

**Grace H. Park**  
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March 10, 2021

***VIA ELECTRONIC MAIL***

Joseph Fiordaliso, President  
Board of Public Utilities  
New Jersey Board of Public Utilities  
44 South Clinton Avenue, Suite 314  
P.O. Box 350  
Trenton, New Jersey 08625-0350

**Re: In the Matter of the Application of PSEG Nuclear, LLC and Exelon Generation Company, LLC for the Zero Emission Certificate Program—Salem 1, Salem 2, and Hope Creek Units  
BPU Docket Nos. ER20080557, ER20080558, ER20080559**

Dear President Fiordaliso:

At Monday's evidentiary hearing, there arose the question of whether PSEG would have an obligation to return ZEC money received by a nuclear power plant if PSEG ceased operations of the plant during an eligibility period. We write to express PSEG's legal interpretation of the statute, so there is no ambiguity or uncertainty regarding this issue.

Subparagraphs 3(k)(1)(a)-(5) identify five specific circumstances under which a nuclear power plant is excused from performance, and so may retire during an eligibility period without triggering any obligation to refund ZEC payments the plant received.

However, if a nuclear power plant receiving ZECs retires during an eligibility period for *any other reason*, subparagraph 3(k)(2) applies. It states:

If a selected nuclear power plant ceases operations during an eligibility period for any reason other than those specified in this subsection, the selected nuclear power plant shall pay a charge to the electric public utilities that purchased ZECs from the selected nuclear power plant in an amount equal to the compensation received for the sale of ZECs since the board's last determination of the selected nuclear power plant's eligibility to receive ZECs. An electric public utility shall provide a refund to its retail distribution customers in an amount equal to the charge paid by a selected nuclear power plant to the electric public utility pursuant to this paragraph.

This provision is a critically important customer protection in the ZEC statute. While the ZEC Act does not require a plant to remain in operation for the duration of an eligibility period, it does impose a very strong financial disincentive to ceasing operations during an eligibility period, absent one of the five circumstances under which a plant is excused from performance.

We hope that this statement concerning our understanding of the statute—which understanding will inform our business planning and decision making—provides clarity and reassurance to the Board.

Sincerely,

A handwritten signature in black ink that reads "Grace H. Park". The signature is written in a cursive style and ends with a long horizontal flourish.

Grace H. Park  
Vice President, Deputy General Counsel &  
Chief Litigation Counsel

cc: Commissioner Mary-Anna Holden  
Commissioner Dianne Solomon  
Commissioner Upendra J.Chivukula  
Commissioner Bob Gordon  
Service List