



State of New Jersey  
DIVISION OF RATE COUNSEL  
140 EAST FRONT STREET, 4<sup>TH</sup> FL.  
P.O. Box 003  
TRENTON, NEW JERSEY 08625

PHIL MURPHY  
*Governor*

TAHESHA L. WAY  
*Lt. Governor*

BRIAN O. LIPMAN  
*Director*

March 6, 2025

**Via Electronic Mail**

Honorable Sherri L. Lewis  
Secretary of the Board  
State of New Jersey Board of Public Utilities  
44 South Clinton Avenue, 1st Floor  
PO Box 350  
Trenton, New Jersey 08625-0350  
[board.secretary@bpu.nj.gov](mailto:board.secretary@bpu.nj.gov)

**Re: In the Matter of the Petition of Rockland Electric Company for Approval of a  
Zero Emission Certificate Recovery Charge  
BPU Docket No. ER24100826**

Dear Secretary Lewis:

Please accept for filing these comments on behalf of the Division of Rate Counsel ("Rate Counsel") to the following Rockland Electric Company ("RECO" or "Company") petition referenced above.

As directed by the Board's Order in Docket No. EO20030254, dated March 19, 2020, Rate Counsel hereby submits this filing via email only to the Board Secretary and service list.

**Please acknowledge receipt of these comments.** Thank you for your consideration and attention to this matter.

## BACKGROUND

In May 2018, the State of New Jersey established the Zero Emissions Certificate (“ZEC”) Program and ordered the Board of Public Utilities (“Board” or “BPU”) to create a mechanism for the issuance of ZECs, which represent the alleged “fuel diversity, air quality and other environmental attributes” of one megawatt-hour of nuclear generation, N.J.S.A. 48:3-87.4, and to create a Zero Emissions Certificate Recovery Charge (“ZECRC”). In the enabling legislation New Jersey also directed the State-regulated electric distribution companies (“EDCs”) to return excess monies collected in each EDC’s separate ZECRC interest-bearing account to its retail distribution customers at the end of each energy year. N.J.S.A. 48:3-87.5 3(j)(2).

On October 21, 2024 RECO filed its letter petition (“Petition”) seeking to reconcile its ZECRC and collections from Energy Year 2024 and the balance of reconciliation for Energy Year 2023. The Company proposed to reconcile its excess collections via the Return of Excess Collections Credit Rate (“RECCR”), a component of the ZECRC, from a credit to customers of 0.0067 ¢ per kWh, including Sales and Use Tax (“SUT”) to a charge of 0.0113 ¢ per kWh, including SUT based on an under collection of \$169,121.<sup>1</sup> The proposed ZECRC charge<sup>2</sup> will change from the current ZECRC rate of 0.3937 excluding SUT to the proposed ZECRC rate of 0.4106 excluding SUT and from the current ZECRC rate of 0.4198 including SUT to the

---

<sup>1</sup> In the Matter of the Petition of Rockland electric Company for Approval of a Zero Emission Certificate Recovery Charge, (“Petition”), Docket No. ER24100826, p. 1.

<sup>2</sup> The total ZECRC charge is the RECCR rate added to the ZEC charge of 0.4 ¢ per kWh plus SUT.

Honorable Sherri L. Lewis, Secretary

March 6, 2025

Page 3

proposed ZECRC rate of 0.4378 including SUT. RECO proposes these changes will become effective upon the issuance of a Board order in April 2025.<sup>3</sup>

RECO states that the proposed change to the average residential customer bill using 808 kWh per summer month, and 7,800 kWh on an annual basis, would see an increase of \$1.32 in their annual bill, from \$1,704.36 to \$1,705.68, or approximately 0.1% and the Company's present refund rates will remain in effect until the proposed change is approved by the Board.<sup>4</sup>

Virtual Public Hearings were held on January 21, 2025 at 4:30 PM and 5:30 PM. No members of the public appeared to comment.

#### COMMENTS

Rate Counsel remains concerned that, despite findings to the contrary in the 2023 and 2024 Butler ZEC Recovery Charge Board Orders,<sup>5</sup> RECO's proposed ZECRC is not permitted under N.J.S.A. 48:3-87.5(j). RECO's proposed RECCR of \$0.0113 per kWh including SUT (\$0.0106 per kWh before SUT) results in a total ZECRC of \$.04378 per kWh including SUT (\$.04106 per kWh before SUT), which is in excess of the statutorily set maximum rate of \$0.004/kWh.

The ZEC Act states that "...each electric public utility shall file with the board a tariff to recover from its retail distribution customers a charge in the amount of \$0.004 per kilowatt-

---

<sup>3</sup> Petition, Attachment A, p. 1. And Attachment B, Draft Tariff, p 1 of 2.

<sup>4</sup> Id., Attachment C, Proposed Notice of Public Hearings, p.1 of 3

<sup>5</sup> See, In the Matter of Butler Electric for Approval of a Zero Emission Certificate Recovery Charge, BPU Docket No. EO22100629, Order Approving a Modified Zero Emission Certificate Recovery Charge Tariff, March 6, 2023 ("March 6, 2023 Board Order"). and In The Matter of the Petition of Butler Electric for Approval of a Zero Emission Certificate Recovery Charge, BPU Docket No. EO23100745, Order Approving a Zero Emission Recovery Charge, January 10, 2024 (January 10, 2024 Board Order), p.3.

Honorable Sherri L. Lewis, Secretary

March 6, 2025

Page 4

hour...”<sup>6</sup> The Legislature “carefully limited the Board’s authority to alter the \$0.004 per-kilowatt-hour charge.”<sup>7</sup> The statute only permits the Board to adjust the ZECRC under specific circumstances, none of which are relevant here.<sup>8</sup> Further, although the statute allows the Board, “... to ensure that the ZEC program remains affordable to New Jersey retail distribution customers ...in its discretion, [to] reduce the per kilowatt-hour charge imposed ... [by] this subsection starting in the second three year eligibility period,”<sup>9</sup> the Board has not chosen to lower the ZECRC rate. The Legislature did not specifically provide the Board with the authority to increase the per kWh charge rate above \$0.004. The statute only instructs that, “excess monies ... shall be refunded to its retail distribution customers at the end of each energy year.”<sup>10</sup> Moreover, the Appellate Division has made clear that the “Board does not have the authority to override the Legislature’s imposition of the \$0.004-per-kilowatt-hour charge ...” except under those limited circumstances stated in the statute.<sup>11</sup> Plainly, the ZEC Act does not provide for a reconciliation of over-credited amounts.

RECO does not report holding any “excess monies” in a separate, interest-bearing account to be refunded to its retail distribution customers, as per N.J.S.A. 48:3-87.5(j)(2); instead, RECO’s proposed RECCR would charge its customers above the statutory maximum ZECRC rate of \$0.004/kWh (before SUT) which is inconsistent with the Board’s authority under the ZEC Act statute.

---

<sup>6</sup> N.J.S.A. 48:3-87.5(j)(1) and(2).

<sup>7</sup> In re Implementation of L. 2018, C. 16 Regarding the Establishment of Zero Emission Certificate Program for Eligible Nuclear Power Plants, 467 N.J. Super. 154, 187 (App. Div. 2021).

<sup>8</sup> N.J.S.A. 48:3-87.5(j)(3) sets forth the specific circumstances under which the per-kWh charge can be adjusted.

<sup>9</sup> N.J.S.A. 48:3-87.5(j)(3)(a).

<sup>10</sup> N.J.S.A. 48:3-87.5(j)(2).

<sup>11</sup> 467 N.J. Super. at 187 (citing Jersey Cent. Power & Light Co. v. Melcar Utility Co., 212 N.J. 576, 600 (2013) (“an administrative agency can only act reasonably within the scope of its delegated authority”)).

Honorable Sherri L. Lewis, Secretary

March 6, 2025

Page 5

Based on the foregoing, Rate Counsel recommends that the Board deny RECO's request to charge its residential distribution customers any amount in excess of the \$0.004 per kWh charge rate set in the enabling ZEC Act legislation. Rather, RECO's RECCR should be set to zero until all excess refunds are recovered through the ZECRC.

Respectfully Submitted,

BRIAN O. LIPMAN, DIRECTOR  
DIVISION OF RATE COUNSEL

By: *Bethany Rocque-Romaine*  
Bethany Rocque-Romaine, Esq.  
Assistant Deputy Rate Counsel

BRR/ac  
Service List (*via electronic mail*)

**RECO's Approval of a Zero Emission  
Certificate Recovery Charge**

**BPU Docket No: ER24100826**

**SERVICE LIST**

Sherri Lewis, Secretary  
Board of Public Utilities  
44 South Clinton Avenue  
PO Box 350  
Trenton, NJ 08625  
[Board.Secretary@bpu.nj.gov](mailto:Board.Secretary@bpu.nj.gov)

Robert Brabston, Esq.  
Board of Public Utilities  
44 South Clinton Avenue  
P.O. Box 350  
Trenton, NJ 08625  
[Robert.Brabston@bpu.nj.gov](mailto:Robert.Brabston@bpu.nj.gov)

Benjamin Witherell, Ph.D.  
Board of Public Utilities  
44 South Clinton Avenue  
P.O. Box 350  
Trenton, NJ 08625  
[Benjamin.Witherell@bpu.nj.gov](mailto:Benjamin.Witherell@bpu.nj.gov)

Stacy Peterson  
Board of Public Utilities  
44 South Clinton Avenue  
P.O. Box 350  
Trenton, NJ 08625  
[Stacy.Peterson@bpu.nj.gov](mailto:Stacy.Peterson@bpu.nj.gov)

Gary Colin Emerle, Esq.  
Board of Public Utilities  
44 South Clinton Avenue  
P.O. Box 350  
Trenton, NJ 08625  
[Colin.Emerle@bpu.nj.gov](mailto:Colin.Emerle@bpu.nj.gov)

Heather Weisband, Esq.  
Board of Public Utilities  
44 South Clinton Avenue  
P.O. Box 350  
Trenton, NJ 08625  
[Heather.Weisband@bpu.nj.gov](mailto:Heather.Weisband@bpu.nj.gov)

William Barkasy  
Board of Public Utilities  
44 South Clinton Avenue  
P.O. Box 350  
Trenton, NJ 08625  
[William.Barkasy@bpu.nj.gov](mailto:William.Barkasy@bpu.nj.gov)

Charles Gurkas  
Board of Public Utilities  
44 South Clinton Avenue  
P.O. Box 350  
Trenton, NJ 08625  
[Charles.Gurkas@bpu.nj.gov](mailto:Charles.Gurkas@bpu.nj.gov)

Robert Aaron  
Board of Public Utilities  
44 South Clinton Avenue  
P.O. Box 350  
Trenton, NJ 08625  
[Robert.Aaron@bpu.nj.gov](mailto:Robert.Aaron@bpu.nj.gov)

Steven Chaplar, DAG  
Dept. of Law & Public Safety  
Hughes Justice Complex  
25 Market St., PO Box 112  
Trenton, NJ 08625  
[Steven.Chaplar@law.njoag.gov](mailto:Steven.Chaplar@law.njoag.gov)

Pamela Owen, DAG  
Dept. of Law & Public Safety  
Hughes Justice Complex  
25 Market St., PO Box 112  
Trenton, NJ 08625  
[Pamela.Owen@law.njoag.gov](mailto:Pamela.Owen@law.njoag.gov)

Matko Ilic, DAG  
Dept. of Law & Public Safety  
Hughes Justice Complex  
25 Market St., PO Box 112  
Trenton, NJ 08625  
[Matko.Ilic@law.njoag.gov](mailto:Matko.Ilic@law.njoag.gov)

Daren Eppley, DAG  
Dept. of Law & Public Safety  
Hughes Justice Complex  
25 Market St., PO Box 112  
Trenton, NJ 08625  
[Daren.Eppley@law.njoag.gov](mailto:Daren.Eppley@law.njoag.gov)

Jack Ventura, DAG  
Dept. of Law & Public Safety  
Hughes Justice Complex  
25 Market St., PO Box 112  
Trenton, NJ 08625  
[Jack.Ventura@law.njoag.gov](mailto:Jack.Ventura@law.njoag.gov)

Brian O. Lipman, Director  
Division of Rate Counsel  
140 East Front St., 4<sup>th</sup> Fl.  
Trenton, NJ 08625  
[blipman@rpa.nj.gov](mailto:blipman@rpa.nj.gov)

T. David Wand, Esq.  
Division of Rate Counsel  
140 East Front St., 4<sup>th</sup> Fl.  
Trenton, NJ 08625  
[dwand@rpa.nj.gov](mailto:dwand@rpa.nj.gov)

Bethany Rocque-Romaine, Esq.  
Division of Rate Counsel  
140 East Front St., 4<sup>th</sup> Fl.  
Trenton, NJ 08625  
[bromaine@rpa.nj.gov](mailto:bromaine@rpa.nj.gov)

Lisa Littman, Esq.  
Division of Rate Counsel  
140 East Front St., 4<sup>th</sup> Fl.  
Trenton, NJ 08625  
[llittman@rpa.nj.gov](mailto:llittman@rpa.nj.gov)

Debora Layugan  
Division of Rate Counsel  
140 East Front St., 4<sup>th</sup> Fl.  
Trenton, NJ 08625  
[dlayugan@rpa.nj.gov](mailto:dlayugan@rpa.nj.gov)

Annette Cardec  
Division of Rate Counsel  
140 East Front St., 4<sup>th</sup> Fl.  
Trenton, NJ 08625  
[acardec@rpa.nj.gov](mailto:acardec@rpa.nj.gov)

William Atzl, Jr., Esq.  
Rockland Electric Company  
4 Irving Place  
New York, NY 10003  
[atzlw@coned.com](mailto:atzlw@coned.com)

Margaret Comes, Esq.  
Consolidated Edison Co. of NY  
4 Irving Place, 2<sup>nd</sup> Fl.  
New York, NJ 10003  
[comesM@coned.com](mailto:comesM@coned.com)

Cheryl Ruggiero  
Rockland Electric Company  
4 Irving Place  
New York, NY 10003  
[ruggieroC@coned.com](mailto:ruggieroC@coned.com)

Eric D. Caban  
Consolidated Edison Co. of NY  
4 Irving Place, 2<sup>nd</sup> Fl.  
New York, NJ 10003  
[cabanR@coned.com](mailto:cabanR@coned.com)

Michael DiGravina  
Consolidated Edison Co. of NY  
4 Irving Place, 2<sup>nd</sup> Fl.  
New York, NJ 10003  
[digravinam@coned.com](mailto:digravinam@coned.com)

Jinghua Wang  
Consolidated Edison Co. of NY  
4 Irving Place, 2<sup>nd</sup> Fl.  
New York, NJ 10003  
[wangJ@coned.com](mailto:wangJ@coned.com)

Yan Flishenbaum  
Consolidated Edison Co. of NY  
4 Irving Place, 2<sup>nd</sup> Fl.  
New York, NJ 10003  
[flishenbaum@coned.com](mailto:flishenbaum@coned.com)