



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/

ENERGY

IN THE MATTER OF THE PETITION OF BUTLER)
ELECTRIC FOR APPROVAL OF A ZERO)
EMISSION CERTIFICATE RECOVERY CHARGE)
)
)
)
)
DOCKET NO. EO23100745

Parties of Record:

Robert Oostdyk, Jr., Esq., on behalf of Butler Electric
Brian O. Lipman, Esq., Director, New Jersey Division of Rate Counsel

BY THE BOARD:¹

BACKGROUND

On May 23, 2018, Governor Phil Murphy signed into law L. 2018, c. 16 (N.J.S.A. 48:3-87.3 to -87.7) which required the New Jersey Board of Public Utilities (“Board”) to implement a Zero Emission Certificate (“ZEC”) program (“Act”).² The Act mandates the Board to authorize certain eligible nuclear energy generators (“Units”) to receive ZECs, and the ZECs are purchased by New Jersey’s electric distribution companies (“EDCs”).³ The Act also required the Board to order the full recovery of EDCs’ costs associated with purchased ZECs via a non-bypassable charge imposed on each EDC’s retail distribution customers.⁴

The Act directs each EDC to file with the Board a tariff to recover a ZEC charge of \$0.004 per kilowatt-hour (“kWh”) from its retail distribution customers (“ZEC Charge”). The ZEC Charge constitutes the emissions avoidance benefits associated with the continued operation of a selected nuclear power plant. The ZEC Charge is one (1) component of the Zero Emissions Certificate Recovery Charge (“ZECRC”).

¹ Commissioner Michael Bange abstained from voting on this matter.

² N.J.S.A. 48:3-87.3 to -87.5.

³ The EDCs are Atlantic City Electric Company, Jersey Central Power & Light Company, Public Service Electric and Gas Company, Rockland Electric Company and Butler Electric (“Butler” or “Company”). Butler is regulated to the extent it serves customers outside of its municipal borders.

⁴ N.J.S.A. 48:3-87.5(j) (1).

The Act also directs the EDCs to return excess monies in each EDC's separate, interest-bearing account to its retail distribution customers at the end of each energy year. This constitutes the second component of the ZECRC, the Return of Excess Collections Credit Rate ("RECCR").

By Order dated April 6, 2022, the Board approved Butler's request to revise its RECCR, resulting in a total ZECRC rate of \$0.003917 per kWh, excluding Sales and Use Tax ("SUT").⁵ By Order dated March 6, 2023, the Board approved Butler's current RECCR of \$0.000069, excluding SUT, resulting in the current total ZECRC rate of \$0.004069 per kWh, excluding SUT (\$0.004338, including SUT).⁶ In the March 2023 Order, the Board found that Butler's proposed RECCR was consistent with the Act and necessary for Butler to fully recover its costs associated with the procurement of ZECs.⁷

OCTOBER 20, 2023 PETITION

On October 20, 2023, Butler filed a petition seeking to maintain its RECCR at \$0.000069 as of January 1, 2024 ("Petition").

Butler estimated an under-collected balance, including interest, of \$7,385.87 as of January 2024. Additionally, during Energy Year ("EY") 2023, the Company's ZECRC over-collections totaled \$423.85. As a result, the estimated net balance for EYs 2022 and 2023 would be an under-collected balance of \$6,962.12. Butler stated that any remaining balance due to customers, including interest, would be carried over to the next year's RECCR filing. Given that Butler proposed no rate change, and that Butler is a municipally owned company, the Company requested that public hearings be waived since there is not an increase in the RECCR.

The Company also requested that the Board develop a streamlined system for future RECCR filings that will allow the Company to most efficiently handle the ZECRC collection balances. The Company argued that this would also help reduce regulatory expenses related to notice requirements.

NEW JERSEY DIVISION OF RATE COUNSEL COMMENTS

On November 21, 2023, the New Jersey Division of Rate Counsel ("Rate Counsel") filed a letter with the Board recommending denial of Butler's request to charge its residential distribution customers any amount in excess of the \$0.004 per kWh charge rate (including SUT). Rather, Rate Counsel argued that Butler's RECCR should be set to zero until all excess refunds are recovered through the ZECRC.

⁵ In re the Implementation of L. 2018, C. 16 Regarding the Establishment of a Zero Emission Certificate Program for Eligible Nuclear Power Plants; In re the Petition of Butler Electric for Approval of a Zero Emission Certificate Recovery Charge, BPU Docket Nos. EO18080899 and EO21111214, Order dated April 6, 2022.

⁶ In re the Petition of Butler Electric for Approval of a Zero Emission Certificate Recovery Charge, BPU Docket No. EO22100629, Order dated March 6, 2023 ("March 2023 Order").

⁷ See March 2023 Order at 4.

Rate Counsel further argued that it remains concerned that, despite the findings in the Board's March 2023 Order, the proposed ZECRC rate is not permitted under N.J.S.A. 48:3-87.5(j). Rate Counsel based its argument on its assertion that the statutory maximum rate is \$0.004 per kWh. Rate Counsel maintained that the Act does not provide for a reconciliation of over-credited amounts and argued that Butler's request is inconsistent with the Board's authority under the Act.

With respect to Butler's request related to future ZECRC filings, Rate Counsel noted that Butler made a similar request in its October 2021 and October 2022 RECCR petitions, but the Board declined to rule on those requests. Rate Counsel stated that it is unaware of any additional information in the record that would justify a change in the Board's prior decision on this issue.

DISCUSSION AND FINDINGS

The Board reviewed the record in this matter including the Petition and Rate Counsel's comments.

The Board disagrees with Rate Counsel's comments. N.J.S.A. 48:3-87.5(j)(1) provides, in pertinent part, as follows:

The board shall order the full recovery of all costs associated with the electric public utility's required procurement of ZECs, and with the board's implementation of the ZEC program under this act, through a non-bypassable, irrevocable charge imposed on the electric public utility's retail distribution customers. Within 150 days after the date of enactment of this act, each electric public utility shall file with the board a tariff to recover from its retail distribution customers a charge in the amount of \$0.004 per kilowatt-hour which reflects the emissions avoidance benefits associated with the continued operation of selected nuclear power plants.

The ZEC charge component mandated by this section represents one (1) component by which the utilities may recover those costs. However, this section is silent as to recovery when the ZEC charge component, capped at \$0.004 per kWh, is insufficient for the utility to recover its costs in full.

In this instance, Butler petitioned to continue to use its RECCR, traditionally a return to customers when a utility's ZEC charge results in an over-recovery, to satisfy its statutory entitlement to full recovery of costs associated with the procurement of ZECs. Butler did not propose to set its ZEC charge component rate above the clear statutory mandate of \$0.004 per kWh.

As such, the Board **HEREBY FINDS** Butler's proposed RECCR to be consistent with the Act and necessary for it to fully recover its costs associated with the procurement of ZECs. Accordingly, the Board **HEREBY APPROVES** a total ZECRC rate of \$0.004069 per kWh, excluding SUT, for service rendered on and after February 1, 2024. As a result, a typical residential electric customer using 650 kWh per month will experience no change in their average monthly bill.

Butler requested that the Board develop a streamlined process at this time. The Board **NOTES** that several of the EDCs have made similar requests to modify the handling of these annual filings. Accordingly, the Board **HEREBY DIRECTS** Butler to work collaboratively with the other EDCs, Staff and Rate Counsel prior to the next ZECRC filing to attempt to find a resolution.

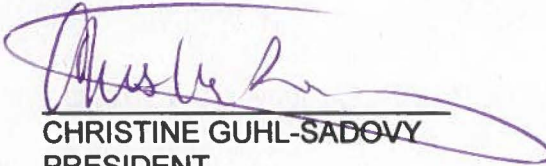
The Board **HEREBY DIRECTS** Butler to file revised tariffs prior to February 1, 2024.

The Company's costs will remain subject to audit by the Board. This Order shall not preclude or prohibit the Board from taking further action relating to any such audit.

The effective date of this Order is January 17, 2024.

DATED: January 10, 2024

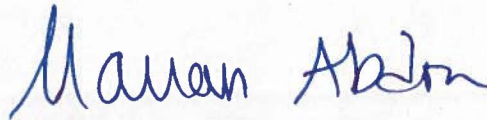
BOARD OF PUBLIC UTILITIES
BY:



CHRISTINE GUHL-SADOVY
PRESIDENT

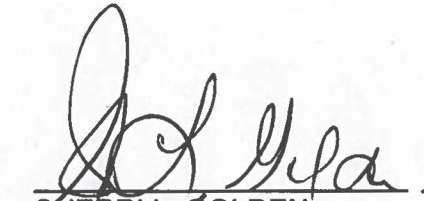


DR. ZENON CHRISTODOULOU
COMMISSIONER



MARIAN ABDOU
COMMISSIONER

ATTEST:



SHERRI L. GOLDEN
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 PETITION OF BUTLER ELECTRIC FOR APPROVAL OF A ZERO EMISSION
CERTIFICATE RECOVERY CHARGE

BPU DOCKET NO. EO23100745

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