



STATE OF NEW JERSEY
Board of Public Utilities
 44 South Clinton Avenue, 9th Floor
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www.nj.gov/bpu/

DIVISION OF ENERGY

IN THE MATTER OF THE APPLICATION OF PSEG)	PREHEARING ORDER
NUCLEAR, LLC AND EXELON GENERATION)	ON SCHEDULE,
COMPANY, LLC FOR THE ZERO EMISSION)	OUTSTANDING ISSUES,
CERTIFICATE PROGRAM - SALEM UNIT 1)	AND EVIDENTIARY
)	HEARING
)	
)	DOCKET NO. ER20080557

Parties of Record:

Jeanne J. Dworetzky, Esq., Assistant General Counsel, Exelon Generation Company, LLC
Stefanie A. Brand, Esq., Director, New Jersey Division of Rate Counsel
Grace H. Park, Deputy General Counsel and Chief Litigation Counsel, PSEG Nuclear
Steven S. Goldenberg, Esq., Giordano, Halleran and Ciesla, P.C. for New Jersey Large Energy Users Coalition
Paul F. Forshay, Esq., Eversheds Sutherland (US) LLP for New Jersey Large Energy Users Coalition
William Harla, Esq. and Alice Bergen, Esq., Decotiis, Fitzpatrick, Cole & Giblin, LLP for PJM Power Providers Group
Michael J. Ash, Esq., Carlin & Ward, PC, Attorney for Monitoring Analytics, LLC
Jeffery Mayes, Esq., General Counsel, Monitoring Analytics, LLC

BY PRESIDENT JOSEPH L. FIORDALISO

BACKGROUND

On May 23, 2018, Governor Phil Murphy signed into law L. 2018, c. 16 (C.48:3-87.3 to -87.7) (“Act”). The Act requires the Board to create a program and mechanism for the issuance of Zero Emission Certificates (“ZECs”), each of which represents the fuel diversity, air quality, and other environmental attributes of one megawatt-hour of electricity generated by an eligible nuclear power plant selected by the Board to participate in the program. This order covers administrative issues flowing from the Act.

In light of the importance of this process, and the continued interest in achieving a just and reasonable resolution, it was determined that an evidentiary-type hearing be held as part of the Board's deliberations and to ensure the provision of due process to all parties. This desire comes from the need for transparency, to have a forum for discussion and questioning of the witnesses, and a forum for the discussion of how applicants who are not subject to Board regulation can or cannot fit into standard ratemaking norms.

This evidentiary hearing is not a requirement of the Act; it is a process to assist the Board in reaching its conclusions. As such, the nature of the hearing will differ from the evidentiary hearings that some parties may have experienced in, for example, rate cases.

Accordingly, the purpose of these hearings shall be to elucidate the standards and foundations that the Board should implement to determine if ZEC funds should be awarded, and if so, how that amount should be determined.

Toward that end, I **HEREBY ORDER** the following process:

1. Each party shall submit the testimony of no more than two (2) witnesses covering the methodology by which the Board should determine costs and risks in accordance with the ZEC statute that the Board should use in determining if ZECs should be issued, and if so, at what value;
2. The parties may submit written questions to the witnesses, with responses provided in writing; and
3. The Presiding Officer shall convene an evidentiary hearing for the purpose of allowing the Presiding Officer and the other Commissioners in attendance to ask questions of the witnesses, based upon the testimony submitted and the responses provided, as well as any additional issues of the Commissioners' choosing.

Once complete, the transcript of this hearing shall be included in the record and will serve as evidence in this proceeding.

In light of this addition, it becomes necessary to modify the prior procedural schedule. As such, I **FURTHER ORDER** that the Revised Procedural Schedule, Attached as Exhibit A, be controlling in this matter. Dates for the above process, as well as modifications of previously set milestones and deadlines, have been placed into the schedule.

On a related issue, on September 30, 2020, Exelon Generation filed a Motion to Amend the September 29, 2020 Orders in the Salem 1 and Salem 2 proceedings to provide that Exelon Generation and PSEG Nuclear "jointly" filed a Brief in Opposition to P3's Motion to Intervene and Request for Access to Confidential Information.¹ Exelon Generation requested that the following amendments to the September 29, 2020 Order be made in this matter to ensure "clarity and accuracy of the record in these proceedings:"

¹ Exelon Generation's Motion applies to the September 29, 2020 Orders in Salem 1 and Salem 2 only. See Docket Nos. ER20080557 and ER20080558, respectively. Exelon Generation does not have an ownership interest in Hope Creek, and therefore, it is not moving to amend the September 29, 2020 Order in the Hope Creek proceeding. See Docket No. ER20080559.

I agree that Exelon Generation and PSEG Nuclear jointly filed the September 25, 2020 Brief in this matter, and to the extent Exelon has concerns about specific wording, I see no issue in making modifications. Therefore, I **HEREBY FIND** that the procedural history contained in the September 29, 2020 Order shall be amended as requested. As such, I **HEREBY ORDER** that the following amendments be made to the procedural history contained in the September 29, 2020 Order, Docket No. ER20080558:

1. Page 4: number 2 of the list of entities that filed objections should include Exelon Generation Company, LLC;
2. Page 9: Exelon Generation Company, LLC should be added to references to PSEG Nuclear throughout the discussion; and
3. Page 12: Exelon Generation Company, LLC should be added to the reference to PSEG Nuclear's opposition brief.

Finally, I note that an application for admission *pro hac vice* had been filed on behalf of Jeffery Mayes, Esq., representing the Independent Market Monitor. This motion has not been previously acted upon. Based upon review, and the associated filings, it appears that:

1. Mr. Mayes is a member in good standing admitted to practice in the Commonwealth of Pennsylvania, the Commonwealth of Virginia and the District of Columbia;
2. Mr. Mayes has special expertise developed through his association with Monitoring Analytics, LLC on issues relating to its obligations as the IMM for PJM such that good cause is shown;
3. Mr. Mayes has paid to the New Jersey Lawyers' Fund for Client Protection the fees required by R. 1:20-1(b); and
4. Mr. Mayes was previously granted admission *pro hac vice* in the prior proceeding on this topic.

Accordingly, and based upon the above, I **HEREBY FIND** that Mr. Mayes satisfies the conditions for admission *pro hac vice*, and I am satisfied that he submitted to the Board proof of payment to the New Jersey Lawyers' Fund for Client Protection of the fees required by R. 1:20-1(b) and 1:28-2. Therefore, I **HEREBY ORDER** that Mr. Mayes is **HEREBY ADMITTED** to practice before the Board *pro hac vice* in this matter, subject to the following conditions:

1. Mr. Mayes shall abide by the Board's rules and all applicable New Jersey court rules, including all disciplinary rules;
2. Mr. Mayes shall consent to the appointment of the Clerk of the Supreme Court as agent upon whom service of process may be made for all actions against them that may arise out of his participation in this matter;
3. Mr. Mayes shall notify the Board immediately of any matter affecting his standing at the bar of any other jurisdiction; and
4. Mr. Mayes shall have all pleadings, briefs and other papers filed with the Board signed by an attorney of record authorized to practice in this State, who shall be held responsible for them and for the conduct of this cause and the admitted attorney therein.

This ruling is subject to ratification or modification by the Board, as it deems appropriate during the proceedings in this matter.

This Order shall be effective on December 18, 2020

DATED: December 18, 2020

BY:

A handwritten signature in black ink, appearing to read "Joe Fiordaliso", written over a horizontal line.

JOSEPH L. FIORDALISO
PRESIDENT

IN THE MATTER OF THE APPLICATION OF PSEG NUCLEAR, LLC AND EXELON
GENERATION COMPANY, LLC FOR THE ZERO EMISSION CERTIFICATE PROGRAM -
SALEM UNIT 1
DOCKET NO. ER20080557

**EXHIBIT A:
Amended Procedural Schedule**

Ongoing	Discovery on the Applications
January 15, 2021	Staff Evaluation Committee Preliminary Findings of Eligibility to Apply for ZECs and Expert's Initial Report
Week of January 25, 2021	Public Comment Hearing on Applications and Staff's preliminary findings of Eligibility to Apply for ZECs and Expert's Initial Report
January 29, 2021	Submission of Direct Testimony by parties
February 12, 2021	Submission of written "Cross Examination" questions to witness who provided direct testimony
February 26, 2021	Submission of written witness replies to "Cross Examination" questions
Week of March 8, 2021	Evidentiary Hearing
March 19, 2021	Final comments due from public
March 26, 2021	Submission of post-hearing briefs/arguments by parties and intervenors
April 9, 2021	Submission of post-hearing reply briefs/arguments by the parties and intervenors
April 27, 2021	Board action

IN THE MATTER OF THE APPLICATION OF PSEG NUCLEAR, LLC AND EXELON
GENERATION COMPANY, LLC FOR THE ZERO EMISSION CERTIFICATE PROGRAM -
SALEM UNIT 1 - DOCKET NO. ER20080557

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