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Via Electronic Mail¹

Aida Camacho-Welch
Secretary of the Board
New Jersey Board of Public Utilities
44 S. Clinton Avenue
Trenton, NJ 08625
board.secretary@bpu.nj.gov

Re: I/M/O The Application of PSEG Nuclear, LLC and Exelon Generation Company, LLC for the Zero Emission Certificate Program - Salem Unit 1 Docket No. ER20080557

I/M/O The Application of PSEG Nuclear, LLC and Exelon Generation Company, LLC for the Zero Emission Certificate Program - Salem Unit 2 Docket No. ER20080558

Dear Secretary Camacho-Welch:

Pursuant to the Prehearing Order on Schedule, Outstanding Issues, and Evidentiary Hearing, Exelon Generation Company, LLC (“Exelon Generation”)² submits this Post-Hearing Letter Brief to the Board of Public Utilities (“Board”). Exelon Generation supports and joins in each and every argument in the Post-Hearing Brief (“Brief”) of PSEG Nuclear, LLC (“PSEG”) in the above-captioned

¹ Pursuant to the March 19, 2020 Order issued by the Board of Public Utilities in Docket No. EO20030254, filing and service of this letter is made in electronic format only.

² On February 24, 2021, Exelon Corporation, the ultimate parent of Exelon Generation, announced that it is seeking regulatory approval for a “spin” transaction, which will result in the separation of Exelon Generation, together with all of its subsidiaries and assets, including its ownership interests in Salem Units 1 and 2 (“Salem Units”), from Exelon Corporation and its remaining subsidiaries, including its six franchised public utilities. Following the transaction, Exelon Generation and Exelon Corporation each will be a separate, publicly traded company. The transaction is expected to be completed in the first quarter of 2022 and will not change Exelon Generation’s 42.59 percent ownership interest in the Salem Units. See *Exelon Generation Company, LLC and its Subsidiaries, Application for Authorization under Section 203 of the Federal Power Act and Request for Expedited Consideration*, Docket No. EC21-57, (Feb. 25, 2021).

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dockets as if set forth in full herein, and respectfully requests that the Board approve the award of Zero Emission Certificates (“ZEC”) to the Salem Units without reducing the amount of the ZEC payment.³

I. Background.

On October 1, 2020, on behalf of itself and Exelon Generation, PSEG filed Applications requesting that the Board approve the award of ZECs for the Salem Units for the second eligibility period (June 2022 through May 2025).⁴ On the same day, to ensure that the Board had complete information to support its decision-making, Exelon Generation filed certain Supplemental Information, including information that could not be shared with PSEG (the Applications and Supplemental Information together referred to as the “Applications”).⁵ Thereafter, the Board issued several procedural orders,⁶ pursuant to which the Applicants and Intervenors provided discovery responses, cross-examination responses and witness testimony and participated in the March 8, 2021 evidentiary hearing. Additionally, Applicants, Intervenors and other interested parties had the opportunity to participate in public hearings on February 1, 2021 and to submit written public comments. Thus, the Board’s process in this second eligibility period has resulted in a record that is extremely thorough and robust; even more so than the record in the proceeding for the first ZEC eligibility period, which was upheld on appeal.⁷

³ Exelon Generation has a 42.59 percent ownership interest in the Salem Units, and PSEG has a 57.41 percent ownership interest in, and is the NRC-licensed operator of, the Salem Units. Under the Salem owners’ agreement, the responsibility for determining whether to retire the Salem Units rests solely with PSEG.

⁴ PSEG also filed an Application for Hope Creek, which is solely owned by PSEG.

⁵ As explained in the Applications, certain types of proprietary market information cannot be shared between or among competitors. *See* Affidavit in Support of Confidentiality Request of Exelon Generation Company, LLC Regarding Confidential Treatment of Information Submitted in Support of Zero Emission Certificate Application – Salem Unit 1, dated September 20, 2020, by Kevin Garrido, Vice President Finance Nuclear. Accordingly, Exelon Generation expresses no opinion about any proprietary information in the Brief to which it does not have access.

⁶ *See, e.g., Order Setting a Procedural Schedule* (Sept. 10, 2020), *Order Ruling on Motions to Intervene and Participate, Admission Pro Hac Vice, and Access to Confidential Information* (Sept. 29, 2020), *PreHearing Order on Schedule, Outstanding Issues, and Evidentiary Hearing* (Dec. 18, 2020).

⁷ In a March 19, 2021 decision affirming the award of ZECs for the first eligibility period, a three-judge panel of the New Jersey Superior Court, Appellate Division unanimously found that the Board’s application and review process in the first eligibility period was “vigorous” and that the Board’s order was supported by the record. *See I/M/O the Implementation of L. 2018, c. 16 Regarding the Establishment of a Zero Emission Certificate Program for Eligible Nuclear Power Plants* (App. Div. March 19, 2021), slip op at 5, 13 (“ZEC 1”).

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II. Argument.

Applicants Have Fully Satisfied the Eligibility Criteria of the ZEC Act.

As explained in the Brief and amply supported by the record, PSEG and Exelon Generation (together referred to as “Applicants”) have satisfied all five eligibility criteria in the ZEC Act.⁸ In addition to providing the required application fee, demonstrating that the plants are licensed to operate through 2030 and providing the annual certification required by Section 48:3-87.5(e)(4) of the ZEC Act,⁹ Applicants have clearly demonstrated that both the environmental and financial eligibility criteria of the Act have been met.

With respect to the environmental criterion of the Act, Applicants have shown that each of the Salem Units,

[M]akes a significant and material contribution to the air quality in the State by minimizing emissions that result from electricity consumed in New Jersey, it minimizes harmful emissions that adversely affect the citizens of the State, and if the nuclear power plant were to be retired, that that retirement would significantly and negatively impact New Jersey’s ability to comply with State air emissions reduction requirements[.]¹⁰

Indeed, the retirement of the Salem Units would lead to an immediate increase in the proportion of fossil generation providing electricity to New Jersey customers, increasing air pollution in the State and making it harder to meet the greenhouse gas reduction goals in the New Jersey Energy Master Plan.¹¹ In addition, replacing the environmental attributes of the nuclear units would result in costs far exceeding the cost of the ZEC program itself.¹² Thus, the evidence shows that the ZEC program provides the most cost-effective path to meeting New Jersey’s ambitious environmental goals.

Further, as detailed in the Brief, the record clearly shows that the financial criterion of the Act has been met as the Salem Units are “projected to not fully cover their costs and risks.”¹³ As explained in ZEC 1, it is proper for the Board to consider “the applicants’ operational and market

⁸ See N.J.S.A. 48:3-87.5(e).

⁹ N.J.S.A. 48:3-87.5(e)(4).

¹⁰ N.J.S.A. 48:3-87.5(e)(2).

¹¹ See, e.g., Direct Testimony of Carl Fricker (January 29, 2021), pp. 12-15; Applications of Salem 1 and Salem 2, S1/S2-ZECJ-ENV-0003 (Oct. 1, 2020).

¹² See, e.g., Applications of Salem 1 and Salem 2, S1/S2-ZECJ-ENV-0003 (citing to Rocky Mountain Institute, “New Jersey 2019 IEP Technical Appendix”) (Oct. 1, 2020).

¹³ See generally, Direct Testimony of Daniel Cregg (Jan. 29, 2021).

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risks, spent fuel costs, support services costs, fully allocated overhead costs, and capital expenditures included in their certified cost projections as part of its financial eligibility determination.”¹⁴ Arguments that risks should not be included are unavailing, having already been rejected by the Appellate Division.

III. Conclusion.

In light of the foregoing and as explained in the Brief, Applicants have shown that the Salem Units meet the eligibility criteria set forth in the ZEC Act. Accordingly, the Board should approve the award of ZECs to the Salem Units without reducing the amount of the ZEC payment.

Should you have any questions about the foregoing, please do not hesitate to contact Jeanne J. Dworetzky at jeanne.dworetzky@exeloncorp.com or (202) 637-0346.

Respectfully submitted,

/s/ Naju R. Lathia

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Cc: Service List

¹⁴ ZEC 1 at 38.