



STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 1st Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

ENERGY

IN THE MATTER OF THE IMPLEMENTATION OF <u>L.</u>)	ORDER APPROVING A
2018, <u>c.</u> 16 REGARDING THE ESTABLISHMENT OF A)	MODIFIED ZERO EMISSION
ZERO EMISSION CERTIFICATE PROGRAM FOR)	CERTIFICATE RECOVERY
ELIGIBLE NUCLEAR POWER PLANTS)	CHARGE TARIFF
)	
IN THE MATTER OF THE PETITION OF BUTLER)	
ELECTRIC FOR APPROVAL OF A ZERO EMISSION)	DOCKET NOS. EO18080899
CERTIFICATE RECOVERY CHARGE)	AND EO21111214

Parties of Record:

Robert Oostdyk, Jr., Esq. on behalf of Butler Electric
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.¹ 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).

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. Ibid. Within 60 days of the filing of each EDC tariff, and after notice, opportunity for comment,

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

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 Butler and directed that the tariff not be implemented unless and until the Board issued a final order authorizing the implementation of the ZEC program.² Subsequently, by Order dated April 18, 2019, the Board directed the EDCs to submit final tariffs to become effective on April 18, 2019.³ 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.⁴

By Order dated December 16, 2020, the Board approved Butler's request to revise its Return of Excess Collections Credit Rate ("RECCR"), which is a component of the approved ZEC Recovery Charge ("ZECRC") tariff, to (\$0.000149) per kWh, excluding New Jersey Sales and Use Tax ("SUT") for an overall ZECRC rate of \$0.003851 per kWh, excluding SUT.⁵

October 2021 Petition

On October 15, 2021, Butler submitted a filing with the Board seeking to refund the excess ZEC collections and corresponding interest related to Energy Year 2021 ("Petition").

² 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 Petition of Butler Electric for Approval of a Zero Emission Certificate Recovery Charge, BPU Docket Nos. EO18080899 and EO18091018, Order dated November 19, 2018.

³ 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.

⁴ 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).

⁵ 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 Petition of Butler Electric for Approval of a Zero Emission Certificate Recovery Charge, BPU Docket Nos. EO18080899 AND EO18091018, Order dated December 16, 2020.

In the Petition, the Company proposed to refund the excess ZEC recovery charge collection and corresponding interest over a 12-month period, commencing January 1, 2022, through the previously established RECCR, which is a component of the approved ZECRC tariff and currently set at (\$0.000149) per kWh. The proposed RECCR is (\$0.000083) per kWh, excluding SUT. For Energy Year 2022 and going forward, the Company indicated that it will 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 Butler's intention to implement the rate change in the RECCR to zero. According to Butler, any excess balance remaining at that point will be included in the Company's next RECCR filing.

In the Petition the Company requested, "that if future RECCR adjustments are required, rate changes be handled via compliance filing, as the credit will fluctuate between Energy Years." See Petition at p. 1 and 2. The Company proposed to make a compliance filing "no later than 30 days prior to any change to the RECCR." Id. at p. 2.

In the filing, Butler indicated that the total over-recovery to be returned to customers for Energy Year 2021 is \$8,730.06. This includes interest calculated at the Company's short-term debt rate.

After notice in newspapers and general circulation within the Company's service territory, telephonic public hearings were held on January 18, 2022 at 4:30 p.m. and 5:30 p.m.⁶ 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 does not object to Butler's request to refund the excess of the 2020 Energy Year ZEC collection to its customers over a 12-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 as such, the Board **HEREBY APPROVES** a revised total Butler ZECRC rate of \$0.003917 per kWh, excluding SUT, for service rendered on and after May 1, 2022. As a result of the Board's approval, a residential customer using approximately 650 kWh per month will see an increase of \$0.05 in their 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 Butler's future RECCR 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** Butler's request that if future RECCR adjustments are required, rate changes be handled via a 30-day compliance filing.

⁶ Due to the COVID-19 Pandemic, the public hearings were held telephonically.

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

The Company's costs will remain subject to audit by the Board. This Order shall not preclude or prohibit the Board from taking further action relating to any such audit.

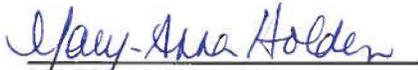
This Board Order shall be effective on April 13, 2022.

DATED: April 6, 2022

BOARD OF PUBLIC UTILITIES
BY:



JOSEPH L. FIORDALISO
PRESIDENT



MARY-ANNA HOLDEN
COMMISSIONER



DIANNE SOLOMON
COMMISSIONER



UPENDRA J. CHIVUKULA
COMMISSIONER



ROBERT M. GORDON
COMMISSIONER

ATTEST: 

CARMEN D. DIAZ
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 Butler Electric for Approval of a Zero Emission Certificate Recovery Charge

BPU Docket Nos. EO18080899 and EO21111214

SERVICE LIST

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