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Remarks of Stefanie A. Brand, Director, Division of Rate Counsel, Regarding Strategies to Prevent the Premature Retirement of Nuclear Power Plants

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Good morning. My name is Stefanie Brand, and I am the Director of the Division of Rate Counsel. I would like to thank Chairman Smith, Chairman DeAngelo and members of the committees for the opportunity to testify today.

The Division of Rate Counsel represents and protects the interest of all utility consumers -- residential customers, small business customers, small and large industrial customers, schools, libraries and other institutions in our communities. Rate Counsel is a party in cases where New Jersey utilities seek changes in their rates and/or services. Rate Counsel also gives consumers a voice in setting energy, water and telecommunications policy that will affect the rendering of utility services well into the future.

As an advocate for ratepayers, who have a direct interest in the continued provision of electricity at reasonable rates, Rate Counsel certainly has no interest in seeing nuclear plants shuttered at this time, or at any time prior to when we no longer need the electricity they generate. However, the system that is in place already includes safeguards to prevent that from happening, and other measures are being worked on as we speak to address these concerns within the market structures that we have relied upon since this Legislature decided to deregulate generation in 1999. It is important that we let these processes work so that we do not disrupt those markets and so that ratepayers do not end up paying more than is necessary.

You may recall that in 1999, this Legislature made a decision to deregulate electricity generation and move to a competitive market-based system. While that system is certainly complicated and in some respects flawed, it has served the State well in that reliability has been maintained and prices have come down. It has led to competition on both the wholesale and retail level. You may also recall that in 2011, this Legislature, through the LCAPP statute, tried to provide out-of-market incentives to generation in order to spur the construction of new plants, to enhance reliability and move away from coal and toward a more renewable portfolio. That statute – largely due to efforts by PSEG itself- was struck down, as inappropriately interfering with federal jurisdictional markets. Any out of market solution that might be considered to buttress the profits of our nuclear plants may have the same effect and may suffer the same fate.

As you analyze the issue, it is important, especially in this political era, to focus on the facts. We need for the actual facts – not fears or speculation – to guide the policymaking here. So in that vein, I would like to offer some facts for you to consider:

Fact #1: We have no information to verify that New Jersey's nuclear plants are in financial distress.

At the outset, it is important to note that while some nuclear plants are uneconomic or are headed in that direction, that is not the case in New Jersey. For good or for bad, we have higher prices than other parts of PJM and thus our nuclear plants are currently economic. It is not possible for anyone to say definitively that we are headed toward market prices that are insufficient for these plants to continue to make money. In fact, there are a number of reasons to believe that capacity and energy prices in New Jersey will increase over the next few years rather than decrease. Thus, Rate Counsel strongly maintains that it is not enough to simply accept PSEG's assertions regarding the plants' profitability, and that even if the plants are shown to be at risk of losing money in the future, the solutions must be found within the federally-administered markets and not through out-of-market payments for plants that are already profitable.

PSEG has not opened its books as the nuclear plant owners have been required to do in other states. PSE&G has admitted that its plants are currently profitable, as it must since we know that these plants have cleared in PJM's capacity markets year after year and they have been willing to accept the local clearing price in those auctions.   As a result, the plants are committed to provide electricity at least three years into the future at that price. Just because nuclear plants in other parts of the country are not profitable, doesn't mean that plants in New Jersey – the state with the highest prices in PJM – are also unprofitable. It is unlikely that PSEG would bid into these auctions or accept prices that are less than their costs, and thus we need to verify the Company's claim that these particular nuclear plants are or will be in financial distress. Before any strategy is considered to protect these plants, the Companies that own them should be required to open their books and justify their claim that these plants are in financial distress.

Also, it is important to remember that the system is not structured so that a Company can simply shut down a plant unless it gets subsidies. Although PJM has said continued reliability is not an issue if these plants shut down, if they are needed for reliability, PJM can order them to continue to run. They can enter into a "Reliability Must Run" contract for whatever period they are needed.

Fact #2: This issue is best addressed through in-market solutions on the Federal level and *is* being addressed there.

The regional grid, PJM, has released its proposal to utilize an in-market solution to correct what some perceive as a flaw in price formation that does not adequately value the attributes of some generating plants, like the nuclear facilities. Beginning next week, the proposal will go through the PJM stakeholder process in which PSEG and all other stakeholders will participate and advocate for their interests. That process is intended to compensate baseload facilities like the nuclear plants to more accurately value what they bring to the system. The outcome is likely to increase energy prices in the federal market and is also likely to impact the earnings for these plants. Any out-of-market proposal should await the outcome of that process because otherwise ratepayers in New Jersey will be saddled with paying for both solutions.

PSE&G is also very active in the FERC proceeding in which the Company is allied with DOE Secretary Perry and the Trump administration to advocate for out-of-market subsidies for both coal and nuclear plants. That proceeding is on a short timeline and some action is expected from FERC on December 11. It may lead to changes that will also alleviate the need for any in-state subsidies. If the Legislature goes forward with a subsidy proposal now, and these federal processes also end up with measures to address the concerns, PSEG may end up double or triple dipping, forcing New Jersey's ratepayers to spend significantly more than necessary to prop up coal and nuclear plants throughout PJM.

This raises an important point. The electricity from these plants does not only go to New Jersey. So passage of this bill means that New Jersey ratepayers will be subsidizing electricity for Maryland, Delaware, Pennsylvania, and perhaps even further afield. This is not New York where there is only one state that has the burden and benefit. We will have all of the burden and only part of the benefit. For this reason as well, we should wait to see what happens on the federal level before considering any state level out-of-market subsidies.

Fact #3: This is only one of many areas in which the PSEG Companies are seeking to vastly increase the rates of New Jersey consumers.

Besides the PJM and FERC proceedings I just mentioned, PSE&G has a petition in to replace aging gas mains at a cost of $2.68 billion that, if approved as they have proposed it, will raise customers' total bill about 20% over five years. In addition, PSE&G's transmission rates are through the roof. From 2009 to 2017 PSE&G's Transmission rates have increased 465%. These increases are expected to continue. This vastly outpaces other transmission owners in PJM. By way of comparison, PEPCO's rates increased by 90.7% over that period and Rockland Electric's increased by 54.7%. On top of this, PSE&G is coming in for a rate increase in February and they will also be filing additional petitions, including a petition for a second storm hardening program on top of the $1.2 billion they already received for this work. All of these filings are in addition to all of the other PSE&G clauses and programs we already fund.

Fact #4: We've already paid for this.

When the state deregulated in 1999 the utilities complained that they had built their generation – including these nuclear plants – with the expectation that they would be paid for in rates. The BPU ordered ratepayers to pay billions of dollars in "stranded costs" – for PSEG's plants alone we estimate the stranded cost bill was over $2.5 billion. But those costs ended up not being stranded. In the early years, PSEG made triple their costs and reaped huge returns on their generation in the market. There was a lawsuit asking for refunds or at least to stop the stranded cost payments, but the Courts rejected it – saying a deal is a deal. Well, now that the market isn't working as well for PSEG, they want to change the deal.

So the question is – are we a deregulated state or not? Do we support competitive markets for generation? If we do, we cannot hand out out-of-market payments whenever the market changes. We need to let the markets work. PJM is working on ways to solve the issue within the market and we should let that process play out. We should also see what the impact will be if New Jersey re-enters RGGI as the incoming governor has proposed. Because RGGI places a price on carbon that some of the nuclear plants' competitors will have to pay, reentering RGGI may also impact the plants' profitability. We should allow that process to play out also before asking ratepayers to pay both a carbon price and an out-of-market subsidy to nuclear plants.

Fact #5: We cannot afford this.

New Jersey already has the highest residential electricity prices of any state in PJM. We are in the top 10 in the country. It is important to remember that all New Jersey ratepayers – not just PSE&G ratepayers – will pay for this. I have heard some say that we need to subsidize nuclear plants to serve as a “bridge” to a future renewable portfolio. The opposite is true. Our renewable energy future is upon us now. We need to spend our money today on advancing renewable energy and energy efficiency not on padding the profits of already profitable existing generation. We need to replace aging gas mains and shore up our distribution system to protect us from storms and integrate distributed energy resources. Clean energy jobs are a huge part – 79% of the jobs in the electricity sector in New Jersey and that number is likely to grow. We can’t afford to pay billions of extra dollars just for the electricity we already have and still have enough money to take on the clean energy agenda we hope to accomplish. We need nuclear power but we also need to move our economy toward the future. We don’t need to overpay in order to maintain existing generation.

I have also heard very real concerns about a potential loss of jobs. That is more complicated that simply looking at the direct and secondary jobs that could be impacted by the closure of the nuclear plants. Small and large businesses are ratepayers too, and they do not have endless resources. If rates climb too high because we have to pay more than is necessary for any of these worthy goals, small and large businesses will close, and residents will be unable to afford to live here. If employers leave the state because New Jersey's energy present becomes unaffordable, that will result in a loss of jobs too. You may not be able to see it as clearly as when a single plant closes, but the overall job losses could be just as significant.

I understand that PSEG considers its primary duty to be to its shareholders. I wish they cared more about their customers, but I understand that they consider their shareholders their first priority. But you were elected by your constituents. Your job is to put them first. I have met residential customers who can't use their air conditioning in the summer because they can't afford it, and both small businesses and large aren't sure they can continue to do business in New Jersey if their rates keep going up at this pace. Let the federal, in-market solutions have a chance to work. That's what is best for those who are your priority.

Thank you for the opportunity to testify today. Rate Counsel looks forward to continued dialogue to achieving goals that meet the state's energy needs and protect utility customers. I am available to answer any questions you may have.