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April 16, 2019

VIA ELECTRONIC DELIVERY & OVERNIGHT MAIL

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
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The Honorable Dianne Solomon
Commissioner, NJ Board of Public Utilities
44 S. Clinton Avenue
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The Honorable Upendra J. Chivukula
Commissioner, NJ Board of Public Utilities
44 S. Clinton Avenue
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The Honorable Robert M. Gordon
Commissioner, NJ Board of Public Utilities
44 S. Clinton Avenue
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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

Re: Release of the Levitan and Associates Materials

Dear President Fiordaliso and Honorable Commissioners:

On April 15, 2019, certain groups claiming an interest in this matter filed a letter seeking to have made public a “Levitan report” supposedly prepared in connection with PSEG’s applications seeking Zero Emission Certificates (“ZECs”) to preserve the environmental and fuel diversity attributes of its Hope Creek, Salem 1, and Salem 2 nuclear plants. Please accept this letter as PSEG’s response.

First, while it is public knowledge that the Board has retained Levitan and Associates to advise it in this matter, PSEG is not aware of any particular “report” it has prepared of the nature described in the April 15th letter. If a report does in fact exist, it would appear that the groups filing the April 15th letter have information not available to the applicants. If so, this could be troubling from a process standpoint.

Second, PSEG is compelled to correct some of the fundamental, factually incorrect statements made in the April 15th letter, which appear to be constructed in an attempt to confuse the record in this proceeding. The letter wrongly contends that awarding ZECs to PSEG would impose additional costs on consumers. In fact, the opposite is true: granting ZECs will result in lower costs for electricity to residents in the State. The cost of the ZEC program is designed not to exceed more \$300M per year compared to projected cost increases of \$400M per year if the plants retire. The April 15th letter also wrongly describes the financial test established in the ZEC Act. The letter states that a “going forward

cost” standard is required, but this is wholly inconsistent with the ZEC Act and further not appropriate for nuclear plants. The ZEC law correctly recognizes that nuclear plants need to receive sufficient revenues to cover their costs and risks of operations and describes the categories of appropriate costs and risks in detail.¹ PSEG’s applications demonstrate that the plants readily meet this financial standard.

Third, the letter repeats the previously discredited claims of P3’s consultant that the plants “face no imminent threat of retirement” and insinuates that PSEG is not sincere regarding its intention to retire the plants if ZECs are not awarded. Nothing could be further from the truth. PSEG has been direct and transparent regarding its intentions. Although not required to do so by the ZEC Act, PSEG consulted with its Board of Directors before making the certifications required by the law that the plants will be retired within the next three years in the absence of ZEC payments or a material financial change. PSEG has made clear that the plants are not financially viable without ZECs, and that it intends to retire the plants unless all three plants receive ZEC awards.

Finally, if a “Levitan report” actually does exist, PSEG has no objection to having it be disclosed so long as the Board appropriately protects any confidential data gathered throughout this process. Of course, it is the Board, not Levitan, that is vested with the authority and responsibility to make determinations whether to award ZECs. Levitan’s work product, whether presented as a report or otherwise, is available to the Board for use in its deliberations however it may deem appropriate. PSEG’s application submittals consist of hundreds of thousands of pages of documents and analysis, and provide a comprehensive record upon which the Board can base its findings. The Board is vested with the discretion to disclose the Levitan materials or recommendations in rendering its decision regarding the ZEC applications, provided that confidentiality restrictions are respected.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Joseph F. Accardo Jr.", is positioned above the typed name and title.

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¹ See N.J.A.C. 48:3-87.5 (a) (“As part of an application submitted to the board . . . , a nuclear power plant seeking to participate in the program established by this act shall provide to the board any financial information requested by the board pertaining to the nuclear power plant, including, but not limited to, certified cost projections over the next three energy years, including operation and maintenance expenses, fuel expenses, including spent fuel expenses, non-fuel capital expenses, fully allocated overhead costs, the cost of operational risks and market risks that would be avoided by ceasing operations, and any other information, financial or otherwise, to demonstrate that the nuclear power plant’s fuel diversity, air quality, and other environmental attributes are at risk of loss because the nuclear power plant is projected to not fully cover its costs and risks For purposes of this subsection, “operational risks” shall include, but need not be limited to, the risk that operating costs will be higher than anticipated because of new regulatory mandates or equipment failures and the risk that per megawatt-hour costs will be 4 higher than anticipated because of a lower than expected capacity factor, and “market risks” shall include, but need not be limited to, the risk of a forced outage and the associated costs arising from contractual obligations, and the risk that output from the nuclear power plant may not be able to be sold at projected levels.”)

ZEC – HOPE CREEK - EO18121337
ZEC – SALEM 1- EO18121338
ZEC – SALEM 2 - EO18121339**BPU**

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