



**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
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[www.nj.gov/bpu/](http://www.nj.gov/bpu/)

ENERGY

IN THE MATTER OF THE IMPLEMENTATION OF L. 2018, )	ORDER APPROVING A
c. 16 REGARDING THE ESTABLISHMENT OF A ZERO )	MODIFIED ZERO EMISSION
EMISSION CERTIFICATE PROGRAM FOR ELIGIBLE )	CERTIFICATE RECOVERY
NUCLEAR POWER PLANTS )	CHARGE TARIFF
)	
IN THE MATTER OF THE PETITION OF ATLANTIC CITY )	DOCKET NO. EO18080899
ELECTRIC COMPANY FOR APPROVAL OF A CHANGE )	
TO ITS ZERO EMISSION CERTIFICATE RECOVERY )	
CHARGE (10/2021) )	DOCKET NO. EO21101179

**Parties of Record:**

**Phillip J Passanante, Esq.**, for Atlantic City Electric Company  
**Brian O. Lipman, Esq.**, Director, New Jersey Division of Rate Counsel

BY THE BOARD:

**BACKGROUND**

On May 23, 2018, Governor Phil Murphy signed into law L. 2018, c. 16 (N.J.S.A. 48:3-87.3 to -87.7) (“Act”). The Act required the New Jersey Board of Public Utilities (“Board”) to implement a Zero Emission Certificate (“ZEC”) program within specified timelines. N.J.S.A. 48:3-87.3 to -87.5. Under the Act, the Board may approve certain eligible nuclear energy generators to receive ZECs, which New Jersey’s electric distribution companies (“EDCs”) would be required to purchase.<sup>1</sup> N.J.S.A. 48:3-87.5(b)(2); N.J.S.A. 48:3-87.5(i). The Act also provided that the Board shall order the full recovery of EDCs’ costs associated with the purchased ZECs through a non-bypassable charge imposed on each EDC’s retail distribution customers. N.J.S.A. 48:3-87.5(j)(1).

The Act further directed each EDC to file with the Board within 150 days of the Act’s enactment, by October 22, 2018, a tariff to recover from its retail distribution customers a charge of \$0.004 per kilowatt-hour (“kWh”). N.J.S.A. 48:3-87.5(j). The Act identified this charge as the emissions avoidance benefits associated with the continued operation of a selected nuclear power plant. Id.

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<sup>1</sup> The EDCs are Atlantic City Electric Company (“ACE or “Company”), Jersey Central Power & Light Company, Public Service Electric and Gas Company, Rockland Electric Company and Butler Electric (“Butler”). Butler is regulated to the extent it serves customers outside of its municipal borders.

Within 60 days of the filing of each EDC tariff, and after notice, opportunity for comment, and a public hearing, the Board was required to approve the appropriate tariffs. Id. In the Act, the EDCs were also directed to return excess monies in each EDC's separate, interest bearing account to its retail distribution customers at the end of each energy year. Id.

By Order dated November 19, 2018, the Board accepted the tariff filings made by ACE and directed that the tariff not be implemented unless and until the Board issued a final order authorizing the implementation of the ZEC program.<sup>2</sup> Subsequently, by Order dated April 18, 2019, the Board directed the EDCs to submit final tariffs to become effective on April 18, 2019.<sup>3</sup> The Board further directed the EDCs to calculate interest on their collections at their respective short-term debt rates in their respective collection accounts as allowed under the Act.

Via Board Orders dated July 10, 2019 and May 20, 2020, the Board directed the EDCs to submit various data to the Board for review on a yearly basis.<sup>4</sup>

By Order dated December 16, 2020, the Board approved ACE's request to revise its ZEC Recovery Charge ("ZECRC") to \$0.004099.<sup>5</sup>

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<sup>2</sup> In re the Implementation of L. 2018, C. 16 Regarding the Establishment of a Zero Emission Certificate Program for Eligible Nuclear Power Plants AND In re the Application Of Atlantic City Electric Company for Approval to Implement a Zero Emission Certificate ("ZEC") Charge And Tariff Page(s) Related Thereto in Support of the ZEC Program Authorized by N.J.S.A. 48:3-87.3 et seq. and a Board Order Initiating the ZEC Program Dated August 29, 2018, BPU Docket Nos. EO18080899 and EO18091003, Order dated November 19, 2018.

<sup>3</sup> In re the Implementation of L. 2018, C. 16 Regarding the Establishment of a Zero Emission Certificate Program for Eligible Nuclear Power Plants; Application for Zero Emission Certificates of Salem 1 Nuclear Power Plant; Application for Zero Emission Certificates of Salem 2 Nuclear Power Plant; Application for Zero Emission Certificates of Hope Creek Nuclear Power Plant, BPU Docket Nos. EO18121338, EO18121339, and EO18121337, Order dated April 18, 2019.

<sup>4</sup> In re the Implementation of L. 2018, C. 16 Regarding the Establishment of a Zero Emission Certificate Program for Eligible Nuclear Power Plants; Application for Zero Emission Certificates of Salem 1 Nuclear Power Plant; Application for Zero Emission Certificates of Salem 2 Nuclear Power Plant; Application for Zero Emission Certificates of Hope Creek Nuclear Power Plant, BPU Docket Nos. EO18121338, EO18121339, and EO18121337, Order determining the Forward Steps in the ZEC Program and Currently Approved Applications, Order dated July 10, 2019 (mandating yearly compliance filings in July); See also In re the Implementation of L. 2018, C. 16 Regarding the Establishment of a Zero Emission Certificate Program for Eligible Nuclear Power Plants; Application for Zero Emission Certificates of Salem 1 Nuclear Power Plant; Application for Zero Emission Certificates of Salem 2 Nuclear Power Plant; Application for Zero Emission Certificates of Hope Creek Nuclear Power Plant, BPU Docket Nos. EO18121338, EO18121339, and EO18121337, Order Finalizing the Forward Steps In the ZEC Program and Modifications to the Application, Order dated May 20, 2020 (confirming, in part, yearly filing requirements).

<sup>5</sup> In re the Implementation of L. 2018, c. 16 Regarding the Establishment of a Zero Emission Certificate Program for Eligible Nuclear Power Plants; Application of Atlantic City Electric Company for Approval to Implement a Zero Emission Certificate ("ZEC") Charge and Tariff Page(s) Related Thereto in Support of the ZEC Program Authorized by N.J.S.A. 48:3-87.3 et seq. and a Board Order Initiating the ZEC Program, BPU Docket Nos. EO18080899 and EO18091003, Order Dated December 16, 2020.

### **October 2021 Petition**

On October 14, 2021, ACE sought review and authorization to modify the excess ZECRC collection and corresponding interest over an 11-month period commencing February 1, 2022 through the previously established ZEC Reconciliation Charge Rate ("Petition"). In the Petition, the Company proposed an increase to the current ZECRC which is currently set at \$0.004099 per kWh to \$0.004182 per kWh, including SUT.

However, in the Petition the Company proposed to monitor the ZECRC excess collection balance and, as it approaches zero, proposed to make a filing at the Board at least 30 days in advance of the Company's intention to implement the rate change in the ZECRC to zero. Any excess balance remaining at that point would be included in the Company's next ZECRC filing. ACE requested "that future adjustments to the ZECRC be handled through compliance filings as the credit will fluctuate between Energy Years." See Petition at p.2. The Company proposed to make a compliance filing "no later than 30 days prior to any change to the ZECRC." Id.

ACE indicated in the Petition that the total over-recovery to be returned to customers for Energy Year 2021 is \$720,963. This includes interest calculated on the Energy Year 2021 period at the Company's short-term debt rate. However, ACE had an under recovery for Energy Years 2019 and 2020 of \$120,981. As a result, the total over recovered balance to be returned to customers is \$599,982.

After notice in newspapers and general circulation within the Company's service territory, telephonic public hearings were held on December 16, 2021, at 4:30 p.m. and 5:30 p.m.<sup>6</sup> No members of the public attended the hearing. Additionally, no written comments were received by the Board.

On March 18, 2022, the New Jersey Division of Rate Counsel ("Rate Counsel") filed a letter with the Board in this matter. In its letter, Rate Counsel stated that it did not object to ACE's request to refund the excess of the 2020 Energy Year ZEC collection to its customers over an 11-month period. In addition, Rate Counsel stated that it did not object to the proposed adjustment sought to the ZECRC for Energy Year 2022, but that it was unclear how a compliance filing with a 30-day notice would satisfy the Board's statutory public hearing notice requirements when a proposed adjusted rate would lead to an increase in rates.

### **DISCUSSION AND FINDING**

The Board reviewed the record in this matter, and **HEREBY APPROVES** ACE's proposed ZECRC rate and tariff. The Board **HEREBY APPROVES** a revised total ACE ZECRC rate of \$0.004182 per kWh, including SUT, for service rendered on and after May 1, 2022. As a result of the Board's approval, a typical residential customer using 650 kWh per month will experience an increase of \$0.05 or 0.04 percent in their current monthly bill.

Pursuant to N.J.S.A. 48:2-32.4 and 48:2-32.6, public hearings are required to be held to review applications by gas and electric light, heat and power companies other than municipally owned companies "for significant increases, changes, or alterations in their rate schedules..." The Board **HEREBY NOTES** that any reduction to a credit rate is considered to be an increase in that rate and the customer's respective bill. The Board declines at this time to predetermine that ACE's

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<sup>6</sup> Due to the COVID-19 Pandemic, the public hearings were held telephonically.

future ZECRC adjustment filings will not require, or will not otherwise justify according to the Board's discretion, the holding of public hearings. Accordingly, the Board **HEREBY DENIES** ACE's request that if future ZECRC adjustments are required, rate changes be handled via a 30-day compliance filing.

The Board **HEREBY DIRECTS** ACE to file revised tariff sheets consistent with the terms of this Order by May 1, 2022.

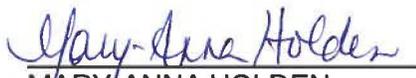
The Company's costs remain subject to audit by the Board. This Decision and Order shall not preclude nor prohibit the Board from taking any actions determined to be appropriate as a result of any such audit.

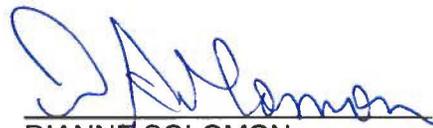
This Board Order shall be effective on April 13, 2022.

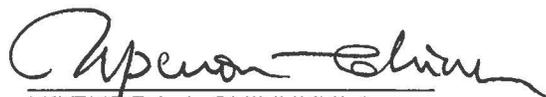
DATED: April 6, 2022

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ACTING SECRETARY

IN THE MATTER OF THE IMPLEMENTATION OF L. 2018, c. 16 REGARDING THE ESTABLISHMENT OF A ZERO EMISSION CERTIFICATE PROGRAM FOR ELIGIBLE NUCLEAR POWER PLANTS

IN THE MATTER OF THE PETITION OF ATLANTIC CITY ELECTRIC COMPANY FOR APPROVAL OF A CHANGE TO ITS ZERO EMISSION CERTIFICATE RECOVERY CHARGE (10/2021)

BPU DOCKET NOS. EO18080899 AND EO21101179

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