



STATE OF NEW JERSEY
Board of Public Utilities
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www.nj.gov/bpu/

STATE ENERGY SERVICES

IN THE MATTER OF THE IMPLEMENTATION OF L.) ORDER APPROVING
2018, c. 16 REGARDING THE ESTABLISHMENT OF A) CONSULTANT AND SETTING
ZERO EMISSION CERTIFICATE PROGRAM FOR) APPLICATION FEE
ELIGIBLE NUCLEAR POWER PLANTS)
DOCKET NO. EO18080899

Parties of Record:

Stefanie A. Brand, Esq., Director, New Jersey Division of Rate Counsel
Jeffrey W. Mayes, Esq., General Counsel, Monitoring Analytics, LLC

BY THE BOARD:

I. BACKGROUND

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 represents 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, certain eligible nuclear energy generators may be approved to provide ZECs for the State's energy supply, which in turn will be purchased by New Jersey's four (4) investor-owned electric distribution companies, i.e., Atlantic City Electric ("ACE"), Jersey Central Power & Light Company ("JCP&L"), Public Service Electric and Gas Company ("PSE&G"), and Rockland Electric Company ("RECO"); and municipal electric distribution company Butler Electric Utility ("Butler") (collectively, "EDCs"). The Act identifies the basic steps required to establish this program, including program logistics, funding, costs, application, eligibility requirements, selection process, and the timeframes for meeting several requirements of the Act.

The Act required 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 was required – after notice, the opportunity for comment, and public hearings – to issue an order establishing a ZEC program for selected nuclear power plants. The Board's Order was required to include but did not need to 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 the EDCs 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 the proceeding to certify applicant nuclear power plants as eligible for the program and establish a rank-ordered list of the nuclear power plants eligible to be selected to receive ZECs. N.J.S.A. 48:3-87.5(e)(1) through (e)(5) specifies the criteria for an applicant to be certified by the Board as an eligible nuclear power plant, including submission of an application fee to the Board in an amount to be determined by the Board, not to exceed \$250,000, to be used to defray the costs incurred by the Board to administer the ZEC program. This proceeding to certify applicant nuclear power plants as eligible must be completed no later than 330 days after the date of enactment of the Act, i.e., by April 18, 2019, after notice, the opportunity for comment, and public hearing. See N.J.S.A. 48:3-87.5(d).

In addition, within 150 days after the date of enactment of the Act, i.e., by October 22, 2018, the Act required each EDC to 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, according to the Act, reflects the emissions avoidance benefits associated with the continued operation of selected nuclear power plants. The Act provided that the Board shall approve the appropriate tariff after notice, the opportunity for comment, and public hearings, within 60 days after the EDCs' tariffs are filed. See N.J.S.A. 48:3-87.5(j). If the Board determines, in its discretion, that no nuclear power plant that applied satisfies the objectives of the Act, the Board shall be under no obligation to certify any nuclear power plant as an eligible nuclear power plant. Ibid.

II. PROCEDURAL HISTORY

On August 29, 2018, the Board approved an Order¹ initiating the creation of the ZEC program. Specifically, the Board (i) directed Board Staff ("Staff") to 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) directed the EDCs to file tariffs in compliance with the Act by October 22, 2018, for approval by the Board; (iii) designated President Joseph L. Fiordaliso as the Presiding Officer, who is authorized

¹ I/M/O the Implementation of L. 2018, c. 16 Regarding the Establishment of a Zero Emission Certificate Program for Eligible Nuclear Power Plants, BPU Docket No. EO18080899, Order Initiating the Zero Emission Certificate Program, Designating Commissioner, and Setting Manner of Service and Bar Date, dated August 29, 2018.

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) directed that any entities seeking to intervene or participate in the tariff portion of this matter file the appropriate motion with the Board by October 23, 2018.

On November 19, 2018, the Board issued an Order² ("November 19, 2018 Order") approving the ZEC Application, the program process, and the tariffs associated with collection of the funds. Consistent with the Act, the Board sought stakeholder input on the method and application process for determining the eligibility and selection of nuclear power plants, and on the establishment of a mechanism for each EDC to purchase ZECs from selected nuclear power plants. The Act required that a formal program be established to receive and review applications, determine eligibility, and rank any eligible nuclear plants for receipt of credits. The application consists of numerous and extensive questions and requirements for supporting documents, studies, certifications, and narratives. Staff developed the application after reviewing all stakeholder and public comments. The application is designed to thoroughly capture all information that the Board deems necessary and relevant to properly determine eligibility of an applicant unit. An application must be submitted for each individual nuclear generating unit that seeks ZECs. All ZEC applications must be submitted to the Board Secretary by 5:00 P.M. EST on December 19, 2018. Each application will be given a separate docket number for the purposes of filing.

Two teams will be established to evaluate the various requirements of the ZEC program and ensure proper review of submitted applications based on the five (5) criteria set forth in the ZEC Act. One team will determine the eligibility of applicant units ("Eligibility team"), and the other team will score and rank eligible units ("Ranking team"). The Eligibility team will first review applications for completeness. If the application is deemed incomplete, the application will be rejected, and the applicant will be notified that its application has been rejected. If the application is deemed complete, review of that application will continue. The Eligibility team will specifically consider all eligibility criteria identified in the November 19, 2018 Order. The first task of the Ranking team, which will occur concurrently with application reviews by the Eligibility team, will be to finalize the scoring methodology and criteria. The Ranking team will then review the applications received from the Eligibility team and score each application based on the Ranking team's established scoring criteria and matrix. Once the Ranking team completes the scoring of all eligible applications, it will create a "ranked list" of eligible units, including the highest score with the top ranking followed by the next highest score, etc. in accordance with the method identified in the Act. Each team will include Staff, NJDEP staff, and members of Staff's consultant.³ The teams will be determined prior to the commencement of work on or about January 2, 2019. Staff will present the ranked list along with the results of its review of all eligible applications to the Board at the April 2019 agenda meeting for approval.

² I/M/O the Implementation of L. 2018, c. 16 Regarding the Establishment of a Zero Emission Certificate Program for Eligible Nuclear Power Plants, BPU Docket No. EO18080899, Order Establishing the Program, Application, and Procedural Process, dated November 19, 2018.

³ Each team member will have different members. No member will participate in both teams.

III. CURRENT EFFORT

Given the nature of the applications, significance of the program, and anticipated submittals, Staff sought a consultant to aid in their efforts. Staff submitted a Request for Quotation ("RFQ") (see Attachment A) to eight entities on October 3, 2018 seeking response to the scope of work needed to execute the ZEC program. Additionally, Staff posted an addendum to the RFQ (see Attachment B) answering questions by potential respondents. RFQ responses were due to the Board on November 1, 2018. Staff received RFQ responses from Levitan & Associates, Inc. ("Levitan"), Bates White Economic Consulting ("Bates White"), and NERA Economic Consulting ("NERA"). The selection team, which comprised members from the Board's Budget and Finance division, Office of State Energy Services, Office of the Economist, Chief of Staff's Office, and Chief Counsel's Office, utilized the Board's standard internal review process for awarding outside contracts. The selection team scored each RFQ response based on the proposer's demonstrated understanding of the RFQ, execution plan for the scope of work, team members' and firm's depth of experience, perceived ability to complete the tasks on schedule, and previous work on similar matters.

IV. DISCUSSION AND FINDINGS

In order to satisfy its statutory mandate, the Board's Office of the President may require the services of expert professional consultants. These expert professional consultants may prepare specialized reports, advise the Board on policy matters, and serve as witnesses in complex, unique, and highly specialized areas of utility law and policy, engineering, finance, and accounting in the fields of telecommunications and cable television, gas, electric, water, and sewer services as related to rate filing petitions and other matters. There are only a few potential qualified bidders available nationally who have not already testified on behalf of utility companies or other State agencies presenting positions that are contrary to the policies and positions of the Board.

Given the potential amount of information, expertise required for review and evaluation, and potential number of applications, the Board authorized Staff to solicit a consultant with specific expertise to assist with all aspects of the eligibility and ranking processes of the ZEC program. The consultant will be vital in evaluating all cost projections and historical spending, air emissions impacts to New Jersey, costs and benefits of continued plant operations versus plant/unit closure, the amount of subsidy required for each plant to remain operational, and finalization and application of the application scoring and ranking methodology.

After careful review and consideration, the selection team recommends that Levitan be awarded the contract to assist Staff in reviewing and analyzing the applications and process for implementing the Act's requirements and proposed Board program. Levitan's RFQ response demonstrated a thorough understanding of the scope of work; well-qualified staff to perform the work; direct and significant experience in implementation, pricing, and market development of ZEC legislation for other States inside and outside of the PJM footprint; a logical and methodical task approach; and a competitive pricing structure for the work to be performed. Additionally,

Levitan reached beyond the presented scope of work and offered suggestions to augment a thorough analysis of the applications. After a request to the RFQ respondents for a "best and final offer," Levitan proposed a firm fixed contract of \$243,010. This price assumes six (6) applications and is reduced on a sliding scale if fewer applications are received.

After consideration of Staff's recommendation and review of the evaluation team's report, the Board **HEREBY APPROVES** the selection of Levitan & Associates, Inc. and **HEREBY DIRECTS** Staff to execute a contract for services related to the ZEC program as described in the RFQ and scope of work. The contract will commence on January 1, 2019 and will be for a two (2) year period to allow for continued analysis of the market's absorption of any ZECs, if awarded, and revision of the program, if necessary, after this first round of applications.

Also, in compliance with N.J.S.A. 48:3- 87.5(e)(5), each applicant shall submit an application fee to the Board in an amount to be determined by the Board, not to exceed \$250,000, to be used to defray the costs incurred by the Board to administer the ZEC program⁴. The Board **HEREBY DIRECTS** all applicants to submit an application fee of \$250,000 to accompany each application. The applicant shall contact the Board's Chief Financial Officer for the proper procedure of the intended submission method.

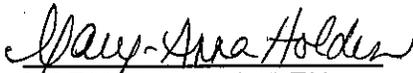
⁴ Although the Board in its November 19, 2018 Order Establishing the Program, Application, and Procedural Process in this docket required the application fee to be submitted with the application, Id. at 11, the Order did not specify the application fee amount.

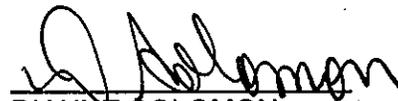
This Order shall be effective on December 18, 2018.

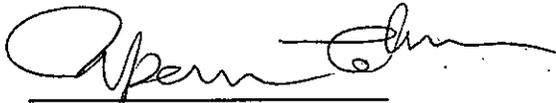
DATED: 12/18/18

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ATTEST: 
AIDA CAMACHO-WELCH
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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 Implementation of L. 2018, c. 16 Regarding the Establishment of a
Zero Emission Certificate Program for Eligible Nuclear Power Plants**

BPU Docket No. EO18080899

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