

NRG ENERGY, INC.  
Form SC TO-T/A  
July 15, 2009

**UNITED STATES**  
**SECURITIES AND EXCHANGE COMMISSION**  
**Washington, D.C. 20549**

*Amendment No. 38*

*to*

**SCHEDULE TO**  
**(Rule 14d-100)**

Tender Offer Statement Under Section 14(d)(1) or 13(e)(1)  
of the Securities Exchange Act of 1934

**NRG Energy, Inc.**

(Name of Subject Company (Issuer))

**Exelon Corporation**

**Exelon Xchange Corporation**

(Name of Filing Persons (Offerors))

**Common Stock, par value \$0.01 per share**

(Title of Class of Securities)

**30161N101**

(CUSIP Number of Class of Securities)

**William A. Von Hoene, Jr.**

**Executive Vice President**

**Christopher M. Crane**

**President**

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**Exelon Corporation**

**10 South Dearborn Street**

**P.O. Box 805379**

**Chicago, Illinois 60603**

**800-483-3220**

(Names, addresses and telephone numbers of persons authorized to

receive notices and communications on behalf of filing persons)

**Exelon Xchange Corporation**

**10 South Dearborn Street**

**P.O. Box 805379**

**Chicago, Illinois 60603**

**800-483-3220**

**Copies to:**

**Thomas A. Cole**

**Frederick C. Lowinger**

**Richard W. Astle**

**Michael A. Gordon**

**Scott R. Williams**

**Sidley Austin LLP**

**One South Dearborn Street**

**Chicago, Illinois 60603**

**(312) 853-7000**

**CALCULATION OF FILING FEE**

Transaction Valuation<sup>(1)</sup>

Amount of Filing Fee<sup>(2)</sup>

\$6,813,251,397.96

\$275,439.96

- (1) The transaction value is estimated solely for purposes of calculating the filing fee pursuant to Rule 0-11(d). The value of the transaction was calculated as the product of (i) 289,187,241 (the sum of (a) 265,226,865 shares of NRG Energy, Inc. common stock, par value \$0.01 per share ( NRG common stock ) outstanding as of June 15, 2009 (as reported in the definitive proxy statement on Schedule 14A filed by NRG Energy, Inc. ( NRG ) in connection with its 2009 annual meeting of stockholders (the NRG Proxy Statement )), (b) 6,650,080 shares of NRG common stock issuable upon the exercise of options, warrants and

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rights outstanding as of June 15, 2009 (as reported in the NRG Proxy Statement), (c) 20,989,500 shares of NRG common stock issuable upon the conversion of shares of NRG 4.0% preferred stock outstanding as of June 15, 2009 (based on the number of shares of NRG 4.0% preferred stock outstanding reported in the NRG Proxy Statement) and (d) 8,321,796 shares of NRG common stock issuable upon the exercise or vesting of other equity awards outstanding as of June 15, 2009 (as reported in the NRG Proxy Statement), less the sum of (x) 1,000 shares of NRG common stock owned in the aggregate by Exelon Corporation and Exelon Xchange Corporation and (y) 12,000,000 shares of NRG common stock lent by subsidiaries of NRG to affiliates of Credit Suisse Group) and (ii) the average of the high and low sales prices of NRG common stock as reported on the New York Stock Exchange on June 26, 2009 (\$23.56).

- (2) Exelon previously paid a filing fee of \$249,470.37 to register 135,201,700 shares of its common stock in connection with the original filing of its Registration Statement on Form S-4 (File No. 333-155278) relating to the Offer (as defined below) on November 12, 2008. Since Exelon paid such filing fee, the filing fee rate increased from \$39.30 per \$1,000,000 of the estimated transaction value to \$55.80 per \$1,000,000 of the estimated transaction value. The filing fee set forth in the table above consists of (a) \$39.30 per \$1,000,000 of the first \$6,347,846,550.50 of the estimated transaction value and (b) \$55.80 per \$1,000,000 of the amount by which the estimated transaction value set forth in the table above exceeds \$6,347,846,550.50.

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

Amount Previously Paid:	\$275,439.96
Form or Registration No.:	Form S-4 (File No. 333-155278; \$249,470.37 paid with initial filing) and Amendment No. 35 to Schedule TO (\$25,969.59 paid with filing)
Filing Party:	Exelon Corporation
Dates Filed:	November 12, 2008 and July 2, 2009, respectively

Check the box if the filing relates solely to preliminary communications made before the commencement of a tender offer. Check the appropriate boxes below to designate any transactions to which the statement relates:

third-party tender offer subject to Rule 14d-1.

issuer tender offer subject to Rule 13e-4.

going-private transaction subject to Rule 13e-3.

amendment to Schedule 13D under Rule 13d-2.

Check the following box if the filing is a final amendment reporting the results of the tender offer:

**Items 1 through 11.**

This Amendment No. 38 to Tender Offer Statement on Schedule TO (as amended, the Schedule TO ) amends and supplements the statement originally filed on November 12, 2008 by Exelon Corporation, a Pennsylvania corporation ( Exelon ), and Exelon Xchange Corporation, a Delaware corporation and a direct wholly-owned subsidiary of Exelon ( Exelon Xchange ). This Schedule TO relates to the offer by Exelon, through Exelon Xchange, to exchange for each of the issued and outstanding shares of common stock, par value \$0.01 per share (the NRG common stock ), of NRG Energy, Inc., a Delaware corporation ( NRG ), 0.545 of a share of Exelon common stock, without par value (the Exelon common stock ). The Offer (as defined below) is made on the terms and subject to the conditions contained in the prospectus/offer to exchange, dated November 12, 2008, as amended on December 23, 2008, January 23, 2009, March 9, 2009 and May 20, 2009, and related to the Offer (the Prospectus ), and in the related Letter of Transmittal (which, together as they may be amended, supplemented or modified from time to time, constitute the Offer ). Exelon also filed a registration statement on Form S-4 (File No. 333-155278) (the Registration Statement ) on November 12, 2008, as amended on December 23, 2008, January 23, 2009, March 9, 2009 and May 20, 2009, relating to the Offer, of which the Prospectus forms a part. The terms and conditions of the Offer are set forth in the Prospectus and the related Letter of Transmittal, which are set forth as Exhibits (a)(4) and (a)(1)(A) hereto, respectively.

All information contained in the Prospectus and the Letter of Transmittal, and any prospectus supplement or any other supplement thereto related to the Offer, is hereby expressly incorporated herein by reference with respect to Items 1 through 11, except that such information is amended and supplemented to the extent specifically provided herein.

**Item 10. Financial Statements.**

Not applicable.

**Item 11. Additional Information.**

Not applicable.

**Item 12. Exhibits.**

Item 12 is hereby amended and supplemented by adding the following:

Exhibit (a)(5)(OO) Press Release issued by Exelon, dated July 15, 2009 (Incorporated by reference to Exelon's Rule 425 filing on July 15, 2009)

<b>Exhibit Number</b>	<b>Description of Exhibits</b>
(a)(1)(A)	Letter of Transmittal (Incorporated by reference to Exelon's Registration Statement on Form S-4 filed on November 12, 2008)
(a)(1)(B)	Notice of Guaranteed Delivery (Incorporated by reference to Exelon's Registration Statement on Form S-4 filed on November 12, 2008)
(a)(1)(C)	Letter to Brokers, Dealers, Commercial Banks, Trust Companies and Other Nominees (Incorporated by reference to Exelon's Registration Statement on Form S-4 filed on November 12, 2008)
(a)(1)(D)	Letter to Clients to be Used by Brokers, Dealers, Commercial Banks, Trust Companies and Other Nominees (Incorporated by reference to Exelon's Registration Statement on Form S-4 filed on November 12, 2008)
(a)(1)(E)	Guidelines for Certification of Taxpayer Identification Number on Substitute Form W-9 (Incorporated by reference to Exelon's Registration Statement on Form S-4 filed on November 12, 2008)
(a)(1)(F)	Letter dated November 12, 2008 from John W. Rowe, Chairman and Chief Executive Officer of Exelon Corporation, addressed to stockholders of NRG Energy, Inc. (Incorporated by reference to Exelon's Registration Statement on Form S-4 filed on November 12, 2008)
(a)(2)	Not applicable.
(a)(3)	Not applicable.
(a)(4)	Prospectus/offer to exchange relating to Exelon common stock to be issued in the Offer (Incorporated by reference to Amendment No. 4 to Exelon's Registration Statement on Form S-4 filed on May 20, 2009)
(a)(5)(A)	Summary Advertisement (Incorporated by reference to Exelon's Registration Statement on Form S-4 filed on November 12, 2008)
(a)(5)(B)	Verified Complaint for Declaratory and Injunctive Relief, as filed with the Court of Chancery of the State of Delaware by Exelon and Exelon Xchange on November 11, 2008 (Previously filed on Amendment No. 1 to Tender Offer Statement on Schedule TO on November 12, 2008)
(a)(5)(C)	Press Release issued by Exelon, dated November 12, 2008 (Incorporated by reference to Exhibit 99.2 to Exelon's Current Report on Form 8-K filed on November 12, 2008)
(a)(5)(D)	Communication to Exelon's employees dated November 12, 2008, made available to Exelon's employees on November 14, 2008 (Previously filed on Amendment No. 2 to Tender Offer Statement on Schedule TO on November 14, 2008)
(a)(5)(E)	Press Release issued by Exelon, dated November 25, 2008 (Previously filed on Amendment No. 3 to Tender Offer Statement on Schedule TO on November 26, 2008)
(a)(5)(F)	Presentation for Investor Meetings, December 2008, Exelon + NRG: A Compelling Opportunity for Value Creation (Previously filed on Amendment No. 4 to Tender Offer Statement on Schedule TO on December 2, 2008)
(a)(5)(G)	Presentation for Investor Meetings, December 2008, Exelon + NRG: A Compelling Opportunity for Value Creation (Previously filed on Amendment No. 5 to Tender Offer Statement on Schedule TO on December 15, 2008)
(a)(5)(H)	Press Release issued by Exelon, dated December 18, 2008 (Previously filed on Amendment No. 6 to Tender Offer Statement on Schedule TO on December 18, 2008)
(a)(5)(I)	Application of Exelon Corporation under Section 203 of the Federal Power Act, dated December 18, 2008 (Previously filed on Amendment No. 7 to Tender Offer Statement on Schedule TO on December 22, 2008)
(a)(5)(J)	NRG Acquisition update sent to Exelon employees on December 22, 2008 (Previously filed on Amendment No. 8 to Tender Offer Statement on Schedule TO on December 23, 2008)
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(a)(5)(L)	Letter sent to NRG shareholders on January 5, 2009 (Previously filed on Amendment No. 11 to Tender Offer Statement on Schedule TO on January 5, 2009)
(a)(5)(M)	Press Release issued by Exelon, dated January 7, 2009 (Previously filed on Amendment No. 12 to Tender Offer Statement on Schedule TO on January 7, 2009)
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(a)(5)(P)	Press Release issued by Exelon, dated January 30, 2009 (Previously filed on Amendment No. 16 to Tender Offer Statement on Schedule TO on January 30, 2009)
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(a)(5)(R)	Presentation for Credit Suisse 2009 Energy Summit, February 2-3, 2009, Exelon & NRG: Committed, Moving Forward (Previously filed on Amendment No. 17 to Tender Offer Statement on Schedule TO on February 2, 2009)
(a)(5)(S)	Presentation for Investor Meetings, February 2009, Exelon & NRG: Committed, Moving Forward (Previously filed on Amendment No. 18 to Schedule TO on February 10, 2009)
(a)(5)(T)	Letter from counsel to NRG to the U.S. Nuclear Regulatory Commission dated February 4, 2009 (Previously filed on Amendment No. 19 to Tender Offer Statement on Schedule TO on February 11, 2009)

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- (a)(5)(U) Letter from counsel to Exelon to the U.S. Nuclear Regulatory Commission dated February 10, 2009 (Previously filed on Amendment No. 19 to Tender Offer Statement on Schedule TO on February 11, 2009)
- (a)(5)(V) Press Release issued by Exelon, dated February 26, 2009 (Previously filed on Amendment No. 20 to Tender Offer Statement on Schedule TO on February 26, 2009)
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- (a)(5)(AA) Earnings release issued by Exelon on April 23, 2009 and excerpts from transcript of earnings teleconference held on April 23, 2009 (Previously filed on Amendment No. 28 to Tender Offer Statement on Schedule TO on April 23, 2009)
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- (b) Not applicable.
- (d) Not applicable.
- (g) Not applicable.
- (h) Opinion of Sidley Austin LLP (regarding certain tax matters) (Incorporated by reference to Exelon's Registration Statement on Form S-4 filed on November 12, 2008)

### Item 13. Information Required by Schedule 13E-3.

Not Applicable.



**SIGNATURE**

After due inquiry and to the best of the knowledge and belief of the undersigned, the undersigned hereby certifies that the information set forth in this Schedule TO is true, complete and correct.

Dated July 15, 2009

**EXELON CORPORATION**

By: /s/ William A. Von Hoene, Jr.  
Name: William A. Von Hoene, Jr.

Title: Executive Vice President, Finance and Legal

**EXELON XCHANGE CORPORATION**

By: /s/ William A. Von Hoene, Jr.  
Name: William A. Von Hoene, Jr.

Title: Executive Vice President

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