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July 20, 2020

Via Electronic Mail

Aida Camacho-Welch, Secretary
New Jersey Board of Public Utilities
44 South Clinton Avenue, Suite 314
P.O. Box 350
Trenton, New Jersey 08625-0350

Re: Joint Comments of PSEG Nuclear LLC and Exelon Generation Company, LLP

**In the Matter of Applications for Zero Emission Certificate Program,
BPU Docket No. EO18080899**

Dear Secretary Camacho-Welch:

PSEG Nuclear LLC ("PSEG") and Exelon Generation Company, LLP ("Exelon Generation") are providing these joint comments in response to the New Jersey Board of Public Utilities' ("Board") July 1, 2020 notice issued in this matter. The July 1, 2020 notice sought comments from the public with respect to the revised application ("Draft Application") that the Board will use as part of the process to determine which, if any, nuclear power plants will be eligible to receive Zero Emission Certificates ("ZECs") during the next three-year eligibility period in connection with New Jersey's program to preserve at-risk nuclear generation that serves the State through the creation of ZECs.

The below comments address several questions in the Draft Application that PSEG and Exelon Generation feel should be modified to be consistent with the ZEC Act, N.J.S.A. 48:3-87.3 to 87.7.

I. Questions 14 and 15 of Section III regarding Costs of Risks and Risk Adjusted Cost of Capital

The ZEC Act provides applicants with two potential approaches to meet the financial criterion: to demonstrate that the plant is "projected to not fully cover its costs and risks, or alternatively is projected to not cover its costs including its risk-adjusted cost of capital." N.J.S.A. 48:3-87.5(e)(3) (emphasis added). The Act's financial criterion does not require an applicant to demonstrate need under both these alternative approaches. Rather, the ZEC Act is clear that the financial criterion can be demonstrated under either one of these two approaches.

The Board has in its Draft Application included the following questions under the "Risks" category of "III. Zero Emission Justification – Financial" section of the Draft Application:

> 14. Provide estimated cost of operational risks and market risks:
>
> > a. Provide a detailed explanation, including supporting workbooks, of how the costs of operational risk and market risk were calculated for energy years 2022–2024; and
> >
> > b. Explain how the cost of operational risks and market risks would be avoided by ceasing operations.
> >
> > c. Previous ZEC recipients should provide an update of the costs of operational and market risks.
>
> 15. Provide estimated risk-adjusted cost of capital:
>
> > a. Provide a detailed explanation, including supporting workbooks, of how the risk-adjusted cost of capital was calculated for energy years 2022 – 2024; and
> >
> > b. Provide the methodology used to the determine the risk-adjusted cost of capital, along with supporting documentation and industry benchmarks it deems appropriate, and juxtapose this against the original cost of capital.

Draft Application, 5-6.

This is a departure from the Board's approach from the November 2018 application where the application recognized – consistent with the statutory framework -- that either of the following two alternative approaches, (1) costs and risks, or (2) costs including risk-adjusted cost of capital, could be used. In fact, the November 2018 Application specifically indicated that the applicant could choose to use one of those two alternative approaches in several places. For instance, under the "Generation Asset Information and Operation" section of the November 2018 application the following was asked:

> Provide current cost of capital, as well as required cost of capital for each of the next five (5) years plus a detailed accounting of how the cost of capital was determined. If an applicant chooses to use a risk-adjusted cost of capital in completing the rest of this application, the applicant should also provide the methodology used to the determine it, along with supporting documentation and industry benchmarks it deems appropriate, and

juxtapose this against original cost of capital.

November 2018 Application, 5 (emphasis added).

In addition, in Section III of the November 2018 Application entitled "Zero Emission Justification – Financial," the following was asked:

> Provide certified cost projections over the next three (3) energy years, including operation and maintenance expenses; fuel expenses, including spent fuel expenses; on-fuel capital expenses; fully allocated overhead costs; the cost of operational risks and market risks that would be avoided by ceasing operations to demonstrate that the plant is projected to not fully cover its costs and risks, <u>or alternatively is projected to not fully cover its costs and risks, including its cost of capital, or alternatively its risk-adjusted cost of capital.</u>

November 2018 Application, 6 (emphasis added).

However, the Draft Application does not contain any language recognizing the fact that these two methods are alternatives of which the applicant can choose one, to meet the financial criterion. Consistent with the language of the statute, PSEG and Exelon Generation ask that the Board insert language in the Draft Application clarifying that the applicant can choose one of these two alternatives to meet the financial criterion. While the Board has the ability to request such data as it sees fit in order to evaluate an application, the legislature gave applicants the right to decide which financial criterion should be examined by the Board in evaluating the need for an award of ZECs.

II. Questions 4 and 19 of Section III regarding Cost Projections and Subsidy Requirements Required to Fully Cover All Costs

Consistent with the above point regarding the two alternatives of which the applicant can choose one to meet the financial criterion, PSEG and Exelon Generation ask that the Board insert the language that is italicized below regarding costs of operational and market risks in the following questions regarding costs projections and subsidy requirements required to fully cover all costs in "III. Zero Emission Justification – Financial" section. Both questions omit the concept of costs of operational and market risks in the context of asking for costs projections.

> 4. Provide certified cost projections over the next five (5) energy years, including, but not limited to: operation and maintenance expenses; fuel expenses; spent fuel expenditures; non-fuel capital expenditures; long-term fuel storage costs; and other capital costs, including uranium fuel pricing for the Unit; fully allocated overhead costs; *costs of operational and market risks*.

Draft Application, 4 (italicized language added).

> 19. Provide a projection of subsidy requirements ($/year) by Unit and MWh produced, in each of the next five (5) years, to maintain minimum revenue requirements required to fully cover all costs, *including costs of operational and*

market risks or risk-adjusted cost of capital.

Draft Application, 6(italicized language added).

PSEG and Exelon Generation appreciate the opportunity to provide comments on the Draft Application.

Very truly yours,

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