

## Rockland Electric Company Comments

### BPU Docket No. EO18080899 IMO Implementation of L. 2018, c. 16 Regarding the Establishment of a Zero Emission Certificate Program for Eligible Nuclear Power Plants

#### **Question (1)**

- N.J.S.A. 48:3-87.5(m) requires that “[t]he owner of a selected nuclear power plant shall, within two years after receiving ZECs, conduct a study and prepare a written report in cooperation with selected experts, to determine the optimal use of dry cask storage of spent nuclear fuel at its site, considering environmental impacts, worker safety, and cost impacts.” What aspects of dry cask storage should this study address?
- What should be the ultimate goal of this study; i.e., costs, safety of process, applicable standards to employ?
- What, if anything, should be considered outside of environmental impacts, worker safety, neighborhood safety, and cost impacts?
- What information is important to the State? Items such as licensing, inspection and certification reports, cask life-cycle limits and cask replacement, and security?

#### **Rockland comment**

Rockland Electric Company has no comments on Question (1) above.

#### **Question (2)**

N.J.S.A. 48:3-87.5(i)(3) states that “[t]o ensure that a selected nuclear power plant shall not receive double-payment for its fuel diversity, resilience, air quality, or other environmental attributes, the board shall annually determine the dollar amount received by the selected nuclear power plant in an energy year pursuant to a law, rule, regulation, order, tariff, or other action of this State or any other state, or a federal law, rule, regulation, order, tariff, or other action, or a regional compact. . . .” It further states: “. . . the number of ZECs purchased by each electric public utility from a selected nuclear power plant for an energy year shall be reduced by the number of ZECs equal in value to the dollar amount determined by the board in this paragraph, multiplied by the percentage of electricity distributed in the State by the electric public utility as compared to other electric public utilities in the State. To the extent that the board determines that a selected nuclear plant receives revenues for its fuel diversity, resilience, air quality, or other environmental attributes, the board shall immediately reduce the number of ZECs on a prospective basis consistent with the level of such revenues.”

- What unit revenues (federal, RTO, local incentives, etc.) should the Board consider for fuel diversity, resilience, air quality, and other environmental attributes to include?

#### **Rockland comment**

A critical goal of any analysis undertaken by the Board relating to ZEC charges, including the review of what constitutes a double-payment, should be minimizing the customer bill impact of such charges. As implied by this question, the purpose of ZEC charges is not to enrich the operators of nuclear units (and their shareholders) at the expense of New Jersey's electric utility customers. Accordingly, the Board should consider as double payment any subsidies the units receive from the federal and state governments, including local and state tax incentives, as well as any unaccounted for market revenues received from the PJM. For example, PJM is currently considering compensation mechanisms for fuel security and carbon avoidance. To the extent implemented, the revenues associated with such compensation mechanisms should be considered double payments. The Board should require that the units report on a quarterly basis any additional revenues they receive from such programs, which the Board would deduct, so that utility customers receive timely reductions in the ZEC charge on their bills. The Board also should take an active role in confirming the accuracy of these reports.

- What should the timing and process be by which the Board reviews the revenues, makes its determination, and, if applicable, reduces the number of ZECs to the plant?

### **Rockland comment**

The Board should require that the units report on a quarterly basis during the energy year any additional revenues the units received from the programs listed in the response to Question (2) above. These reports would be certified under oath by the CEO of the company that owns the unit. The Board would then deduct the total dollars of these double payments from the total ZEC revenues collected from customers by the electric public utilities. The Board would report the deductions so that the utilities could make the appropriate adjustments. Under section (j)(2) of the ZEC statute (N.J.S.A. 48:3-87.5(j)(2)), the total ZECs that the electric utilities must purchase are limited to the dollar amount remaining in the accounts holding the utilities' ZEC revenues. As a result, the number of ZECs the utility must purchase will be reduced by the double payments.

### **Question (3)**

N.J.S.A. 48:3-87.5(h)(3) states that “[a] selected nuclear power plant shall annually certify to the board that it will continue operations at full or near full capacity for the duration of the period of its eligibility to receive ZECs, except with respect to nuclear power plant shutdowns for necessary maintenance and refueling.”

- How should the Board define “full or near full capacity” for the purposes of this requirement?

### **Rockland Comment**

Full or near capacity should mean that the unit's generation is consistent with the generation of the unit prior to receiving its first ZEC payment. New Jersey is relying on the units to achieve its clean energy goals. Such reliance is the sole justification for requiring utility customers to subsidize these units. Therefore, New Jersey and the Board should require that the units continue to generate at or above their generation levels prior to the enactment of the ZEC statute. Therefore, “full or near full capacity” should be defined as the unit's average generation (after normalizing out any anomalous events and less any down time for refueling and maintenance) during the three-year period prior to

its first ZEC payment.

#### **Question (4)**

The Act allows for additional three-year eligibility periods beyond the initial eligibility period. N.J.S.A. 48:3-87.5(h)(2) states: “No later than 13 months prior to the conclusion of the initial eligibility period established pursuant to [the Act], and no later than 13 months prior to the conclusion of each three energy year eligibility period thereafter, a nuclear power plant may demonstrate its eligibility to the board and the board may certify the nuclear power plant’s eligibility to receive ZECs for additional eligibility periods of three energy years, consistent with the provisions of this act.”

- How should the Board structure the procedural schedule for the additional eligibility periods? For example, how much information should be due to the Board 13 months prior to the conclusion of each eligibility period, and how long before the end of each eligibility period should the Board reach its decision?

#### **Rockland comment**

The Board should require the same information required from the unit that was collected when the unit initially became eligible for the ZEC program. The Board should retain an expert to review applications and determine whether the applications satisfy the statutory criteria. The costs of the expert report should be paid by the Board as an administrative expense under the ZEC program pursuant to *N.J.S.A. 48:3-87.5(j)(2)*, or should be paid by the units. The costs of the expert report should not be paid by the Electric Distribution Companies (“EDCs”). The Board also should conduct a proceeding to determine whether the units’ ZEC revenues during the eligibility period were necessary to prevent the units from retiring and whether the ZEC revenues will be necessary to prevent the units from retiring in the future. Interested stakeholders should be allowed to intervene in this proceeding. The Board decision should be reached at least three months before the next eligibility period. This will allow the electric utilities sufficient time to make the calculations required for the next eligibility period, make any required compliance tariff filings, and implement those changes in their billing systems.

#### **Question (5)**

The Act contains two instances in which the Board may modify the \$0.004 per kilowatt-hour charge used to fund the ZEC program at *N.J.S.A. 48:3-87.5(j)(3)(a)* and *N.J.S.A. 48:3-87.5(j)(3)(c)*.

- How should the Board determine whether or not the charge should be modified, and if applicable, to what level should the charge be modified?

#### **Rockland comment**

*N.J.S.A. 48:3-87.5(j)(3)(a)* and *N.J.S.A. 48:3-87.5(j)(3)(c)*, do not allow the Board to “modify” the ZEC charge. Both sections of the statute only allow the Board to “reduce the per kilowatt-hour charge.” Therefore, any “modification” of the ZEC charge can only be a reduction of the ZEC charge.

To determine whether the ZEC charge should be reduced, the Board should re-examine New Jersey’s clean energy needs. The Clean Energy and Offshore Wind Acts will impact the future clean energy needs of the state. Both Acts will produce energy efficiency savings, will develop new renewables such as offshore wind and solar, and will deploy enabling technologies such as storage. The Board also should conduct an annual proceeding that allows stakeholders to intervene, and the Board should retain an expert to determine the ZEC revenues and any other revenues or incentives received by the units during their prior eligibility period. The costs of the expert report should be paid by the Board as an administrative expense under the ZEC program pursuant to *N.J.S.A. 48:3-87.5(j)(2)*, or should be paid by the units. The costs of the expert report should not be paid by the Electric Distribution Companies (“EDCs”). The purpose of the Board proceeding should be to determine whether the units’ ZEC revenues during the eligibility period were necessary to prevent the units from retiring and whether the ZEC revenues will be necessary to prevent the units from retiring in the future.

- What specific data should be used to make such a determination? Should the Board’s determination be based on actual data or projections?

### **Rockland comment**

The data examined by the expert referenced in the above paragraph, should include energy and capacity revenues of the units during the eligibility period, as well as any known or any future incentives that the units may receive. The expert should project the direction of energy and capacity prices over a limited period to verify the projections’ reliability. A shorter projection period, such as a three-year period would be preferable to a ten-year period. The expert also should examine the units to determine their physical condition, whether the units are capable of producing the equivalent amounts of energy produced during the prior eligibility period, as well as whether the units are reaching their useful life. Such examination also will verify that the units are being properly maintained. Data about the physical condition of the units will be useful to determine the cost and benefit of continuing to subsidize the units. The costs of the expert report should be paid by the Board as an administrative expense under the ZEC program pursuant to *N.J.S.A. 48:3-87.5(j)(2)*, or should be paid by the units. The costs of the expert report should not be paid by the Electric Distribution Companies (“EDCs”).

- What type of procedural process should be utilized for this analysis?

### **Rockland comment**

As noted above, the Board should retain an expert to make the determinations noted above. In addition, the Board should conduct a proceeding that allows appropriate parties to intervene. The costs of the expert report should be paid by the Board as an administrative expense under the ZEC program pursuant to *N.J.S.A. 48:3-87.5(j)(2)*, or should be paid by the units. The costs of the expert report should not be paid by the Electric Distribution Companies (“EDCs”).

### **Question (6)**

*N.J.S.A. 48:3-87.6* requires that the Board issue a study on the ZEC program on or before May 23, 2028.

- What information should the Board collect to form the basis of this study?

### **Rockland comment**

*N.J.S.A.* 48:3-87.6(a) requires the Board to conduct a study by May 23, 2028 to evaluate the efficacy of the zero emission certificate program and submit a written report thereon to the Governor and to the Legislature. This provision in the statute also provides that in conducting the study the Board shall do the following:

...evaluate the program's effect on the premature retirement of nuclear power plants, its effect on the air quality and environment in the State, and its contribution to a more reliable energy supply by assuring fuel diversity. The study shall also evaluate the program's benefits and costs to ratepayers.

*N.J.S.A.* 48:3-87.6(b) provides that the written report shall do the following:

...(1) summarize the study and analysis conducted pursuant to subsection a. of this section; (2) discuss and quantify the potential benefits and costs associated with the program; (3) recommend any changes to the program or whether it should continue; and (4) recommend whether the program should be expanded to include other technologies.

The information items that the study required by *N.J.S.A.* 48:3-87.6(a) and (b) should include are the following: the energy and capacity revenues of the units during their eligibility period; the known and any future federal, state, and local incentives that the units may receive; the physical condition of the units and whether they will be able to continue to supply the State with clean energy, and for how long; the costs to operate and maintain the units; whether the units are reaching their useful life. This type of data will enable the study to examine the efficacy, as well as the costs and benefits, of the ZEC program.

The study should re-examine New Jersey's clean energy needs, given that the results of the Clean Energy Act's energy efficiency programs may eliminate the need for the energy produced by the units. The costs of the study should be paid by the Board as an administrative expense under the ZEC program pursuant to *N.J.S.A.* 48:3-87.5(j)(2), or should be paid by the units. The costs of the study should not be paid by the Electric Distribution Companies ("EDCs").