

Agenda Date: 1/28/26
Agenda Item: 9A

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 L.)	ORDER ON ANNUAL
2018, <u>c.</u> 16 REGARDING THE ESTABLISHMENT)	REVENUE REVIEW FOR
OF A ZERO EMISSION CERTIFICATE PROGRAM)	ENERGY YEAR 2025
FOR ELIGIBLE NUCLEAR POWER PLANTS)) DOCKET NO. EO18080899
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
IN THE MATTER OF THE APPLICATION OF PSEG))
NUCLEAR, LLC AND EXELON GENERATION))
COMPANY, LLC FOR THE ZERO EMISSION))
CERTIFICATE PROGRAM - SALEM UNIT 2)) DOCKET NO. ER20080558
IN THE MATTER OF THE APPLICATION OF PSEG))
NUCLEAR, LLC FOR THE ZERO EMISSION))
CERTIFICATE PROGRAM – HOPE CREEK)) DOCKET NO. ER20080559

Parties of Record:

Brian O. Lipman, Esq., Director, New Jersey Division of Rate Counsel
Aaron Karp, Esq., Associate Counsel – Regulatory, PSEG Services Corporation on behalf of PSEG Nuclear, LLC
Carrie H. Allen, Esq., Constellation Energy Generation, LLC
Jeffrey W. Mayes, Esq., General Counsel, Monitoring Analytics, LLC

BY THE BOARD:

By this Order, the New Jersey Board of Public Utilities (“Board”) considers Board Staff’s (“Staff’s”) review and analysis of the revenue and payments received by nuclear power plants awarded Zero Emission Certificates (“ZECs”) (“Selected Units”) during Energy Year 2025, June 1, 2024, to May 31, 2025 (“EY25”), to determine if the Selected Units received direct or indirect payments or credits for fuel diversity, resilience, air quality or other environmental attributes solely from the Board’s ZEC program (“ZEC Program”) and no other source (“Double Payments”).¹

¹ N.J.S.A. 48:3-87.5(e)(4) and N.J.S.A. 48:3-87.5(i)(3).

BACKGROUND / PROCEDURAL HISTORY

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

As mandated by N.J.S.A. 48:3-87.3, et seq. (“Act”), the Board created a program where every three (3) years, the Board certifies Selected Units, if any, and New Jersey’s four (4) investor-owned electric distribution companies (“EDCs”), and the municipal electric distribution company Butler Electric Utility, purchase ZECs from the Selected Unit(s) (“ZEC Program”).² For April 18, 2019, through May 31, 2019 (“Stub Period”), and June 1, 2019, through May 31, 2022 (“Initial Eligibility Period”), the Board certified Salem 1 Nuclear Generating Plant (“Salem 1”), Salem 2 Nuclear Generating Plant (“Salem 2”), and the Hope Creek Nuclear Generating Plant (“Hope Creek”) as Selected Units.³

By the April 2019 Order, the Board directed Staff to provide recommendations regarding the ZEC Program’s continued and forward implementation (“Forward Requirements”). By Order dated May 20, 2020, the Board finalized the Forward Requirements, including, but not limited to, requiring an annual review of the financial documents and certifications of the Selected Units to identify any Double Payments (“Annual Revenue Review”).⁴ After submitting its preliminary findings for public comment, Staff must provide its Annual Revenue Review to the Board for consideration.

² The EDCs are Atlantic City Electric Company, Jersey Central Power & Light Company, Public Service Electric and Gas Company, and Rockland Electric Company.

³ 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; 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 April 18, 2019 (“April 2019 Order”).

⁴ 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; 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”).

EY25

On April 27, 2021, for the Second ZEC Eligibility Period, June 1, 2022, through May 31, 2025, the Board awarded ZECs to Salem 1, Salem 2, and Hope Creek.⁵

A. Annual Revenue Review

On June 30, 2025, PSEG Nuclear, LLC (“PSEG Nuclear”) and Constellation Energy Generation, LLC (“Constellation”) submitted EY25 confidential data, affidavits, and certifications to the Board for Staff’s Annual Revenue Review. As provided in “Attachment A” attached hereto, Staff found no Double Payments, either direct or indirect, or in the form of credits related to the resilience, air quality, or other environmental attributes associated with electricity generated or sold by the Selected Units.⁶

B. Request for Comments

On September 22, 2025, Staff posted a Request for Comments. PSEG Nuclear, Constellation, and the New Jersey Division of Rate Counsel (“Rate Counsel”) filed written comments.

a. PSEG Nuclear

PSEG Nuclear agreed with Staff that the Selected Units did not receive Double Payments for EY25. PSEG Nuclear, however, indicated that it expects receipt of the federal zero-emission nuclear power production tax credit (“PTC”) for calendar year 2024 (“CY24”) based on the estimate provided in PSEG Nuclear’s 2024 federal tax filings. PSEG Nuclear further noted that this amount is an estimate only and is subject to future change due to anticipated United States Treasury updates and/or because of an Internal Revenue Service (“IRS”) audit.

PSEG Nuclear stated that the estimated PTC amount expected may exceed the \$196 million value of the PSEG Nuclear share of the ZEC payments that the Selected Units received in CY24 and is therefore prepared to refund to customers the entirety of the CY24 ZEC payments, plus interest, once it receives the PTC payment from the IRS.

PSEG Nuclear proposed to provide a refund based on the estimated PTC after receipt. PSEG Nuclear also proposed a mechanism to collect any over-refund should future federal guidance or an IRS audit result in a downward adjustment of the PTC.

b. Constellation

Constellation supported comments filed by PSEG Nuclear.

Constellation stated that the estimated PTC amount reflected as a credit to Constellation against its tax liability exceeds the \$80 million value of the Constellation share of the ZEC payments that

⁵ 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; In re the Application of PSEG Nuclear, LLC and Exelon Generation Company, LLC for the Zero Emission Certificate Program - Salem 2, BPU Docket No. ER20080558; 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.

⁶ N.J.S.A. 48:3-87.5(e)(4) and N.J.S.A. 48:3-87.5(i)(3).

the Selected Units received in CY24 and is therefore prepared to refund to customers the entirety of the CY24 ZEC payments, plus interest, once it receives sign off on its tax return or the three (3)-year IRS audit period expires.

Constellation supported comments filed by PSEG Nuclear proposing an approach to accelerate the refund of ZECs based on the expected receipt of the PTC for CY24, subject to adjustment should future federal guidance or an IRS audit result in a downward adjustment of the PTC.

c. **Rate Counsel**

Rate Counsel stated that the information provided by PSEG Nuclear and Constellation does not appear to indicate that Selected Units received any direct or indirect payments or credits for fuel diversity, resilience, air quality or other environmental attributes. However, Rate Counsel noted that it did not receive revenue or subsidy information from Constellation for the three (3) energy years of the Second ZEC Eligibility Period, June 1, 2022, through May 31, 2025.

Rate Counsel further noted that the combined refund to ratepayers would be \$276 million, not including interest, for CY24 ZEC payments.

Rate Counsel stated its rights to respond to PSEG Nuclear's refund and overpayment mechanism concept.

DISCUSSION AND FINDINGS

After careful review of the record, including Attachment A and all comments submitted, the Board **HEREBY FINDS** that Staff's EY25 Annual Revenue Review is thorough, comprehensive, and consistent with the requirements provided in the May 2020 Order and the Act. As such, the Board **FURTHER FINDS** that the Selected Units did not, as of the date of this Order, receive Double Payments for fuel diversity, resilience, air quality, or other environmental attributes in EY25.

However, based upon the comments provided above, the Board is cognizant that the Selected Units may receive a zero-emission nuclear power PTC for CY24, subject to change, depending upon United States Treasury updates and/or IRS audits.

Therefore, the Board **HEREBY ORDERS** the Selected Units' owners to file certified statements of the amounts claimed under the PTC for CY24, including the amounts on IRS Form 7213, Part II, Section 2, Lines 1, 10, and 11 that pertain to the Selected Units, with the Board on or before thirty (30) days from the date of this Order. Additionally, the Board **HEREBY DIRECTS** Staff to review the certified statements and return to the Board with recommendations regarding a process to refund customers for any Double Payments claimed by or accrued to ZEC recipients.

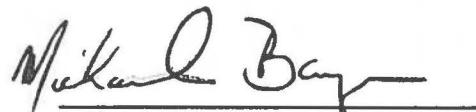
This Order shall not preclude or prohibit the Board from taking further action relating to this docket.

This Order shall be effective on January 28, 2026.

DATED: January 28, 2026

BOARD OF PUBLIC UTILITIES
BY:


CHRISTINE GUHL-SADOVY
PRESIDENT


MICHAEL BANGE
COMMISSIONER


DR. ZENON CHRISTODOULOU
COMMISSIONER

ATTEST:


SHERRI L. LEWIS
BOARD SECRETARY

I HEREBY CERTIFY that the within
document is a true copy of the original
in the files of the Board of Public Utilities.

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

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

IN THE MATTER OF THE APPLICATION OF PSEG NUCLEAR, LLC FOR THE ZERO EMISSION CERTIFICATE PROGRAM - HOPE CREEK

DOCKET NOS. EO18080899, ER20080557, ER20080558, ER20080559

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Attachment A

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Commissioner

NOTICE¹

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") revenue review of the nuclear power plants ("Units") that received Zero Emission Certificates ("ZECs") during Energy Year 2025 (June 1, 2024, through May 31, 2025) ("EY25").²

¹ Not a paid legal advertisement.

² 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") requires 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").³ 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"), shall purchase ZECs from the Unit, and the proceeds help the Unit prevent premature retirement.⁴

On August 29, 2018, the Board initiated the ZEC Program.⁵ 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").⁶

In compliance with the ZEC Act, on July 10, 2019, the Board established criteria regarding the forward implementation of the ZEC Program ("Forward Requirements").⁷ 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.⁸ As such, Units must file, with the Board, financial

³ 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).

⁴ The EDCs are Atlantic City Electric Company, Jersey Central Power & Light Company, Public Service Electric and Gas Company, and Rockland Electric Company.

⁵ [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.

⁶ [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.

⁷ [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.

⁸ [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.

documents detailing payments, credits, and revenues received for generation in the prior energy year. The May 2020 Order further requires Staff to submit its preliminary findings for public comment before presenting its final findings to the Board.

On April 27, 2021, the Board awarded ZECs to the Selected Units for June 2022 through May 2025 ("Second Eligibility Period").⁹

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 EY25.¹⁰ 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 are eligible to receive a federal production tax credit ("PTC") per calendar year. The 2024 PTC and 2025 PTC cannot be determined, or received, until the Units file tax returns on or before October 15, 2025 and 2026. Additionally, due to anticipated United States Treasury updates, the PTC amounts are subject to change.

PRELIMINARY FINDINGS

Staff reviewed and analyzed the Selected Units' certified data and documentation. Staff found no evidence of double-payment, direct or indirect payments, or credits related to the resilience, air quality, or other environmental attributes associated with electricity generated or sold by the Selected Units during EY25 of the Second Eligibility Period.¹¹ Accordingly, Staff does not recommend any reduction to the payment obligation to the nuclear plant owners during EY25.

COMMENTS

The deadline for comments on this matter is 5 p.m. on November 12, 2025.

⁹ 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.

¹⁰ Constellation Energy Generation, LLC was formally known as Exelon Generation Company, LLC.

¹¹ See N.J.S.A. 48:3-87.5(e)(4) and N.J.S.A. 48:3-87.5(i)(3).

Please submit comments directly to Docket No. EO18080899 listed 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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Email: board.secretary@bpu.nj.gov

Dated: September 22, 2025



Sherri L. Lewis
Secretary of the Board