



State of New Jersey

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September 29, 2020

By Electronic Mail and Inter-Office Mail

The Honorable Joseph L. Fiordaliso
President, New Jersey Board of Public Utilities
44 South Clinton Avenue, 7th Floor, Box 350
Trenton, New Jersey 08625

**Re: In the Matter of the Application of PSEG Nuclear, LLC
and Exelon Generation Company, LLC for the Zero Emission
Certificate Program - Salem Unit 1
BPU Docket No. ER20080557**

**In the Matter of the Application of PSEG Nuclear, LLC
and Exelon Generation Company, LLC for the Zero Emission
Certificate Program - Salem Unit 2
BPU Docket No. ER20080558**

**In the Matter of the Application of PSEG Nuclear, LLC
for the Zero Emission Certificate Program - Hope Creek
BPU Docket No. ER20080559**

Dear President Fiordaliso:

Regarding the above-captioned matters, the Office of the Attorney General ("OAG") understands that on May 23, 2018, Governor Phil Murphy signed into law L. 2018, c. 16, codified as N.J.S.A. 48:3-87.3 to -87.7, ("Act"), which requires the New Jersey Board of Public Utilities ("Board") to create a program and mechanism for the issuance of Zero Emission Certificates ("ZECs"), each of which represents the fuel diversity, air quality, and other environmental attributes of one megawatt-hour of electricity generated by an eligible nuclear power plant selected by the Board



to participate in the program.

By Order dated April 18, 2019 in the initial ZEC Proceeding ("ZEC 1"), the Board concluded ZEC 1 and certified the Hope Creek, Salem 1, and Salem 2 nuclear power plants to receive ZECs for an initial eligibility period from April 18, 2019 until May 31, 2022¹. On August 12, 2020, the Board established the application process for the second eligibility period (June 1, 2022 - May 31, 2025) and ordered that the application period be open and remain open until October 1, 2020 ("ZEC 2")². Also, the Board designated you as Presiding Commissioner, authorized to rule on, among other things, all matters that arise during the proceeding, subject to ratification by the full Board in any final decision.

Because ZEC 2 applications are expected to include certain information claimed to be confidential, various entities have moved to receive such confidential information, as provided under the Act. Specifically, N.J.S.A. 48:3-87.5(a) provides in part:

The board and the Attorney General shall jointly approve the disclosure of such confidential information to a party that they deem essential to aid the board in making the determinations required under this subsection, provided that the party is not in a position such that disclosure could harm competition and the party agrees in writing to maintain the confidentiality of the confidential information.

Please note that based on OAG's review of the motions to receive confidential information, it has been determined that only the New Jersey Division of Rate Counsel and the Independent Market Monitor for PJM Interconnection, L.L.C. should be deemed essential to aid the Board in making the applicable determinations as required under the Act. Also, parties receiving confidential information are required to execute and abide by the standard Agreement of Non-Disclosure of Information Claimed To Be

¹ I/M/O the Implementation of L. 2018, c. 16 Regarding the Establishment of a Zero Emission Certificate Program for Eligible Nuclear Power Plants, BPU Docket Nos. EO18080899, EO18121337, EO18121338, and EO18121339, Order dated April 18, 2020 (Agenda Item 9A).

² I/M/O the Implementation of L. 2018, c. 16 Regarding the Establishment of a Zero Emission Certificate Program for Eligible Nuclear Power Plants, BPU Docket No. EO18080899, Order dated August 12, 2020 (Agenda Item 9A).

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Confidential, which is routinely used in proceedings at the Board.
Thank you for your consideration.

Respectfully submitted,

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ATTORNEY GENERAL OF NEW JERSEY

By: /s/ David C. Apy
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Assistant Attorney General

c: Service List (by electronic mail)
Aida Camacho-Welch, Secretary, New Jersey Board of Public
Utilities