

**Testimony of James P. Malone  
Vice President, Nuclear Fuels  
Exelon Generation Company, LLC**

**Before the  
Committee on Energy and Natural Resources  
United States Senate**

**March 5, 2008**

Mr. Chairman and Members of the Committee:

I am James Malone, Vice President, Nuclear Fuels at Exelon Generation Company, LLC. Exelon is honored to address the committee on the subject of the Russian Suspension Agreement (RSA).

In my testimony today, I want to stress the need for a fair and open market for nuclear fuel supplies. Such a market is an essential prerequisite for our industry.

Exelon Generation is the largest owner and operator of commercial nuclear power plants in the United States. We have 17 reactors at 10 sites in Illinois, Pennsylvania and New Jersey. Our total net nuclear generating capacity is 17,649 megawatts.

Exelon's nuclear fleet produced a record of 132.3 million net megawatt-hours of electricity in 2007. The fleet also achieved an average capacity factor of 94.5 percent, the seventh year in a row the capacity factor was greater than 92 percent.

While producing this record output, the plants prevented 121 million metric tons of carbon dioxide emissions by eliminating the need for an equivalent amount of coal-based generation. When compared with natural gas generation, Exelon Nuclear prevented the release of 63 million metric tons of carbon dioxide. The carbon avoided by the Exelon Nuclear fleet in 2007 is equivalent to the emissions of more than 23 million passenger cars, nearly double the number of cars in Illinois, Pennsylvania and New Jersey combined.

The environmental and economic benefits of Exelon Nuclear's operations are significant. To continue to provide our customers with a clean, safe and economic source of electricity, we must have reliable and economic fuel supplies. Exelon Nuclear is a merchant generator, which means we have no captive customers and sell our electricity in the competitive wholesale market. We sell our output via Exelon's Power Team, primarily into the PJM market, which serves 51 million people in 13 states. Competition makes us work very hard to maintain high performance. We focus on safety, high quality workmanship, personal responsibility and accountability for our actions. At Exelon we believe that our core values are the reason for our success.

I mention those values in the hope that the Committee will agree that competition can provide the incentive for any participant to achieve excellent performance and to rely on sustaining that performance to provide the basis for continued success. Fair and open competition does not favor one competitor over another. All have an equal chance and are judged by their performance. Markets reward high performers.

Each year Exelon consumes between 8.5 and 10 million pounds of uranium. We also require 2.5 to 3 million separative work units (SWU) – a unit of enriching services – each year. Needless to say, those quantities are significant and represent about 20 percent of the United States’ annual requirements for nuclear fuel.

Just as we believe in competitive wholesale electricity markets, we also believe in competition among our fuel suppliers. Exelon is a large customer of both USEC and LES. We are working to reach agreement on terms and conditions with both Global Laser Enrichment (GLE) and Areva for enrichment services from their proposed U.S. plants. The negotiating process can be protracted, but we hope that we will be able to reach mutually agreeable terms with both suppliers.

In his prepared testimony, Mr. Fertel of NEI detailed the quantity of 2014 enriching services represented by the proposed new build in the U.S. Each of the four facilities has an initial nameplate capacity of about 3.5 million SWU per year, while U.S. annual demand is about 14.4 million SWU per year. Exelon could choose to sign a contract with a single supplier and ask for terms that reflect the importance to that supplier of having a baseload customer that consumes about 85 percent of its output. That may sound appealing on the surface, but it would not be prudent risk management on either side of the deal.

In light of Exelon’s annual nuclear fuel needs, it is important for us to pay particular attention to risk management. We employ a rigorous process to assure that we manage risk in a balanced and informed manner. Risk can manifest itself in many ways. We must manage financial risk, political risk, transportation risk, environmental risk – including adverse weather, and operations risk. Diverse sources of supply are a necessity when the risk portfolio is as broad as it is in the worldwide nuclear fuel market.

We also believe that markets must operate fairly and equitably. Establishing barriers can appear to be a short-term solution to a difficult problem, but eventually the laws of economics will prevail. Thus we support the recently-signed amendment to the Russian Suspension Agreement. The purpose of the amendment is to open the U.S. market to commercial SWU from Russia. In other words, it seeks to add an additional competitor to the market. The importance of the amendment lies in the incremental manner in which Russian origin commercial SWU is increased over time, especially recognizing the end date of the HEU agreement.

Currently the HEU agreement provides about 5.5 million SWU per year to the U.S., meeting roughly half of the U.S. demand. This SWU is delivered to USEC and they use it to fulfill delivery commitments under their contracts. This is a very important non-proliferation program and Exelon is pleased to work with USEC to achieve the goals of the HEU blend down program.

Thus far, Exelon has loaded the enriching services component of over 5,000 Russian weapons into its reactors. The threat represented by those weapons has been permanently eliminated. The HEU program will have achieved its goal of eliminating about 20,000 Russian weapons by the end of 2013 and at that time there will be a drop in the supply of SWU available to the U.S. market. Recognizing that the supply of material from the HEU agreement will end at that point, Exelon is working hard to diversify our SWU supply base.

As we progress through the negotiating process with Areva and GLE, it is becoming more evident that there is a need to improve certainty on both sides. Suppliers need stability and predictability in order to obtain the financing required to establish the new facilities. Consumers need stability in order to have reasonably predictable future prices. Exelon recognizes the importance of this issue to both sides. Observers have been surprised when Exelon points out that we believe that our suppliers must be in a position to profit from their investments. We do not believe, for example, that a return of uranium prices to the very low levels seen earlier this decade would be in the industry's long-term interest. The uranium sector needs the ability to explore for and develop new ore bodies in order to assure supply for their customers.

Similarly, Exelon believes that it is important for the enriching services market to be stable and predictable. Efforts to expand enriching capacity in the U.S. could be stymied if the Nuclear Regulatory Commission's review of any proposed facility is limited in its "need" assessment under the National Environmental Policy Act (NEPA) to consider only whether there is a need to meet domestic, as opposed to world, requirements. The SWU market is truly international and the U.S. would further its non-proliferation goals more readily if the definition of need were expanded to include contracts signed by non-U.S. consumers for U.S. production. Capping U.S. production capability at the level of domestic consumption is a recipe for instability that could drive customers overseas and encourage other countries to build enrichment capacity.

Exelon believes that a new government-to-government agreement between the United States and Russia can form the basis for a stable and predictable supply of enriching services from Russia to the U.S. The language could be, in large part, that which is already in the Russian Suspension Agreement. Exelon also believes that the NEI membership can support such an agreement despite the fact that many of its members believe that SWU, as a service, should not be limited. NEI has already accomplished what many thought could not be done by working with its membership

and the Department of Energy to establish mutually agreed upon terms under which DOE uranium could enter the market.

Market participants are willing to cooperate to reach an agreement that will lead to market stability and adequate supplies of enriching services. Exelon stands ready to work with consumers, producers, the non-proliferation community and others to develop a proposal that could serve as the basis for a government-to-government agreement that will accomplish to goals of all stakeholders.

On behalf of Exelon, I appreciate the opportunity to address the Committee and would be happy to answer any questions you may have.