



Agenda Date: 5/21/26
Agenda Item: 9B

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/

ECONOMIST'S OFFICE

IN THE MATTER OF THE IMPLEMENTATION OF L.)	ORDER ON RETURN OF ZEC
2018, c. 16 REGARDING THE ESTABLISHMENT)	DOUBLE PAYMENTS FOR
OF A ZERO EMISSION CERTIFICATE PROGRAM)	CALENDAR YEAR 2024
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 a method to refund ratepayers Double Payments from Zero Emission Certificates (“ZECs”) during calendar year 2024 (“CY24”).

BACKGROUND AND PROCEDURAL HISTORY

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 nuclear power plants awarded ZECs (“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 (“Butler”), purchase ZECs from the Selected Unit(s) (“ZEC Program”).¹ 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.²

By the April 2019 Order, the Board directed Board Staff (“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”).³ After submitting its preliminary findings for public comment, Staff must provide its Annual Revenue Review to the Board for consideration.

The EY25 Annual Revenue Review Process Introduced Emerging Facts Related to Calendar Year 2024 ZEC Double Payments

In September 2025, owners of the Selected Units, PSEG Nuclear LLC (“PSEG Nuclear”) and Constellation Energy Generation, LLC (“Constellation”) filed comments with the Board. PSEG Nuclear stated that it expected receipt of the federal zero-emission nuclear power production tax credit (“PTC”) for calendar year 2024 (“CY24”) based upon 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 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.

¹ The EDCs are Atlantic City Electric Company, Jersey Central Power & Light Company, Public Service Electric and Gas Company, and Rockland Electric Company.

² 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”).

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 May 20, 2020 (“May 2020 Order”).

PSEG Nuclear proposed to provide a refund based upon 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.

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 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 PSEG Nuclear's comments 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.

On January 28, 2026, the Board issued an Order regarding the Annual Revenue Review for Energy Year 2025 ("EY25").⁴ By the January 2026 Order, the Board determined that Staff's EY25 Annual Revenue Review was thorough, comprehensive, and consistent with the requirements provided in the May 2020 Order and the Act. The Board concluded that the Selected Units did not, as of the date of that Order, receive Double Payments for fuel diversity, resilience, air quality, or other environmental attributes in EY25. However, based upon public comments received during the Annual Revenue Review process, the Board stated it was 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 and ordered 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 the Order. PSEG Nuclear and Constellation each filed the required information on February 27, 2026. The Board directed 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.

Nuclear Generator Filings on PTC

In response to the Board's January 2026 Order, on February 27, 2026, both PSEG Nuclear and Constellation filed Affidavits and Statements in support of each entity's claimed production tax credit for the Board's review along with Confidentiality Affidavits to protect sensitive tax filing information.

Straw Proposal and Request for Public Comments

On March 23, 2026, Staff posted a Staff Straw Proposal Request for Comments ("Straw Proposal") on a refund mechanism for nuclear power plants that received or utilized a federal production tax credit which constitutes a double payment for ZECs during Calendar Year 2024 and a Request for Comments on Staff's Straw Proposal. The Straw Proposal, a copy of which is

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; 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 Unit 2, BPU Docket No. ER20080558; In re the Application of PSEG Nuclear, LLC for the Zero Emission Certificate Program – Hope Creek, Order on Annual Revenue Review for Energy Year 2025, Order dated January 28, 2026 ("January 2026 Order").

attached hereto as “Exhibit A” at pages 2-3 provides for the following:⁵

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.
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 (12) 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.

The Board initially set a deadline of March 31, 2026, for comments but later extended the deadline to April 15, 2026.

Comments in Response to Staff’s Straw Proposal and Staff’s Responses

PSEG Nuclear and Constellation Joint Comments

Comments filed jointly by PSEG Nuclear and Constellation on March 31, 2026, included their calculation of the total refunds due to each EDC and reflected PSEG and Constellation shares of the refunds due with interest calculated through the end of March 2026. Below are those estimates of double payments due to be refunded to respective utility customers.

EDC	Total Refund	PSEG Share	Constellation Share
PSE&G	\$166,383,338.16	\$118,405,537.63	\$47,977,800.53
JCP&L	\$81,654,084.25	\$58,113,149.12	\$23,540,935.13
ACE	\$35,566,903.31	\$25,312,966.53	\$10,253,936.78
RECO	\$6,348,749.56	\$4,518,097.99	\$1,830,651.57
Butler	\$426,270.60	\$303,510.65	\$122,759.95
TOTAL	\$290,379,345.87	\$206,653,261.91	\$83,726,083.96

The comments further refined the amounts in the above table by revenue received and calculated interest:

⁵ Although summarized in this Order, the detailed terms of the Straw Proposal control.

	PSEG	Constellation
ZEC	\$196,927,506.22	\$79,558,377.73
Interest	\$9,725,755.69	\$4,167,706.23
TOTAL	\$206,653,261.91	\$83,726,083.96

PSEG Nuclear and Constellation state that they do not disagree with steps 1-3 of the Straw Proposal for the Units to refund CY24 ZECs to the EDCs by May 31, 2026, but express concern that the Straw Proposal does not contemplate an adjustment mechanism should future federal government action result in a downward revision of the PTC value. They argue that such a mechanism should not be controversial and that, as an example, the need for a similar procedure was recognized by Illinois in December 2025 in connection with its nuclear support program. PSEG Nuclear and Constellation urged the Board to adopt a similar procedure here to prevent a potential inequitable result in which the Selected Plants issue hundreds of millions of dollars of refunds this spring, only to learn that the value of the PTC was different than expected.

PSEG and Constellation argue that a future adjustment mechanism is necessary due to federal government uncertainty and noted that their fall 2025 Comments in this matter explained the continuing ambiguity regarding the PTC amount as well as the potential for future adjustments due to federal uncertainty. The comments reiterated generator concerns PSEG wrote in October:

While PSEG has claimed an estimated PTC amount associated with the Plants in its recent federal corporate tax return, PSEG notes that this amount is an estimate only and is subject to future adjustment. The IRA requires a nuclear plant to calculate the PTC based on its “gross receipts from any electricity produced by such facility (including any electricity services or products provided in conjunction with the electricity produced by such facility) and sold to an unrelated person during such taxable year.” Unfortunately, the term “gross receipts” for this purpose is not defined in the IRA. Typically, the United States Department of the Treasury (“Treasury”) would issue official guidance regarding how to calculate ambiguous statutory terms. However, Treasury has not yet issued guidance regarding the calculation of a plant’s “gross receipts,” despite repeated requests from PSEG and the nuclear industry. Therefore, the PTC that was claimed on calendar-year 2024’s federal tax return is subject to change, and the final value will not be known until such guidance is issued. In estimating the claimed PTC value on their tax returns, the PSEG used a reasonable methodology that maximizes the PTC value, therefore maximizing the potential offset to ZEC Payments. The Plants caution that future federal guidance could significantly reduce that estimate. Additionally, any tax credit is subject to future adjustment as a result of an IRS audit. The statute of limitation on an IRS audit is three years from an entity’s filing. Therefore, the PTC claimed and received by PSEG remains subject to change for a number of years into the future.

PSEG and Constellation report the situation has not changed in that Treasury still has not issued guidance on the calculation of “gross receipts.” The generators state that despite that uncertainty, they again propose that to enable the accelerated refund of ZEC Payments and to protect the Selected Units against a potential future downward adjustment of the PTC, a Board order requiring a refund must include a mechanism authorizing the re-collection of any such funds should a future PTC adjustment result in an over-refund of ZEC Payments.

PSEG Nuclear and Constellation reiterated the specific recommendation they outlined in their Fall Comments during the Annual Revenue Review wherein they argued should federal guidance or an IRS audit result in a downward adjustment of the PTC, the Plants would be required to make a filing in the above-captioned dockets within thirty (30) days of such adjustment explaining the adjustment and quantifying its impact.

- Within ninety (90) days of such a filing by the Plants, the Board would issue an order requiring each EDC to adjust its existing ZEC rate (currently zero) to collect such funds from customers over the subsequent twelve (12)-month period. Each EDC's collection obligation would be based on the proportion of electricity each EDC distributed during the prior energy year.
- Within thirty (30) days of the end of that collection period, the EDCs would make a filing with the Board tabulating the amount collected.
- Within ninety (90) days of that filing, and after review by the Board, the Board would issue an order requiring the EDCs to pay such collected funds to the Plants, inclusive of interest.
- That order would require the EDCs to refund any over-collections to customers via the "return of excess ZEC collections" rate, or, in the case of an under-collection, adjust the ZEC rate to collect such under collection over the subsequent twelve (12) months.

The generators argue that these protections against future downward PTC adjustment are essential to enabling this accelerated refund to customers, rather than waiting potentially several years for either final guidance or a final audit of the PTC claimed on the federal tax returns.

Staff Response:

Staff appreciates the concerns expressed by PSEG and Constellation regarding uncertainty related to federal calculations of the PTC values driving refunds owed to New Jersey ratepayers and supports including a provision to adjust the amount of refund should the generators receive revised IRS guidance resulting in lower PTC payments than anticipated and notifies the Board in writing of such change, no later than March 31, 2027.

Public Service Electric and Gas Company (PSE&G)

PSE&G comments primarily address timing considerations for the Refund mechanism. PSE&G recommends distribution of the ZEC refunds to customers in a manner that maximizes bill relief by extending distribution of the ZEC refunds to provide more sustained relief into 2027 in contrast to Staff's Straw Proposal that recommends that the refunds be distributed in their entirety over the twelve months beginning June 1, 2026. PSE&G noted that Staff's proposal would have refunds expire just as the 2027 summer is beginning and cessation of the ZEC refunds will cause a rate increase just as summer usage begins to climb. The expected ZEC refunds provide a good opportunity for bill relief to extend beyond the 2026 relief directed by Executive Order No. 1 through State-issued Residential Universal Bill Credit ("RUBC") beginning in July of 2026.

PSE&G recommended a different mechanism to distribute the ZEC refunds to customers:

- Refund twenty-five percent (25%) of total available ZEC credits beginning June 1, 2026, over the following twelve (12) months;
- Refund seventy-five percent (75%) of total available ZEC credits beginning June 1, 2027, over the following twelve months;

- Track any over/under balances in ZEC refund accounts and submit a reconciliation by July 1, 2028.

PSE&G argued that this mechanism would enable immediate relief to supplement the 2026 RUBC credits plus provide extended relief into 2027 at a higher level in the event RUBC credits are not extended by the State beyond 2026.

PSE&G suggested one other alternative that Staff could consider: refunding 100% of ZEC credits over twelve (12) months, but beginning June 1, 2027, which would could serve as a hedge against supply costs for the next energy year that will begin to impact customer bills in June 2027 and will not be known until February 2027, as well as other expected 2027 increases.

Regarding the Staff's recommendations on calculating the refunds, PSE&G does not disagree with the methodology proposed, including issuing the refunds through the existing ZECRC. PSE&G notes that the ZECRC charge includes interest based on the PSE&G's current cost of short-term debt, which the Company believes is appropriate.

Staff Response

Staff seeks to return over-collected dollars to ratepayers on a timely basis and does not support PSE&G's proposals to either shift seventy-five percent (75%) of total refunds to be distributed over a second annual period beginning June 2027 or to delay in full the credits for thirteen (13) months beginning June 2027.

Jersey Central Power & Light Company (JCP&L)

JCP&L commented that it is currently not able to issue a refund to retail customers via Rider ZECRC as proposed in Staff's Straw Proposal because by Order dated January 28, 2026, the Board directed JCP&L to eliminate its Rider ZECRC for services rendered on and after February 15, 2026. In compliance, JCP&L filed revised tariff sheets removing Rider ZECRC from the Company's Tariff for Service effective with service rendered on and after February 15, 2026.

To effectuate a refund from the owners of the Selected Units to retail customers as proposed, JCP&L would need to petition the Board to reinsert Rider ZECRC into its Tariff for Service offerings. In addition, JCP&L argued that establishing a Rider ZECRC kWh rate to return the PTC to customers would most likely create a residual over or under repayment of the PTC. JCP&L suggests that at the conclusion of the twelve (12) months or June 1, 2027, Rider ZECRC should be set to zero. Following the shutoff, any remaining ZECRC-related balance with interest and any subsequent ZECRC revenues received could be applied to the deferred balance of Rider RGGI Recovery Charge ("Rider RRC").

In the alternative, should the Board prefer that JCP&L not file a petition to amend its Tariff for Service to include a Rider ZECRC Tariff for Service, JCP&L proposes the ZEC refunds be applied to the Rider RRC outstanding under recovered balance. JCP&L asserted that it currently has three (3) significant Rider RRC filings pending before the Board, which are the 2023 Rider RRC, 2024 Rider RRC and the 2025 Rider RRC. Applying the ZEC refund amount to Rider RRC under recovered balance would serve to lower the rate impacts to customers on these pending filings thereby directly addressing customer affordability.

Staff Response:

Staff supports the use of the ZEC tariff mechanism to return over-collected ZEC funds. Staff recommends that the Board reinstate the ZEC tariffs that were previously eliminated due to cessation of ZEC collections so that the tariffs may be used to return ZEC double payment funds to ratepayers. Staff also recommends that the Board authorize Staff to review and issue a compliance letter to the affected utilities, and grant Staff the authority to review the EDCs' compliance filings and request that the Board Secretary issue compliance letters approving the filings should Staff find them in compliance with this Order.

New Jersey Large Energy Users Coalition (“NJLEUC”)

NJLEUC, representing a group of some of the State's largest businesses and consumers of electricity and natural gas, expressed its support for the Straw Proposal assuming that the plan is to issue the refund to retail customers “evenly distributed on a kilowatt-hour basis” is intended to mean it will go to all utility retail customers—including large energy users who paid a disproportionate share of ZEC assessments—based on their energy consumption.

NJLEUC also questioned what the intended meaning was of the phrase “evenly distributed” and noted that the section provides that the distribution would be made on a kilowatt-hour basis and hopes that this credit would be applied against each customer's actual usage as fairness dictates. NJLEUC argued that all customers should benefit from the credit to the same extent as they paid the ZEC surcharge, nothing more and nothing less.

Staff Response:

Staff agrees with NJLEUC's interpretation of the Straw Proposal language so that over-collections will be returned to all retail ratepayers based on usage.

New Jersey Division of Rate Counsel (“Rate Counsel”)

Rate Counsel acknowledged that the Board is charged with conducting reviews on an annual basis, to assure that, if such payment or credits are received, ratepayers will receive the benefit and if the Board determines that a double payment has been received, the statute states the Board shall reduce the amount of ZECs required to be purchased from the selected nuclear plant by an amount equal in value to the dollar amount determined by the Board. Further, per N.J.S.A. 48:3-87.5(i)(3), if the Board determines that a selected nuclear plant is receiving revenues for fuel diversity, resilience, air quality, or other environmental attributes, it must “immediately reduce the number of ZECs on a prospective basis consistent with the level of such revenues.”

Rate Counsel noted that PSEG Nuclear provided confidential filings to the Board on February 27, 2026, that indicated that both PSEG Nuclear's and Constellation's CY24 federal production tax credits exceed the calendar year 2024 ZECs. Further, PSEG Nuclear provided a table showing its estimates for the calendar year 2024 ZEC collections to be \$290.37 million.

Rate Counsel also noted that EY24 started on June 1, 2023, and ended on May 31, 2024. PSEG Nuclear and Constellation started to receive the federal PTC on January 1, 2024, in the middle of EY24. EY25 started on June 1, 2024, and ended on May 31, 2025. Therefore, the CY 2024 federal PTCs are split between EY 2024 and EY25. Rate Counsel did not oppose the apportionment process of the value of the ZEC double payments so long as the full amount of the CY24 PTCs that offset the CY24 ZEC payments are refunded to ratepayers.

Rate Counsel also observed that PSEG Nuclear commented that the federal IRS has not finalized the definition of “gross receipts” to determine the value of the PTC and that the possibility exists that the estimates provided by PSEG Nuclear may be changed. Rate Counsel did not oppose the creation of a reasonable true-up mechanism process that Staff, Rate Counsel and all parties of record are provided the opportunity to review and comment on to enable PSEG Nuclear to zero out the full value of the federal PTCs relative to ZEC payments made by ratepayers.

Rate Counsel noted that the federal PTCs for calendar year 2025 shall be within the last six (6) months of EY25 (12 months ending May 31, 2025). Rate Counsel also recommended that when PSEG Nuclear and Constellation file their respective CY25 federal taxes, the Board review the updated refund information provided by PSEG Nuclear and Constellation, and issue findings based upon its review, to ensure any and all required return of overpayment be made to ratepayers, and that the Board require PSEG Nuclear and Constellation to serve notice on Rate Counsel and all parties of record of the filing.

- Rate Counsel pointed out several issues regarding the Board Staff’s recommendations that: 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 (12) months, and
- The EDCs and Butler shall track any over/under balances in their ZEC refund accounts and submit a reconciliation filing by July 1, 2027.

Rate Counsel highlighted that in January 2026, the Board issued four (4) orders in response to the annual reconciliation filings of the ZECRC directing PSE&G, JCP&L, Atlantic City Electric Company, and Butler to “eliminate its ZECRC [also referred to as the Refund of Excess Collections Credit Rate (“RECCR”)] tariff, including the RECCR for service rendered on and after February 1, 2026.”

Rate Counsel further commented that Rockland Electric Company (“RECO”) also filed an annual reconciliation ZECRC filing on October 1, 2025, and Rate Counsel filed comments with the Board on December 9, 2025. The Board has not issued an Order resolving this filing; therefore, according to Rate Counsel, the RECO ZECRC tariff should not have been deleted.

Last, although Rate Counsel expressed support for the return of ratepayer funds for the double-payment to the Selected Units, Rate Counsel maintained that this incident underscores a more fundamental point – the ZEC subsidies were never warranted. A refund after the fact is no substitute for avoiding a charge in the first place. Had the Board heeded the factual findings of Rate Counsel, Staff, NJLEUC, and the PJM Independent Market Monitor, this outcome—and the burden it placed on ratepayers—could have been avoided entirely. Nonetheless, Rate Counsel remains committed to advocating that the Board exercises greater prudence in its stewardship of ratepayer funds going forward to ensure New Jersey rates return to an affordable level.

Rate Counsel states that it does not oppose Staff’s initial recommendation to utilize a refund mechanism that includes customer interest earned of 5.06%. Rate Counsel did not oppose the inclusion of a true-up mechanism process for PSEG Nuclear and Constellation should the IRS change the value of the PTC at some future date. Rate Counsel reserved the right to submit additional comments or supplemental filings as further information becomes available, particularly following PSEG Nuclear’s and Constellation’s disclosure of their tax filings, which are essential for a complete and accurate evaluation of the issues at hand and PSEG’s and Constellation’s

development of a proposed refund and overpayment mechanism. Rate Counsel recommended that the Board direct the EDCs and Butler to reinstate the ZECRC tariff so that the proposed refund and overpayment mechanism can be monitored through the EDCs' tariffs.

Rate Counsel recommended that: 1) the Board keep this docket open to allow for continued public and regulatory review; 2) the Board require PSEG Nuclear and Constellation to provide updated materials and information to quantify the value of the PTCs for its three (3) nuclear plants for calendar year 2025 when they file their corporate taxes; and 3) the Board require PSEG's and Constellation's refund and overpayment filings be served upon Rate Counsel and all parties of record. Rate Counsel wrote that it looks forward to Staff's and Rate Counsel's review of these filings to ensure that ratepayers receive a full refund of the ZEC overpayments.

Staff Response:

Staff appreciates that Rate Counsel does not oppose Staff's recommendation to utilize a refund mechanism that includes customer interest earned of 5.06% for CY24 and that Rate Counsel also does not oppose the inclusion of a true-up mechanism process for PSEG Nuclear and Constellation should the IRS change the value of the PTC at some future date. Staff also acknowledges that Rate Counsel reserves the right to submit additional comments or supplemental filings as further information may arise.

DISCUSSION AND FINDINGS

After careful review of the record, including the January 27, 2026 and March 31, 2026 PSEG Nuclear and Constellation submissions, and all comments submitted in response to Staff's Straw Proposal issued March 23, 2026, the Board **HEREBY FINDS** that the Selected Units received Double Payments for fuel diversity, resilience, air quality, or other environmental attributes in CY24. The Board **HEREBY ORDERS** the Selected Units' owners to refund to the EDCs and Butler the Double Payments with interest on or before May 26, 2026. The Board **ORDERS** that the EDCs and Butler file by May 26, 2026, the ZEC tariffs previously removed due to the cessation of ZEC collections and that the ZEC tariff shall be used for the return of double payments to customers beginning June 1, 2026 through May 31, 2027, or as long as there remains a balance of refunded double payments. The rate for the return of the double payments to customers shall be \$0.004265/kWh, inclusive of New Jersey Sales and Use Tax. The Board **FURTHER ORDERS** the EDCs and Butler to place and hold the double payments refund in interest-bearing accounts. Additionally, the Board **HEREBY DIRECTS** Staff to review the required ZEC tariff filings by May 29, 2026, and **HEREBY AUTHORIZES** Staff to request that the Board Secretary issue a compliance letter approving each filing based on Staff's review of its compliance with this Order.

The Board **HEREBY ORDERS** that the approved tariffs are to go into effect June 1, 2026. The Board **FURTHER ORDERS** that the EDCs and Butler each: 1) monitor the remaining balance of the double payment refund as of the last day of the month and 2) file a report on the end-of-month balance with the Board Secretary, the BPU Chief Economist and Rate Counsel within ten (10) calendar days of the last day of each month. The report shall include the following information: the amount of dollars returned to ratepayers that month, the cumulative amount refunded to ratepayers since June 1, 2026, the balance remaining in the interest-bearing account, and an estimate of when the utility forecasts the balance will reach zero.

Should PSEG Nuclear and Constellation be notified by the IRS that the federal government is adjusting the amount of the PTC incorporated in the generators' tax filings, PSEG Nuclear and Constellation must report any changes to the Board with thirty (30) days of such notice, and no later than March 31, 2027.

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

This Order shall be effective on May 21, 2026.

DATED: May 21, 2026

BOARD OF PUBLIC UTILITIES
BY:



CHRISTINE GUHL-SADOVY
PRESIDENT


DR. ZENON CHRISTODOULOU
COMMISSIONER


MICHAEL BANGE
COMMISSIONER


EMMA REBHORN
COMMISSIONER


JOSEPH COVIELLO
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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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”).¹

¹ 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”).² 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.³

On August 29, 2018, the Board initiated the ZEC Program.⁴ 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”).⁵

In compliance with the ZEC Act, on July 10, 2019, the Board established criteria regarding the forward implementation of the ZEC Program (“Forward Requirements”).⁶ 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.⁷ 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.

² 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).

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

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, 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.

⁵ 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.

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, 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.

⁷ 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”).⁸

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 EY25.⁹ 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.¹⁰ 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.

⁸ 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.

⁹ Constellation Energy Generation, LLC was formally known as Exelon Generation Company, LLC.

¹⁰ 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

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Secretary of the Board