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Remarks of Stefanie A. Brand, Director, Division of Rate Counsel, In The Matter of the Application of PSEG Nuclear and Exelon Generation for Zero Emission Certificates for Salem 1, Salem 2 and Hope Creek Nuclear Power Generating Plants
February 1, 2021

Good afternoon. My name is Stefanie Brand, and I am the Director of the Division of Rate Counsel. I would like to thank the Board for the opportunity to testify today in this matter.

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 rates 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.

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Rate Counsel filed testimony on Friday in this case of two witnesses, Andrea Crane of the Columbia Group and Maximillian Chang of Synapse Energy Economics, setting forth Rate Counsel's position that the applicants have failed to establish that they are entitled to Zero Emission Credits ("ZECs") under the eligibility requirements of N.J.S.A. 48:3-87.3 *et. seq.* Ms. Crane looked at the projected costs claimed by the applicants and found that they were overstated in several respects. Mr. Chang looked at the projected energy and capacity revenues and found that the projected revenues were understated. Combined, their testimonies demonstrate that the Board should not renew the subsidies for these profitable unregulated plants.

At the outset, I want to note that I will not be discussing any confidential information here today so my remarks will be at a high level. However, confidential versions of our testimony have been filed with the Board and are available to the Commissioners and Staff. Public versions of our testimony have also been filed and are available on our website.

In brief, our consultants found that the applicants have not demonstrated that the financial prospects of Salem 1, Salem 2, or Hope Creek are such that they will need to shut down over the next three years if subsidies are not awarded by the BPU. The financial analyses provided by the Companies include significant costs associated with operational and market risks that are speculative and inappropriate to charge to regulated ratepayers in New Jersey. In addition, the methodologies proposed by the Companies inflate the costs of operating and understate the revenues PSEG and Exelon stand to review from the three nuclear units.

One way that the costs are inflated in the Companies' analysis is that they have applied a cash-flow approach to recovery of all capital investment. This assumes immediate recovery of their significant capital costs. What this means is that each year, PSEG and Exelon would be relieved from risk associated with incremental plant investment. This treatment is contrary to both common practice and basic accounting principles. In a deregulated environment, businesses are not assured of capital recovery within one year. In fact, just the opposite is true. It is usual and customary for deregulated businesses to make investments with the expectations that such investment will be recovered over a multi-year period – if at all.

In addition, PSEG included millions of dollars for Spent Fuel costs that are not actually being incurred by the nuclear operators. The Department of Energy had previously collected a charge from nuclear operators for disposal of nuclear fuel. However, the nuclear operators filed suit claiming that this charge should be terminated since DOE had not yet developed a plan to address the disposal of spent fuel. Accordingly, this Spent Fuel charge was suspended by Court Order in May 2014. Since that time, nuclear operators have not paid the Spent Fuel charge and nuclear operators are not accruing Spent Fuel costs on its books and records of account. Nevertheless, the Companies included Spent Fuel charges in the operating costs calculated for each nuclear unit

Rate Counsel's consultant also found that PSEG's estimate of the variable portion of support service and overhead costs was inflated, and that the Companies ignored hedging revenues associated with the units. The Companies also ignored tax benefits that impact their bottom line, including the benefits that come from the reduction in the corporate tax rate from 35% to 21% in the Tax Cut and Jobs Act of 2017. The Companies' failure to adequately consider various tax benefits associated with the nuclear generating units is another reason why the analyses are flawed and do not support the subsidies sought by PSEG and Exelon.

In addition to overstating costs the Companies understate both future energy revenues and future capacity revenues by significant amounts. For energy revenues, the Board should rely on recent energy price forwards that reflect the upward trends in energy price forwards. The Board should not rely upon the low energy price forwards provided by the Applicants. For capacity revenues, the Board should rely on capacity price proxies or capacity price projections used in other proceedings before the Board. Both the BGS proceeding and Offshore Wind Solicitation capacity price proxies are higher than capacity price proxies used by the Applicants.

The Operational Risk and Market Risk cited by the Companies as costs father distort the financial picture presented by the Companies. These purported costs constitute a very significant portion of the overall shortfalls being claimed in this case and comprise almost the entire subsidy amount being requested. Thus, a significant portion of the Company's overall claim for subsides relates not to objective and verifiable cost estimates, but to speculative risks. While the Legislature provided that these risks should be considered when evaluating whether or not a subsidy was required, they did not ensure recovery of these speculative costs from ratepayers.

One problem with PSEG's claimed operational risk is that the Company only assumes that the operational risks will <u>add</u> costs to its nuclear operations. But it is just as likely that the Company's cost estimates will be understated rather than overstated. Presumably, its cost estimates provide the best indicator of expected future costs for nuclear operations, and many of these costs are directly under the Company's control. But, while it is possible that costs could be higher than forecast, it is also possible that costs could be lower than forecast. PSEG did not provide any recognition in its applications that costs could actually be less than forecast, and it made no adjustment for the possibility that its forecasts may be overstated. Accordingly, the Operational Risk adjustment is one-sided and inflated.

Similarly, with regard to Market Risks, ratepayers should not be the guarantors of last resort for all possible contingent risks related to operating revenues. The fact is that the nuclear units at issue have been deregulated for approximately 20 years. At the time of deregulation, ratepayers paid hundreds of millions of dollars in stranded costs to the owners of the nuclear facilities, based on perceived risks and expectations that market prices would not be high enough to allow owners to recover all of their investment. However, for much of the time since deregulation, the nuclear operators have generally done very well, with actual costs falling far below market prices, resulting in significant profits from these nuclear units. There was no return of stranded costs payments to ratepayers when market prices were above the cost to operate the nuclear units. The State's experience with stranded cost payments highlights the importance of taking “upside” risks into account.Yet, similar to its treatment of operational risk, PSEG only assumed that Market Risk would increase its costs. There is no recognition that conditions in the energy market during the second eligibility period may actually result in higher than anticipated revenues for the generating units.

When these significant factors are taken into account, the applicants have not demonstrated that their financial condition warrants an additional award of ZECs. Rate Counsel urges the Board to deny the application on this basis and also to take into account the moment that we are in. With a new administration in Washington, we are likely to see policies that will benefit carbon-free resources and further improve the prospects of these plants. In addition, ratepayers are already struggling under a crippling pandemic that has brought economic hardship to many. Now is not the time to transfer wealth from average citizens to wealthy shareholders. These plants do not need these subsidies and the applications should be denied.

Of course, while we fervently believe that to be the case, we recognize that the Board may think otherwise and in our testimony we offer information for the Board in the event it decides to award some subsidy. In that case, any subsidy should be substantially lower than the subsidies awarded in the first eligibility period. As most of that analysis is confidential, I refer you to our confidential testimony on that issue.

Thank you.