



## State of New Jersey

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May 27, 2026

Members of the Assembly Telecommunications & Utilities Committee  
Statehouse Annex  
P.O. Box 068  
Trenton, NJ 08625

**RE: A4881** ("Power NJ Act"; establishes advanced nuclear energy procurement program in BPU.)

Dear Members of the Assembly Telecommunications & Utilities Committee:

I write on behalf of the Division of Rate Counsel regarding A4881 ("Power NJ Act"; establishes advanced nuclear energy procurement program in BPU), which is before the Committee on May 28, 2026. While Rate Counsel does not oppose the use of nuclear energy to meet our energy needs, we have concerns about the allocation of costs to ratepayers as the bill is currently drafted. **We urge you to not vote this bill in its current format out of committee and allow stakeholders to continue discussion of the final language of the bill.**

As you are aware, the Division of Rate Counsel represents and protects the interest of all 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 or businesses seek changes in their rate 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.

This bill, as currently drafted, will require New Jersey ratepayers to pay for nuclear generation for the next 40 years. It will place an unnecessary burden on ratepayers, provide little, if any, rate relief and will shift significant risk onto ratepayers. As discussed below, whether to use nuclear generation is not the issue. Rather, the issue is, who pays. Ratepayers are not the driving force behind the significant increase in demand, and they should not be the ones shouldering the costs, nor the risks to build generation, just to meet data center driven demand. Indeed, under the current market structure, merchant generators are unwilling to build nuclear generation, because it is simply not economic without long-term out of market subsidies. Providing ratepayers, rather than data centers, as the source of those payments puts New Jersey's ratepayers at risk of paying significantly more for new generation than they would have otherwise.

To fully understand the issue, it is important to first take a step back to look at the current energy environment. There is in fact much agreement among all parties. The demand for electricity in the PJM region has outpaced available capacity. This has made the bills for New Jersey's ratepayers too high, bringing affordability to the forefront. The average ratepayer, however, is not responsible for this surge in demand. Rather, most ratepayers are in fact decreasing the amount of electricity they use, which up until the current crisis, led to record lows in the PJM capacity market clearing price. There seems to be little dispute that the cause of this massive increase in demand is coming from artificial intelligence and data center demand. The Independent Market Monitor for PJM explained, in his State of the Market Report, "Data center load growth is the primary reason for recent and expected capacity market conditions, including total forecast load growth, the tight supply and demand balance, and high prices. **But for data center growth, both actual and forecast, the capacity market would not have seen the same tight supply demand conditions, the same high prices observed in the 2025/2026 BRA, the 2026/2027 BRA, and the 2027/2028 BRA, and the currently expected tight supply conditions and high prices for subsequent capacity auctions.** Forecast data center load growth has been the primary cause to data and the accuracy of those forecasts is highly questionable." There can be no doubt here, data centers are driving the surge in demand.

This bill, rather than ensure that data centers pay their fair share, has New Jersey's ratepayers subsidizing data centers, both in and outside of New Jersey. If New Jersey's ratepayers pay for the new generation needed to serve data centers, the data centers need not pay. This bill does not only subsidize nuclear generation, it subsidizes generation for data centers.

Passing this bill now may actually make things worse. PJM and the member states are working hard at PJM to ensure that the data centers build the generation they need. The proposed Bring-Your-Own-New-Generation puts the cost of building generation, as well as the risk that it is needed for the entirety of the generation unit's life, squarely on the party causing the need, that is – the data centers. If this works, prices will go down and data centers pay their fair share. However, any generation built under this bill will require that New Jersey ratepayers, including residential and small commercial, pay for the next forty years and assume the risk that the generation is needed for that timeframe.

What happens if the states and PJM succeed in having data centers pay for the generation needed in PJM? New Jersey ratepayers still pay higher rates.

What happens if future generations of data centers reduce their load demand and the power from the nuclear unit is no longer needed? New Jersey ratepayers still pay.

This bill, as written, puts the risk on the wrong party - all New Jersey ratepayers, including families, farmers, seniors, and small businesses. A better solution is to create an environment where data centers are welcomed and encouraged to finance nuclear power in New Jersey to meet their demand with carbon free generation.

If this bill is to go forward, Rate Counsel suggests a number of amendments. Significantly, the bill should encourage data centers to enter into bilateral contracts with nuclear generation developers to finance these facilities themselves. New Jersey ratepayers should not

be involved in the transaction. If the State, for public policy reasons, believes that nuclear would be advantageous, other incentives, such as tax benefits or EDA loans and grants to entice data centers to site nuclear in New Jersey would be more beneficial to New Jersey and its ratepayers.

A number of the legislative findings also need refinement. The first two findings assume electricity consumption is outpacing entry of new demand and that there is a contraction in generation capacity in the PJM region. This is not entirely accurate. PJM changes to the market rules have also lowered what qualifies as supply and increased demand requirements in the capacity and energy markets. In fact, up until recently, generation was receiving signals from the market to retire based upon low prices. This is because usage was actually declining. Further, it is inaccurate to state that nuclear will be available during severe weather events. In 2019, the Salem nuclear plant was offline due to ice in the intake system causing a significant energy crisis during a time of severe cold. Moreover, nuclear power is generally considered base load, and not dispatchable, as it cannot be ramped up and down in the same manner as other types of generation resources can. Further, the economic findings may be overstated. It is unlikely there will be thousands of jobs, and it is also unlikely that many of the components of a nuclear reactor will be built here in New Jersey. It is important that we take a realistic view of the economic benefits, as well as detriments, when we are evaluating the potential of subsidizing nuclear generation over the next forty years. While we can all agree with the idea that affordable nuclear power should help the economy, we cannot assume nuclear power will be affordable because we say so. If we are no longer going to rely on the PJM markets to bring us the most efficient solutions, we must ensure that ratepayers are only asked to share the burden of bringing truly affordable, cost-effective power to New Jersey. And only power that New Jersey ratepayers, not data centers, need.

In several places, the bill references the PJM Reliability Pricing Model capacity market or Fixed Resource Requirement. Rate Counsel suggests not being so proscribed. At this moment, PJM is reviewing how capacity and energy are procured, and the language must take potential, future changes into account. Therefore, this language should be changed to PJM mechanisms to procure capacity and energy.

This bill will require ratepayers to be locked into a price per MWh for nuclear energy for up to forty years. This is a long time. The ratepayer impact should be assessed for the same period as the life of the subsidy. One thing that is certain, however, is that no one knows what will happen over the next forty years, and locking in a price now – at the height of demand – may not be beneficial to ratepayers. Indeed, we have seen in multiple places where long term contracts have resulted in ratepayers paying well-above market prices for energy. Many very smart people have tried to predict where the market will be in the future. One thing I can tell you with certainty, is that they were all wrong. How wrong remains to be seen, but the predictions will be wrong, and at least for some period of time, ratepayers will be forced to pay more for generation than they would have without these subsidies.

Section 4(c) of the bill identifies what must be included in an expression of interest. Number 15 on that list is a comprehensive economic impact and community benefit analysis, which includes a number of assessments. First, the analysis should also look at the negative financial impacts on a community. Higher rates will have an impact; people will spend less,

businesses will have higher bills resulting in the potential for less jobs or relocation of some industry. Further, there should be an analysis of what happens to the benefits if the states and PJM are successful in requiring the data centers to pay for their impact on capacity prices, caused by their demand. All of this must be part of the analysis to ensure a realistic and complete understanding of the impact of subsidizing nuclear generation. Moreover, the benefits should not be merely an assessment, but rather a commitment to provide those benefits. The costs will happen, so the benefits must too. Benefits for this analysis must be real, measurable, and should be required as a condition of moving forward with any project.

In Section 4(e), the Board of Public Utilities undertakes an analysis of the expression of interest. The board has 90 days to complete that analysis. This is too short a timeframe. This process should include some public input and allow for a thorough analysis. Rate Counsel strongly urges that the board be afforded more time for this analysis. Moreover, the board is to assess how the proposal meets the State's reliability and capacity needs. Those terms should be better defined so that it is clear what is being asked of the board. Finally, there should be a strong expression in this section of the bill that the board should only go forward if the project makes economic sense, and the board must reject any project that does not provide more benefit than cost.

In Section 5(b)(10), it is implied that a developer would be able to keep some portion of new or unexpected tax credits. If ratepayers are being asked to fund the project, ratepayers should receive any benefits of the project. There is no basis for the developer to receive a windfall and keep any portion of additional revenues received after the award is granted. Rather, any such revenue should be used to offset ratepayer contributions. Indeed, that is likely the point of the tax credit, not to simply increase the profitability of the project.

Finally, public participation is vital to this matter. The board will be committing significant ratepayer funds for multiple decades. Before doing so, the public must have a meaningful way to participate in the process. Before each decision, the public should be provided with as much information as possible, recognizing the limitations due to the commercial sensitivity to some data, provided time with that data and a time to comment. Process matters, and it will add to the legitimacy of any decision if it is done with proper public participation.

Rate Counsel thanks you for the time to comment on this bill. I want to acknowledge that this version reflects effort and progress over last session's bill. However, there is much more work to be done to ensure that this bill properly protects ratepayers and brings us to a result that actually benefits New Jersey ratepayers. Rate Counsel looks forward to working with all stakeholders to create a more final product. At this time, Rate Counsel recommends that the committee not vote the bill out of committee, but rather allow the parties to continue working on this bill.

Thank you for your consideration. We look forward to continuing to work with the sponsor and other stakeholders to create a bill that properly supports nuclear generation and properly allocates the costs of that generation. Please feel free to reach our office if you have

any questions or concerns. We very much appreciate the opportunity to share our concerns on behalf of the State's ratepayers.

Sincerely,

s/s Brian O. Lipman

Brian O. Lipman, Esq.

Director, Division of Rate Counsel

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