven collapse of Constellation Energy, and the massive destruction of equity value which ensued, that any power industry professional would consider the lowest investment grade rung as a stable foundation to run a 48,000 MW merchant power company."

Crane fears NRG's growth prospects would be diluted at Exelon, or worse, "our growth prospects would be capital-starved (because of your preoccupation with the rating agencies and debt repayment) as well as being subject to the inherent shortcomings of utility holding company ownership."

"[W]e are unable to discern a track record of successful IPP development either at Exelon or its predecessor utilities," Crane said.

"From analyst reports, we discern that Exelon's growth prospects over the medium term are absolutely dependent on both government action to enact climate change legislation favorable to Exelon in its detail, and state government inaction during the roll off to full competition in Pennsylvania (2011) and Illinois (2013)."

"While we at NRG have great faith in the free market instincts of our public policy makers, we believe a prolonged period of economic distress is going to make it very difficult for public policymakers at all levels of government to put the interests of Exelon shareholders ahead of ratepaying voters. Yet, of even greater concern to us, is the threat to Exelon's expected financial benefit from federal carbon legislation. Your nuclear generation assets stand to be enormous beneficiaries of federal carbon legislation but we are very concerned that any financial upside derived by your generation business will be 'clawed back' by your states on the regulated side," Crane concluded.