



Philip D. Murphy  
Governor

Sheila Y. Oliver  
Lt. Governor

Aida Camacho-Welch  
Secretary of the Board  
Tel. # (609) 292-1599

**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
44 South Clinton Avenue, 3<sup>rd</sup> Floor, Suite 314  
Post Office Box 350  
Trenton, New Jersey 08625-0350  
[www.nj.gov/bpu/](http://www.nj.gov/bpu/)

## **NOTICE**

### **NOTICE TO ALL NEW JERSEY ELECTRIC DISTRIBUTION CUSTOMERS, ELECTRICITY SUPPLIERS, ELECTRIC DISTRIBUTION COMPANIES, ELECTRIC GENERATORS, AND OTHER STAKEHOLDERS**

#### **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**

##### **Notice of Public Hearings BPU Docket No. EO18080899**

On May 23, 2018, Governor Phil Murphy signed into law L. 2018, c. 16 (C.48:3-87.3 to -87.7) ("Act"). The Act requires the New Jersey Board of Public Utilities ("Board") to create a program and mechanism for the issuance of Zero Emission Certificates ("ZECs"), each of which is intended to represent the fuel diversity, air quality, and other environmental attributes of one megawatt-hour of electricity generated by an eligible nuclear power plant selected by the Board to participate in the program. Under the program, the Board may determine the need to issue ZECs to certain eligible nuclear energy generators for the State of New Jersey's energy supply, which in turn will be purchased by the state's Electric Distribution Companies ("EDCs"). The Act identifies the steps required to establish this program, including program logistics, funding, costs, application, eligibility requirements, selection process, and the timelines associated with each aspect of the legislation.

The Act requires that the Board complete a proceeding within 180 days after the date of enactment of the Act, i.e., by November 19, 2018, to allow for the commencement of a ZEC program. In the proceeding, the Board shall – after notice, the opportunity for comment, and public hearings – issue an order establishing a ZEC program for selected nuclear power plants. The Board's Order shall include but need not be limited to: (i) a method and application process for determination of the eligibility and selection of nuclear power plants; and (ii) establishment of a mechanism for each EDC to purchase ZECs from selected nuclear power plants. See N.J.S.A. 48:3-87.5(b).

The Act also requires that the Board complete a subsequent proceeding to certify applicant nuclear power plants as eligible for the program, and to establish a rank-ordered list of the nuclear power plants eligible to be selected to receive ZECs. The proceeding must be

completed no later than 330 days after the date of enactment of the Act, i.e., April 18, 2019, after notice, the opportunity for comment, and public hearing. See N.J.S.A. 48:3-87.5(d).

By Order dated August 29, 2018<sup>1</sup>, the Board directed, among other things: i) that Board staff facilitate the establishment of a ZEC application process and related Act activities, and take all necessary steps required per the Act, including scheduling public hearings, establishing a comment process, and preparing for consideration by the Board a completed application process by November 19, 2018; ii) that the EDCs file tariffs in compliance with the Act by October 22, 2018, for approval by the Board; iii) that President Joseph L. Fiordaliso be the presiding officer, who is authorized to rule on all motions that arise during the pendency of final Board action as required under the Act and modify any schedules that may be set as necessary to secure a just and expeditious determination of the issues; and iv) that any entity seeking to intervene or participate in the tariff portion of this matter file the appropriate application with the Board by October 23, 2018.

The Board is now interested in soliciting comments from stakeholders on this matter, specifically regarding the ZEC application, application process and the ranking of approved applications. The information considered relevant by the Board is listed in the questions below:

- 1.) What specific metrics should the Board utilize to determine if a nuclear power Unit (“Unit”) should be deemed eligible for ZEC credits?
- 2.) Referencing N.J.S.A. 48:3-87.5(a) and (e)(3), how should the risk-adjusted cost of capital for a Unit be determined?
- 3.) Referencing N.J.S.A. 48:3-87.5(a), the Act requires the Board to consider the cost of “operational risks” and “market risks” for Units. What information should or should not be included in these two categories?
- 4.) Referencing N.J.S.A. 48:3-87.5(a) and (e)(3), what specific financial information should the Board request that Units applying for the ZEC program provide?
- 5.) Referencing N.J.S.A. 48:3-87.5(e)(2), what information should be provided to the Board to demonstrate that the Unit makes a significant and material contribution to the air quality in the state? What information should be provided to demonstrate that the Unit minimizes harmful emissions that adversely affect the citizens of the state? What information should a Unit provide to demonstrate that, if the Unit were to be retired, the retirement would significantly and negatively impact New Jersey’s ability to comply with State air emissions reduction requirements?
- 6.) Referencing N.J.S.A. 48:3-87.5(e)(4), the Act requires that eligible Units certify that they do not receive any direct or indirect payment or credit under 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, despite its reasonable best efforts to obtain any such payment or credit, for its fuel diversity, resilience, air quality, or other environmental attributes that will eliminate the need for the Unit to be retired. What should the Board interpret fuel diversity, resilience, air quality, and other environmental attributes to include?

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<sup>1</sup> Reference Board Order 9A Approved and Signed August 29, 2018 at <https://www.state.nj.us/bpu/pdf/boardorders/2018/20180829/8-29-18-9A.pdf>

- 7.) What information about other benefits, subsidies, or tax implications should be provided to the Board as part of a ZEC application?
- 8.) What forecasts, projections, or estimates should be included, or disallowed, as part of a ZEC application process?
- 9.) What other information, confidential or not, should the Board request to fully evaluate whether or not a Unit is at risk of closure due to financial hardship?
- 10.) What other relevant factors, such as sustainability or long-term commitment to nuclear energy production, should the Board consider and evaluate?
- 11.) What factors and expenses should the Board consider in analyzing a Unit's avoided costs if the Unit retires?
- 12.) What information about parent or affiliate companies of the nuclear power plant should be requested for the Board to holistically consider the Unit's financial condition?
- 13.) Assuming that any Unit is deemed eligible to receive ZECs by the Board, in ranking eligible Units (N.J.S.A. 48:3-87.5(d) through (g)), how should the Board factor each Unit's potential to maximize benefits to New Jersey and to minimize the rate impact on the ratepayers of New Jersey's electric distribution companies?
- 14.) Assuming that any nuclear power plant is deemed eligible to receive ZECs by the Board, in ranking eligible Units (N.J.S.A. 48:3-87.5(d) through (g)), how should the Board factor the Unit's physical location (in-state, out-of-state, and specific venue) within PJM?
- 15.) Referencing N.J.S.A. 48:3-87.5(i)(3), how should the Board determine the revenue amount received by any selected nuclear power plant in an energy year for its fuel diversity, resilience, air quality, or other environmental attributes from other sources?
- 16.) Should the application include/allow voluntary commitments as a condition of approval?
- 17.) Please discuss how the recently issued FERC Order regarding the PJM Capacity Market, Docket Nos. EL16-49, ER18-1314, and EL18-178, relates to or otherwise impacts the Board's consideration of the ZEC program?

Copies of the Act are available for inspection at the Board of Public Utilities, 44 South Clinton Avenue, 7th Floor, Box 350, Trenton, New Jersey 08625 during normal business hours 9:00 a.m. - 4:30 p.m. Monday through Friday. Additionally, the Act can also be found at the following link: <https://www.njleg.state.nj.us/2018/Bills/PL18/16 .PDF>.

Pursuant to the Open Public Meetings Act, N.J.S.A. 10:4-6 et seq., the Board hereby gives notice that public hearings on this matter have been scheduled at the following dates, times, and places:

**Date 1:           October 4, 2018**  
**Time:             4:00 PM to 7:00 PM**  
**Location:        Hackensack Administration Building**  
**Freeholder's Public Meeting Room, 5<sup>th</sup> floor**  
**1 Bergen County Plaza, Hackensack, NJ**

**Date 2:**           **October 10, 2018**  
**Time:**           **4:00 PM to 7:00 PM**  
**Location:**       **Stockton University – Atlantic City Campus**  
                          **3711 Atlantic Avenue, Atlantic City, NJ**

**Date 3:**           **October 11, 2018**  
**Time:**           **4:00 PM to 7:00 PM**  
**Location:**       **Middlesex County Administration Building**  
                          **Freeholders Meeting Room**  
                          **75 Bayard Street, 1<sup>st</sup> Floor, New Brunswick, NJ**

Members of the public are invited to attend and present their views. Information provided at the public hearings will become part of the record of the Docket and will be considered by the Board in making its decision. In order to encourage full participation in this opportunity for public comment, please submit any requests for needed accommodations for disabled citizens to the Office of the Secretary of the Board at (609) 777-3300 at least 48 hours prior to the scheduled hearing so that appropriate arrangements can be made.

Customers may file written comments with the Secretary of the Board of Public Utilities at 44 South Clinton Avenue, 3rd Floor, Suite 314, Post Office Box 350, Trenton, New Jersey 08625-0350, ATTN: Aida Camacho-Welch, regardless of whether they attend the public hearings. Written comments may also be submitted electronically to [Zec.Comments@bpu.nj.gov](mailto:Zec.Comments@bpu.nj.gov) in PDF or Word format. All comments must be received on or before **5:00 p.m. on October 22, 2018**.

Please note that these public hearings are limited to comments concerning the ZEC program and application processes. Please take further notice that the questions contained herein have been prepared by Board Staff for comment purposes only.



Aida Camacho-Welch  
Secretary of the Board

Dated: September 11, 2018