

April 15, 2019

**Via Overnight Mail and Email**

The Honorable Joseph L. Fiordaliso  
President, NJ Board of Public Utilities  
44 S. Clinton Avenue  
Trenton, New Jersey 08625

The Honorable Mary-Anna Holden  
Commissioner, NJ Board of Public Utilities  
44 S. Clinton Avenue  
Trenton, New Jersey 08625

The Honorable Dianne Solomon  
Commissioner, NJ Board of Public Utilities  
44 S. Clinton Avenue  
Trenton, New Jersey 08625

The Honorable Upendra J. Chivukula  
Commissioner, NJ Board of Public Utilities  
44 S. Clinton Avenue  
Trenton, New Jersey 08625

The Honorable Robert M. Gordon  
Commissioner, NJ Board of Public Utilities  
44 S. Clinton Avenue  
Trenton, New Jersey 08625

**Re: I/M/O the Implementation of L. 2018, c. 16 Regarding the Establishment of a  
Zero Emission Certificate Program for Nuclear Power Plants  
BPU Docket No.: EO18080899**

**Demand for Release of the Board's Expert Levitan Report Assessing  
the Need for ZEC Subsidies to PSEG**

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Dear President Fiordaliso and Honorable Commissioners:

This letter is respectfully submitted on behalf of the below-listed stakeholder groups which each have a distinct and vital interest in the Zero Emission Certificate ("ZEC") subsidy proceeding now pending before the Board and due to be decided by it at its Board meeting this upcoming Thursday, April 18. Public Service Electric and Gas Company ("PSEG") is seeking nearly \$1.2 billion of hard-earned ratepayer subsidies in the first round to subsidize the costs of operation of its three New Jersey-based nuclear plants.

We believe the plants are highly profitable, are projected to be in the future, and that no subsidy can be reasonably justified except as a windfall handout to PSEG that will have the primary effect of benefitting its stockholders.

The independent expert reports submitted to the Board are in agreement and have each concluded that the plants are profitable, do not meet the statutory legal standard for a financial subsidy in any amount, and that they should not be awarded a single dollar of ratepayer-funded subsidy. For example, the report submitted by the unaffiliated Independent Market Monitor (“IMM”) concludes that “. . . none of the units meets the standard for a subsidy under the ZECs program. The nuclear power plants are expected to fully cover their costs and risks.” See IMM Report, dated January 31, 2019, at p. 5 (redacted version). Moreover, the report submitted by the consultant for the independent Ratepayer Advocate concluded that the Applicants (PSEG Nuclear LLC and Exelon Generation Company LLC), “have failed to meet their burden of showing that the financial condition of these plants will force them to close.” See Comments, Ratepayer Advocate, dated January 31, 2019, at p. 3 (redacted version).

Finally, the PJM Power Providers Group (“P3”), a participant in this matter, submitted an expert report concluding that the plants are profitable for the foreseeable future and that no subsidy is justified under the statutory criteria. Specifically, P3’s expert found that the projected New Jersey nuclear unit revenues “exceed their going forward/avoidable costs and that they will not shut down under any circumstances .... There are projected to be significant contributions to returns and there is no incentive for the New Jersey nuclear units to retire. Based on publicly available data and reasonable assumptions about the market, the New Jersey nuclear units are highly profitable through 2023 and face no imminent threat of retirement.” See P3 Comments, dated January 31, 2019, and attached report of Dr. Sotkiewicz at ¶57.

In addition to the IMM and the Ratepayer Advocate, the Board itself commissioned a third independent consultant, Richard Levitan, an economist with vast experience in assessing forward power markets, to undertake an independent, nonpartisan assessment as to whether the PSEG nuclear plants are entitled to any portion of a ZEC subsidy based on the statutory factors. To date, that report has not been released to any of the parties or participants, including even the Ratepayer Advocate, or to the public in any form, unredacted or redacted.

When the Governor signed the ZEC subsidy legislation into law, he promised not a guaranty of an award but a transparent process that would assess whether a subsidy was warranted based on a detailed review of the neutral financial and operational facts. Two truly and unassailable independent parties - the IMM and the Ratepayer Advocate - have concluded no subsidy in any amount is justified due to the profitability of the plants now and as projected during the statutory window for justifying a subsidy.

The Board is scheduled to announce its ZEC subsidy decision this Thursday, April 18. As of yet, the Levitan report, commissioned by a public body and paid for by public dollars, remains a secret. There has been no opportunity for any member of the public, or even the parties and participants in the proceeding, to review and comment on the independent Levitan report. This is contrary to the meaning and certainly the spirit of the transparent process promised by the Governor and the Board.

We, the undersigned, the representatives of ratepayers, seniors, customers, the environment, competitors and businesses that would be so severely and adversely affected by a

decision to award PSEG an unjustified and factually unsupported ratepayer-funded windfall, call upon the Board to immediately release the Levitan report and its conclusions in redacted form so that the basis, evaluation of PSEG's application and conclusions of this independent report can be shared with and evaluated by the public in advance of the Board's consideration of PSEG's ZEC subsidy application on April 18. Any delay in the release of this document will do violence to the transparent, objective process promised to the public by the Governor and the Board, and it will undermine the integrity of any decision, regardless of the result, if the Board relies on secret facts to support its decision.

We thank you for your consideration of the foregoing.

Respectfully submitted,

AARP NEW JERSEY STATE OFFICE

By: s/ Evelyn Liebman  
Evelyn Liebman  
NJ Director of Advocacy

Dated: April 15, 2019

ENVIRONMENT NEW JERSEY

By: s/ Doug O'Malley  
Doug O'Malley, Director

Dated: April 15, 2019

NJ MAIN STREET ALLIANCE

By: s/ Rajpal S. Bath  
Rajpal S. Bath, Business  
Representative

Dated: April 15, 2019

NEW JERSEY LARGE ENERGY USERS  
COALITION

By: s/ Steven S. Goldenberg  
Steven S. Goldenberg, Esq.

Dated: April 15, 2019

CHEMISTRY COUNCIL OF  
NEW JERSEY

By: s/ Dennis Hart  
Dennis Hart, Executive Director

Dated: April 15, 2019

NEW JERSEY PETROLEUM COUNCIL

By: s/ James E. Benton  
James E. Benton, Executive Director

Dated: April 15, 2019

PJM POWER PROVIDERS GROUP

By: s/ Glen Thomas  
Glen Thomas, President P3

Dated: April 15, 2019

cc: Honorable Phil Murphy (*via overnight mail*)  
George Helmy, Chief of Staff - Office of the Governor of New Jersey (*via email and overnight mail*)  
Kathleen Frangione, Chief Policy Advisor - Office of the Governor of New Jersey (*via email and overnight mail*)