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**STAFF STRAW PROPOSAL**

**REQUEST FOR COMMENTS**

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

Docket No. [EO18080899](#)

**APPLICATION OF PSEG NUCLEAR, LLC AND EXELON GENERATION COMPANY, LLC  
FOR THE ZERO EMISSION CERTIFICATE PROGRAM - SALEM UNIT 1**

Docket No. [ER20080557](#)

**APPLICATION OF PSEG NUCLEAR, LLC AND EXELON GENERATION COMPANY, LLC  
FOR THE ZERO EMISSION CERTIFICATE PROGRAM - SALEM UNIT 2**

Docket No. [ER20080558](#)

**APPLICATION OF PSEG NUCLEAR, LLC FOR THE ZERO EMISSION CERTIFICATE  
PROGRAM – HOPE CREEK**

Docket No. [ER20080559](#)

The New Jersey Board of Public Utilities (“Board”) invites all interested parties and members of the public to provide written comments regarding Board Staff’s (“Staff’s”) proposal of a refund mechanism for nuclear power plants (“Units”) that received or utilized a federal production tax credit (“PTC”), which constitutes a double payment for Zero Emission Certificates (“ZECs”) during Calendar Year 2024 (January 1, 2024, through December 31, 2024) (“CY24”).<sup>1</sup>

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<sup>1</sup> A ZEC represents the fuel diversity, air quality, and other environmental attributes of one (1) megawatt-hour (“MWh”) of electricity generated by a Unit.

## **BACKGROUND AND PROCEDURAL HISTORY**

N.J.S.A. 48:3-87.3 *et seq.* (“ZEC Act”) required the Board to create a program and mechanism whereby, every three (3) years, the Board receives and reviews Unit applications, determines eligibility, and, if approved by the Board, awards ZECs in accordance with the ZEC Act (“ZEC Program”).<sup>2</sup> If a Unit is awarded ZECs, New Jersey’s four (4) investor-owned electric distribution companies (“EDCs”), and the municipal electric distribution company Butler Electric Utility (“Butler”), purchase ZECs from the Unit, and the proceeds help the Unit prevent premature retirement.<sup>3</sup>

On August 29, 2018, the Board initiated the ZEC Program.<sup>4</sup> On April 18, 2019, the Board awarded ZECs to the Hope Creek Nuclear Generating Station, the Salem 1 Nuclear Generating Station, and the Salem 2 Nuclear Generating Station (collectively, “Selected Units”) for the “stub period,” April 2019 through May 2019, and June 2019 through May 2022 (“Initial Eligibility Period”).<sup>5</sup>

In compliance with the ZEC Act, on July 10, 2019, the Board established criteria regarding the forward implementation of the ZEC Program (“Forward Requirements”).<sup>6</sup> On May 20, 2020, the Board mandated that the Forward Requirements include, among other things, an annual revenue review to ensure that a Unit does not receive double-payment for its fuel diversity, resilience, air quality, or other environmental attributes.<sup>7</sup> As such, Units must file, with the Board, financial documents detailing payments, credits, and revenues received for generation in the prior energy year. The May 2020 Order further required Staff to submit its preliminary findings for public comment before presenting its final findings to the Board.

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<sup>2</sup> See N.J.S.A. 48:3-87.5(e) (criteria to determine eligibility), and N.J.S.A. 48:3-87.5(d) (the Board has no obligation to certify any Unit as eligible).

<sup>3</sup> The EDCs are Atlantic City Electric Company, Jersey Central Power & Light Company, Public Service Electric and Gas Company, and Rockland Electric Company.

<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, BPU Docket No. EO18080899, Order dated August 29, 2018. Through a series of Orders dated November 19, 2018, the Board also approved the ZEC application, the ZEC Program process, and the associated tariffs. On February 27, 2019, the Board established the ranking criteria to ensure that an eligible Unit receives ZECs without exceeding the cap provided in the Act.

<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 for Zero Emission Certificates of Salem I 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. EO18080899, EO18121338, EO18121339, and EO18121337, Order dated April 18, 2019.

<sup>6</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 I 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, Order Determining The Forward Steps in the ZEC Program and Currently Approved Applications, BPU Docket Nos. EO18080899, EO18121338, EO18121339, and EO18121337, Order dated July 10, 2019.

<sup>7</sup> In re the Implementation of L. 2018, c. 16 Regarding the Establishment of a Zero Emission Certificate Program for Eligible Nuclear Power Plants, BPU Docket No. EO18080899; and Application for Zero Emission Certificates of Salem 1 Nuclear Power Plant, BPU Docket No. EO18121338; Application for Zero Emission Certificates of Salem 2 Nuclear Power Plant, BPU Docket No. EO18121339; Application for Zero Emission Certificates of Hope Creek Nuclear Power Plant, BPU Docket No. EO18121337, Order dated May 20, 2020 (“May 2020 Order”) at Page 12.

On April 27, 2021, the Board awarded ZECs to the Selected Units for June 2022 through May 2025 (“Second Eligibility Period”).<sup>8</sup>

On June 30, 2025, and July 14, 2025, Public Service Enterprise Group Nuclear, LLC (“PSEG”) and Constellation Energy Generation, LLC (“Constellation Energy”), respectively, submitted data on behalf of their Units for EY25.<sup>9</sup> The data included, but was not limited to, the MWh quantity generated by the Selected Units, employment information, the amount of money held in the ZEC accounts, and information on the MWh of electricity distributed by the EDCs and Butler’s Price and Monthly Purchase Detail calculations. Additionally, this information contained personnel affidavits and certifications from PSEG Services Corporation, PSEG Nuclear, and Constellation Energy.

In compliance with the May 2020 Order, PSEG and Constellation Energy submitted confidential materials for EY25. Staff utilized the confidential materials to conduct the required Annual Revenue Review pursuant to the ZEC Act, specifically N.J.S.A. 48:3-87.5(e)(4) and N.J.S.A. 48:3-87.5(i)(3). The confidential materials included the Annual Revenue Review, Estimated Hedge Profit and Loss Proportion, PJM Power Hedges, MWh generation details, Selected Nuclear Plants Generation Losses, ZEC Price and Monthly Purchase Details, and employment information.

Beginning January 1, 2024, Units were eligible to receive a federal production tax credit (“PTC”) per calendar year. The two owners of New Jersey nuclear units, Constellation Energy and PSEG Nuclear, both filed for the PTC on their CY24 tax returns.

### **PROPOSED REFUND MECHANISM**

Staff reviewed and analyzed the Selected Units’ certified data and documentation regarding their CY24 PTC filings. Staff found that the CY24 federal PTC does constitute a double-payment, related to the resilience, air quality, or other environmental attributes associated with electricity generated or sold by the Selected Units during CY24 within the Second Eligibility Period.<sup>10</sup> Accordingly, Staff recommends the following steps to effectuate a refund from the owners of the Selected Units to retail customers through the EDCs and Butler.

1. Staff will determine the Base Value of double payment based upon the smaller of a) the as-filed PTC for each owner or partial owner of a Selected Unit for CY24, or b) the value of ZECs received by the Selected Units owners in CY24.
2. Staff will determine the Refund Value for CY24 by adding interest at the annual interest rate determined by the Board for customer deposits during the same period. The Board approved interest rate for customer deposits for CY24 was simple interest of 5.06%. Therefore, the Refund Value for CY24 will be the Base Value plus 5.06% of the Base Value.
3. The Refund Value will be refunded to the EDCs and Butler via electronic funds transfer (“EFT”) based upon a proration equal to the percent of total retail sales for each EDC and Butler for CY24. The EFT from Selected Unit owners to the EDCs and Butler shall be on or before May 31, 2026.

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<sup>8</sup> In re the Application of PSEG Nuclear, LLC and Exelon Generation Company, LLC for the Zero Emission Certificate Program – Salem Unit 1, BPU Docket No. ER20080557, Order dated April 27, 2021; In re the Application of PSEG Nuclear, LLC and Exelon Generation Company, LLC for the Zero Emission Certificate Program – Salem Unit 2, BPU Docket No. ER20080558, Order dated April 27, 2021; In re the Application of PSEG Nuclear, LLC for the Zero Emission Certificate Program – Hope Creek, BPU Docket No. ER20080559, Order dated April 27, 2021.

<sup>9</sup> Constellation Energy Generation, LLC was formally known as Exelon Generation Company, LLC.

<sup>10</sup> See N.J.S.A. 48:3-87.5(e)(4) and N.J.S.A. 48:3-87.5(i)(3).

4. Beginning June 1, 2026, the EDCs and Butler will refund retail customers through a ZEC Reconciliation Charge Rate as part of the existing ZEC Recovery Charge (“ZECRC”). The refund to retail customers shall be evenly distributed, on a kilowatt-hour basis, over the following twelve months.
5. The EDCs and Butler shall track any over/under balances in their ZEC refund accounts and submit a reconciliation filing by July 1, 2027.

## **COMMENTS**

**The deadline for comments on this matter is 5 p.m. on March 31, 2026.**

Please submit comments directly to Docket No. EO18080899 provided above using the “Post Comments” button on the Board’s [Public Document Search](#) tool. Comments are considered “public documents” for purposes of the State’s Open Public Records Act. Only public documents should be submitted using the “Post Comments” button on the Board’s Public Document Search tool. Any confidential information should be submitted in accordance with the procedures set forth in N.J.A.C. 14:1-12.3. In addition to hard copy submissions, confidential information may also be filed electronically via the Board’s e-filing system or by email to the Secretary of the Board. Please include “Confidential Information” in the subject line of any email. Instructions for confidential e-filing are found on the Board’s webpage, <https://www.nj.gov/bpu/agenda/efiling>.

Emailed and/or written comments may also be submitted to:

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Dated: March 23, 2026

*Sherri L. Lewis*

Sherri L. Lewis  
Secretary of the Board