



**The District of Columbia Government
Board of Ethics and Government Accountability**

Final Periodic Audit Report on Exelon

January 2016

Lobbyist Activity Report

July 1, 2015 through December 31, 2015

December 2016

Office of Government Ethics

BACKGROUND

Exelon Corporation (“Exelon”) is registered with the Director of Government Ethics (“Director”) pursuant to D.C. Official Code §§ 1-1162.27(a) and 1-1162.29(a). Exelon registered on January 14, 2015 to lobby the District of Columbia government regarding matters affecting the energy industry and the Exelon-PHI merger during the 2015 calendar year. Exelon retained the services of Manatt, Phelps & Phillips LLP (“Manatt”) and Earle C. Horton III in that regard.¹ On January 8, 2016, Exelon filed a January 2016 Lobbyist Activity Report (“LAR”) reflecting lobbying activities performed for the period July 1, 2015 through December 31, 2015. In the January 8, 2016 LAR, Exelon did not disclose any communication (written or oral) with any official in the executive or legislative branch during the applicable reporting period with respect to lobbying activities. However, Exelon filed an amendment to its January 2016 LAR to reflect communications made by the Retail Energy Supply Association (“RESA”) on behalf of Exelon.²

On February 18, 2016, the Director of Government Ethics, Darrin Sobin, issued an Audit Notification letter to Exelon and requested records to substantiate information disclosed on its January 2016 LAR. Exelon responded that it did not engage in any lobbying activities in the District of Columbia during the six months prior to the filing deadline. On March 4, 2016, in response to the Audit Notification letter, Exelon provided a copy of a \$2,750 invoice from RESA, along with a cancelled check, which was paid to RESA for lobbying activities conducted from July 1, 2015 through December 31, 2015 on Exelon’s behalf. According to Exelon, the \$2,750 payment to RESA represented Exelon’s portion of a RESA invoice to Exelon for the cost of a “District of Columbia lobbying special project.” On December 9, 2015 and December 16, 2015, RESA had email communications with two government officials.³ It was not clear whether this subject matter was a part of the “District of Columbia lobbying special project” for which Exelon compensated RESA. Under the District’s lobbyist registration requirement, any person or entity who receives compensation or expends funds in an amount of \$250 or more in any three consecutive calendar month period for lobbying is required to register with the Director of Government Ethics.³ Those registrants are required to file bi-annual reports detailing their lobbying activities.⁴

On October 25, 2016, OGE issued a Statement of Findings (Draft Audit Report) to Exelon which presented OGE’s audit findings and recommendations. OGE recommended that Exelon should describe in detail the nature and purpose of lobbying activities RESA performed on behalf of Exelon and also include details of any official in the executive or legislative branch that RESA had made direct communications with, whether (oral or written) during this reporting period. OGE also recommended that Exelon amend its LAR to provide further clarification as to the specific matters for which it lobbied the District and also include any person or entity that Exelon paid to lobby the District on its behalf for those specific matters.

¹ Exelon filed an amendment to its January 8, 2016 LAR on November 7, 2016 to include Retail Energy Supply Association (RESA) as one of its lobbyists.

² Specifically, on December 9, 2015 and December 16, 2015, RESA made direct email communications with the Legislative Director for Councilmember Mary Cheh, Nicole Rentz regarding the Solar Energy Amendment Act of 2015. Similarly, on December 10, 2015, RESA had made email communications with Councilmember Mary Cheh regarding the same Solar Energy Amendment Act of 2015.

³ See D.C. Official Code § 1-1162.27(a).

⁴ See D.C. Official Code § 1-1162.30(a).

On November 7, 2016, Exelon provided a response to OGE's Statement of Findings and the Director's letter.⁵ Exelon stated that "RESA – on behalf of the RESA Association and not specifically on behalf of Exelon conducted email communications regarding the Solar Energy Amendment Act of 2015 with Councilmember M. Cheh and the Legislative Director for Councilmember M.Cheh, N. Rentz [Nicole]." Exelon also noted it amended its 2015 Lobbyist Registration Form to include RESA as its lobbyist and its January 2016 Lobbyist Activity Report to provide further clarification of the activities performed by RESA.

OGE's review of the financial records provided by Exelon corroborate the information provided on its activity report. On its Schedule A portion of the Lobbyist Activity Report, Exelon disclosed a total of \$2,750 compensation made to RESA for this period which is supported by the invoice and cancelled check presented.

OBJECTIVE

The Office of Government Ethics' objective is to determine the extent to which Exelon is able to demonstrate compliance with the Ethics Act by providing documentation to support information disclosed on its January 2016 Lobbyist Activity Report filed with the Director of Government Ethics.

SCOPE

The audit procedures performed included examination of source documents and reports filed with the Director of Government Ethics in order to verify the following:

- i. Mathematical accuracy of the lobbyist activity report during the period audited;
- ii. Amount of income reported for lobbying activities;
- iii. Total reported receipts and expenditures and individual transactions;
- iv. Proper categorization of the receipts and expenditures of the filer/registrant- who may be a lobbyist, lobbying entity, or client; and
- v. Other review procedures as deemed necessary under the circumstances.

⁵ The November 7, 2016 letter is available at the Board of Ethics and Government Accountability Office.