



STATE OF NEW JERSEY

Board of Public Utilities

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www.nj.gov/bpu/

DIVISION OF STATE ENERGY SERVICES

IN THE MATTER OF THE IMPLEMENTATION OF L.)	ORDER COMPLETING THE ZEC
2018, c. 16 REGARDING THE ESTABLISHMENT OF)	PROCEEDING
A ZERO EMISSION CERTIFICATE PROGRAM FOR)	
ELIGIBLE NUCLEAR POWER PLANTS)	DOCKET NO. EO18080899
)	
AND)	
)	
APPLICATION FOR ZERO EMISSION)	DOCKET NO. EO18121338
CERTIFICATES OF SALEM 1 NUCLEAR POWER)	
PLAN)	
)	DOCKET NO. EO18121339
APPLICATION FOR ZERO EMISSION)	
CERTIFICATES OF SALEM 2 NUCLEAR POWER)	
PLANT)	DOCKET NO. EO18121337
)	
APPLICATION FOR ZERO EMISSION)	
CERTIFICATES OF HOPE CREEK NUCLEAR)	
POWER PLANT)	

Parties of Record:

- Matthew Weissman, Esq.**, General State Regulatory Counsel, Public Service Electric and Gas Company
- Jeanne J. Dworetzky, Esq.**, Assistant General Counsel, Exelon Generation Company, LLC
- Stefanie A. Brand, Esq.**, Director, New Jersey Division of Rate Counsel
- Jeffrey W. Mayes, Esq.**, General Counsel, Monitoring Analytics, LLC
- Steven S. Goldenberg, Esq.**, Counsel, New Jersey Large Energy Users Coalition
- Jennifer Hsia, Esq.**, Counsel, NRG Energy, Inc.
- William Harla, Esq.**, Counsel, PJM Power Providers Group

Philip J. Passanante, Esq., for Atlantic City Electric Company
Robert H. Oostdyk, Jr., Esq., for Butler Power and Light
Mark A. Mader, Esq., Director, for Jersey Central Power & Light
Margaret Comes, Esq., Associate Counsel, for Rockland Electric Company

BY THE BOARD:

This matter is before the New Jersey Board pursuant to the Board's November 19, 2018 Order¹, wherein Staff was directed to present a ranked list, composed of all eligible applicant units, listed from highest score to lowest score, along with the results of its review of all eligible applications by the April 2019 Board Meeting.

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 required 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 identified 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 is 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 must 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 the EDCs to purchase ZECs from selected nuclear power plants. See N.J.S.A. 48:3-87.5(b).

The Act also required 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. This proceeding 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

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. E018080899 (November 19, 2018) ("November 19, 2018 Order").

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 plants as an eligible nuclear power plant. Ibid.

PROCEDURAL HISTORY

On August 29, 2018, the Board approved an Order 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 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.

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. See November 19, 2018 Order. The application is designed to thoroughly capture all information that the Board deems necessary and relevant to properly determine eligibility of an applicant unit.

In its November 19, 2018 Order, the Board approved 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.

Two teams were 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 Act in accordance with the November 19, 2018 Order. One team was established to determine the eligibility of applicant units ("Eligibility Team"), and the other team was established with the responsibility of scoring and ranking eligible units ("Ranking Team").

An application was to be submitted for each individual nuclear generating unit that sought ZECs. All ZEC applications were to be submitted to the Board Secretary by 5:00 P.M. EST on December 19, 2018. On December 19, 2018 three applications were filed with the Board: Salem 1, Salem 2, Hope Creek (collectively hereinafter, "Applicants"). Each application was given a separate docket number for the purposes of filing.

By its December 18, 2018 Order,² the Board approved the selection of Levitan & Associates, Inc. to serve as a consultant to Staff and directed Staff to execute a contract for services related to the ZEC program as described in the RFQ scope of work.

On February 27, 2019, the Board approved an Order establishing the ranking criteria pursuant to the Act. In coming to the ranking criteria the Ranking Team consulted with Levitan. The seven (7) ranking criteria include 1) Unit Economic Viability, 2) Annual Unit Generation Net of Power Exports out of the State, 3) Plant Capacity Factor, 4) Nuclear Regulatory Commission ("NRC") Safety Rating, 5) Full time Annual Payroll plus Property Taxes or Payments in Lieu of taxes, 6) Total Avoided Carbon Dioxide ("CO₂") Emissions Tons, and 7) Avoided Total Sulfur Dioxide ("SO₂"), Nitrogen Oxides ("NO_x") and Particulate Matter ("PM") Emissions Tons. See February 27, 2019 Order. Based on the criteria found in the February 27, 2019 order, a "ranked list" of eligible units, if any, will be presented to the Board by April 18, 2019 in accordance with the Act.

Motions

On March 6, 2019, PSEG Nuclear, LLC ("PSEG Nuclear") filed a motion pursuant to N.J.A.C. 1:1-14.10, for interlocutory review of the Board's Order dated February 27, 2019.³ PSEG Nuclear Motion. PSEG Nuclear seeks clarification, and in certain instances, reconsideration, regarding certain identified items as they pertain to the Ranking Criteria established by the Board's February 2019 Order.

A. Fuel Resilience and Diversity

PSEG Nuclear claims there is no recognition of fuel diversity in the ZEC Ranking Criteria adopted in the February 2019 Order. PSEG Motion at 2. PSEG Nuclear requests that the Board consider the inclusion of fuel diversity in its Ranking Criteria. Ibid.

B. The Unit Economic Viability Metric (UEVM)

PSEG Nuclear argues that the Act requires the Board to take into consideration the risks involved, and that the Board has not articulated whether and how it will take risks into consideration. PSEG Motion at 3. PSEG Nuclear requests that the Board define average going forward costs, whether going forward costs will include fully allocated overhead costs and operational and market risks. Ibid. PSEG Nuclear also requests clarification of the sentence stating that the Board will consider all subsidies received by the unit to determine economic viability and argues that only fuel diversity, resilience, air quality, and other environmental revenues should be used to determine economic viability. Ibid.

C. Annual Unit Generation Net of Power Exports Out of The State

PSEG states that the criterion is unclear as to whether this criterion will serve its intended purpose. PSEG Motion at 4. PSEG Nuclear argues that comparing their output to a base year of 2017, rather than the total quantity delivered to New Jersey, will favor an out-of-state facility rather than an in-state facility. Ibid. Additionally, PSEG Nuclear seeks clarity on how exports

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 (December 18, 2018).

³ I/M/O the Implementation of L. 2018, c.16 Regarding the Establishment of a Zero Emission Certificate Program for Eligible Nuclear Power Plants, Docket No EO18080899, Order Approving Ranking Criteria for Eligible Nuclear Power Plants to Receive ZECs (February 27, 2019) ("February 27, 2019 Order").

are to be measured, i.e., power flows or contracted flow. PSEG Nuclear further asks whether this applies to capacity, energy, or both. PSEG Motion at 5.

D. Full Time Annual Payroll Plus Property Taxes or Payments in Lieu of Taxes (PILOT)

PSEG Nuclear is concerned that this measure could lead to unintended consequences and anomalous outcomes and seeks clarification of the intended operation of this criterion. PSEG Motion at 5.

E. Emissions

PSEG Nuclear argues that the criterion set forth by the Board only reflects one of the three air quality factors. PSEG Motion at 6. Additionally, PSEG Nuclear states that in the February 2019 order, neither the impact on New Jersey resident nor the impact on New Jersey's ability to meet its established environmental goals appears to have been considered. Ibid. To avoid any confusion, PSEG Nuclear requests the Board to clarify that it will rank all eligible plants, and award ZECs up to the level specified in the Act. Ibid.

F. "Eligibility" and "Ranking" Phases of the ZEC Act

PSEG Nuclear argues that in the February 2019 Order, it appears that the Board combines the concepts of determining eligibility and the ranking of eligible plants. PSEG Motion at 7. To avoid any confusion, PSEG Nuclear requests the Board to clarify that it will rank all eligible plants, and award ZECs up to the level specified in the Act. Ibid.

G. Percentages and Points in the Ranking Criteria

PSEG Nuclear seeks an explanation on the scoring system, including how the weightings impact the various point outcomes. PSEG Motion at 7. PSEG Nuclear argues that in the November 2018 Order, the Board articulated that the ranking phase of the ZEC process will be supported using a "ranking criteria for a total score of 100." Ibid. The February 2019 Order, however, contains seven criteria with ranges of scores that add up to no more than 70 points. While the percentages of the seven criteria add up to 100%, and the criteria indicate that there will be weighting, it is not clear how application of any weightings would result in a potential total score of 100 points. Various applications of this scoring process seem possible, but PSEG Nuclear cannot ascertain from the Order which if any will be utilized. Ibid.

On March 7, 2019, Exelon Generation filed a letter of support and request to join PSEG Nuclear's Request for Interlocutory Review. Exelon Generation did not specifically address the issues raised by PSEG Nuclear but was reserving its rights, should it become necessary to raise issues later in the proceeding. Exelon Generation Letter of Support.

Rate Counsel submitted opposition to PSEG Nuclear's motion for interlocutory review on March 11, 2019. Rate Counsel Motion. Rate Counsel argues that "PSEG Nuclear does not even make an attempt to argue that its request is justified under the law..." Rate Counsel Motion at 2. Rate Counsel suggests that PSEG "in essence... is asking the Board to reconsider its own decision because PSEG Nuclear is concerned that the BPU is not interpreting the criteria set forth in the ZEC statute in a way that favors PSEG Nuclear." Id. at 3. Rate Counsel asserts that PSEG Nuclear's concerns are not grounds for reconsideration on an interlocutory basis and therefore the request should be denied. Id. at 4.

A. Fuel Resilience and Diversity

Rate Counsel contends that “fuel diversity” is not a defined term in the statute and that while it may be a factor in looking at fuel security and resilience, it is not a factor in and of itself that is valued by the industry. Rate Counsel Motion at 4. Rate Counsel argues that the Board’s decision not to consider this factor in its ranking criteria is logical and consistent with the Act. Ibid.

B. The Unit Economic Viability Metric

Rate Counsel argues that the Board’s order appears to be virtually identical to the statute, and that even if it were not, the Board is well within its authority to interpret the statute as long as its interpretation does not contradict the language or purpose of the Act. Rate Counsel Motion at 5.

C. Annual Unit Generation Net of Power Exports Out of The State

Rate Counsel contends that PSEG Nuclear’s argument falls short as the criterion does look at the output delivered to New Jersey. Rate Counsel Motion at 6. Further, Rate Counsel argues that it makes sense to compare it to a base year to provide consistency and prevent any efforts to game the system. Rate Counsel also states that since all three of the applicants are from within New Jersey, PSEG Nuclear’s complaints appear to have no impact on the applications currently before the Board and that the Board can address these concerns in a future order. Ibid.

D. Full Time Annual Payroll Plus Property Taxes or Payments in Lieu of Taxes

Rate Counsel asserts that there is absolutely no reason to believe that the Board will apply this criterion in a way that reaches an absurd result and that the Board is not required to clarify each criterion that it will apply reasonably. Rate Counsel Motion at 6.

E. Emissions

Rate Counsel states that at this time there are no applicants outside New Jersey and if a concern does develop, then the Board can address it in the future. Rate Counsel Motion at 7. Further, there is no reason to believe that the interpretation from the New Jersey Department of Environmental Protection (“NJDEP”) or the Board would create the result that PSEG Nuclear believes could occur. Id.

F. “Eligibility” and “Ranking “ Phases of the ZEC Act

Rate Counsel asserts that if the Board were to grant PSEG Nuclear’s request and adopt the applicant’s reading of the statute, the process would be severely constrained and undermined. Rate Counsel Motion at 7. The Board is perfectly capable of interpreting the Act on its own. The intent of the Board is clear; the ranking criteria will apply only to eligible units, which shall be ranked accordingly. Rate Counsel argues that there is no other reading of this language and that PSEG Nuclear’s objection is nothing more than its attempt to require the Board to apply the Act consistent with the PSEG Nuclear’s interpretation. Ibid.

G. Percentages and Points in the Ranking Criteria

Rate Counsel explains that PSEG Nuclear's calculation is in error as they fail to consider that criteria 1 and 2 are each afforded a 20% weight, while the emissions criteria are each weighted at 15% and the other criteria are weighted at 10%. Rate Counsel Motion at 8. Rate Counsel argues that when the full points for each criterion are properly weighted, the total possible score equals 100. Ibid.

DISCUSSION

Motions

First, the Board will address the motion filed by PSEG Nuclear requesting "interlocutory review." Generally, an order or ruling of an Administrative Law Judge ("ALJ") may be reviewed interlocutorily by an agency head at the request of a party. N.J.A.C. 1:1-14.10(a). Also, any request for interlocutory review shall be made to the agency head no later than five working days from the receipt of the order. N.J.A.C. 1:1-14.10(b). Pursuant to N.J.A.C. 1:14-14.4(a), a rule of special applicability that supplements the N.J.A.C. 1:1-14.10, the Board shall determine whether to accept the request and conduct an interlocutory review by the later of (i) ten days after receiving the request for interlocutory review or (ii) the Board's next regularly scheduled open meeting after expiration of the 10-day period from receipt of the request for interlocutory review. In addition, under N.J.A.C. 1:14-14.4(b), if the Board determines to conduct an interlocutory review, it shall issue a decision, order, or other disposition of the review within 20 days of that determination. And, under N.J.A.C. 1:14-14.4(c), if the Board does not issue an order within the timeframe set out in N.J.A.C. 1:14-14.4(b), the judge's ruling shall be considered conditionally affirmed. However, the time period for disposition may be extended for good cause for an additional 20 days if both the Board and the OAL Director concur. Finally, it should be noted that N.J.A.C. 1:1-14.10(i) in relevant part provides that "any order or ruling reviewable interlocutorily is subject to review by the agency head after the judge renders the initial decision in the contested case, even if an application for interlocutory review: [i] was not made; [ii] was made but the agency head declined to review the order or ruling; or [iii] was made and not considered by the agency head within the established time frame."

Although the above legal principles for an agency head's interlocutory review of an ALJ decision do not apply to the Board's decision here, the legal standard for granting interlocutory review in administrative proceedings was set forth by the Supreme Court in In re Uniform Administrative Procedure Rules, 90 N.J. 85 (1982). In that case, the Court held that interlocutory review may be granted "only in the interest of justice or for good cause shown." Id. at 100. In defining "good cause," the Court stated:

In the administrative arena, good cause will exist whenever, in the sound discretion of the agency head, there is a likelihood that such an interlocutory order will have an impact upon the status of the parties, the number and nature of claims or defenses, the identity and scope of issues, the presentation of evidence, the decisional process, or the outcome of the case.

[Ibid.]

It is significant to point out that the ZEC proceeding is being conducted as set forth in the Act. The Board has abided by all the procedural due process required in the Act, i.e., notice,

opportunity for comment, and public hearing. N.J.S.A. 48:3-87.5(b); N.J.S.A. 48:3-87.5(d); and N.J.S.A. 48:3-87.5(j)(1). The Board is also mindful that the New Jersey Supreme Court has declared that "[a]dministrative agency power derives solely from a grant of authority by the Legislature." See, e.g., General Assembly of New Jersey v. Byrne, 90 N.J. 376, 393 (1982). Thus, an administrative agency, such as the Board, possesses only "the powers expressly granted which in turn are attended by those incidental powers which are reasonably necessary or appropriate to effectuate the specific delegation." New Jersey Guild of Hearing Aid Dispensers v. Long, 75 N.J. 544, 562 (1978) (citations omitted). Thus, it should be noted that the Board here is not conducting a typical contested-case matter that has been transmitted to the Office of Administrative Law or assigned to a Board Commissioner for hearing.

The Board also notes that the Order from which PSEG Nuclear is seeking interlocutory review was a Board decision, and not a Commissioner or ALJ decision. Rather, PSEG Nuclear is asking the Board to reconsider or clarify its February 27, 2019 Order as PSEG Nuclear does not agree with the Board's interpretation of the Act. As such, it is not appropriate for interlocutory review.

Nor does the Motion have merits as one for reconsideration of the Board's decision. A motion for rehearing, reargument, or reconsideration of a proceeding may be filed by any party within 15 days after the effective date of any final decision or order by the Board. N.J.A.C. 14:1-8.6(a). A motion for reconsideration requires the moving party to allege "errors of law or fact" that were relied upon by the Board in rendering its decision. N.J.A.C. 14:1-8.6(a)(1). Generally, a party should not seek reconsideration merely based upon dissatisfaction with a decision. D'Atria v. D'Atria, 242 N.J. Super. 392, 401 (Ch. Div. 1990). Rather, reconsideration is reserved for those cases where (1) the decision is based upon a "palpably incorrect or irrational basis"; or (2) it is obvious that the finder of fact did not consider, or failed to appreciate, the significance of probative, competent evidence. E.g., Cummings v. Bahr, 295 N.J. Super. 374, 384 (App. Div. 1996). The moving party must show that the action was arbitrary, capricious or unreasonable. D'Atria, *supra*, 242 N.J. Super. at 401.

This Board will not modify an Order in the absence of a showing that the Board's action constituted an injustice or that the Board misunderstood or failed to take note of a significant element of fact or law. In re the Implementation of L. 2012, c. 24, the Solar Act of 2012 et al., Docket. Nos. EO12090832V, EO12090862V and QO13111136, 2014 N.J. PUC LEXIS 66 (March 19, 2014). Indeed, PSEG Nuclear has not met the legal standards for a motion for reconsideration. Rather as PSEG Nuclear states that it is seeking clarification of the ranking process. The Board considered the elements and criteria in the Act in issuing the February Order. The fact that PSEG Nuclear disagrees with the Board's order is not a basis to grant reconsideration.

Therefore, having reviewed the motion and the opposition, the Board **FINDS** that the motion is deficient as it lacks a legal basis for interlocutory review or reconsideration. The Board deems it unnecessary to review its prior order, as requested by PSEG Nuclear. The Board therefore **DENIES** the Motion for interlocutory review, for reconsideration and for clarification.

Ranking Processes

A total of three (3) applications were received: Hope Creek, Salem 1, and Salem 2. Pursuant to the Act, to be certified as eligible, a plant shall: 1) be licensed by the NRC through 2030, 2) demonstrate a significant and material contribution to New Jersey air quality (minimizing emissions), 3) demonstrate anticipated plant shutdown within three years due to its financial

situation, 4) certify that the facility does not receive any subsidies from other entities or agencies for its fuel diversity, resilience, air quality or other environmental attributes that will eliminate the need for the nuclear power plant to retire, and 5) submit an application fee.

The Ranking Team included members from Board Staff, NJDEP staff, and Levitan & Associates, Inc. ("LAI"). The Ranking Team reviewed all of the information provided and submitted with the applications for all of the units. In addition to the information provided with the application, the Ranking Team submitted one additional information requests to PSEG and Exelon for clarification purposes and to obtain information not requested in the application but deemed pertinent to the analysis.

PSEG stated, and continues to assert, that subsidies for all of the applicant units are required and that the units should be considered in aggregate. The result being: unless all of the units receive ZECs, PSEG will shut them all down starting with Hope Creek in the Fall of 2019, claiming shared costs coincidental to all units would remain if one or two units are denied ZECs. Nonetheless, pursuant to the statutory requirements, the Board will review the eligibility of each and conducted an independent evaluation of each units as required by the Act and determined by the program guidelines in the November 19, 2018 Order.

Analysis and Recommendation

The Ranking Team developed criteria for ranking all eligible units in conjunction with LAI. In addition, comments that were received from the parties were also included as part of a holistic review. The criteria established can be found in the February 27, 2019 Board Order.

Utilizing the data provided by the applicant plants, the Ranking Team split into two distinct teams and independently ranked the eligible units. The two teams independently ranked each eligible plant using the seven criteria established by the Board and proceeded to weigh each score.

The Ranking Team then met as a whole to confirm their results, as follows:

1. Hope Creek
2. Salem 1
3. Salem 2

The Hope Creek plant scored the highest while Salem 1 and Salem 2 received the same weighted score. The ZEC Act clearly states that two or more eligible nuclear power plants shall not have the same ranking, so the Ranking Team utilized the tie breaker procedure approved by the Board in the November 19, 2018 Board Order which stated that the tie will be broken based on the air quality impact scores of each application. However, Salem 1 and Salem 2 plants had the same weighted air quality impact scores, therefore Ranking Team chose to use generation as the next tie breaker as the plant that generates more electricity will necessitate more gas-fired and coal-fired generation units to compensate for this lost generation and will then release more greenhouse and other undesirable gasses into the atmosphere.

The ZEC Act further specified that

[b]eginning with the top-ranked eligible nuclear power plant and continuing in rank order, the board shall continue to select nuclear power plants but not beyond the point at which the amount the

combined number of megawatt-hours of electricity produced in the energy year immediately prior to the date of enactment of this act by all selected nuclear power plants equals 40 percent of the total number of megawatt-hours of electricity distributed by electric public utilities in the State in the energy year immediately prior to the date of enactment of this act. The Board shall not select an eligible nuclear power plant to receive ZECs if the addition of the electricity produced by that nuclear power plant in the energy year immediately prior to the date of enactment of this act to the electricity produced in the energy year immediately prior to the date of enactment of this act by the selected nuclear power plants ranked ahead of that plant on the rank-ordered list exceeds 40 percent of the total number of megawatt-hours of electricity distributed by electric public utilities in the State in the energy year immediately prior to the date of enactment of this act.

[N.J.S.A. 48:3-87.5(g)(1)].

The Ranking Team has determined that the total combined number of mega-watt hours of electricity produced in Energy Year 2017 by the three eligible nuclear power plants does not exceed 40 percent (40%) of the total number of mega-watt hours of electricity distributed by the electric public utilities in Energy Year 2017. Therefore, the Ranking Team recommends that all three units be selected to receive ZECs by the Board.

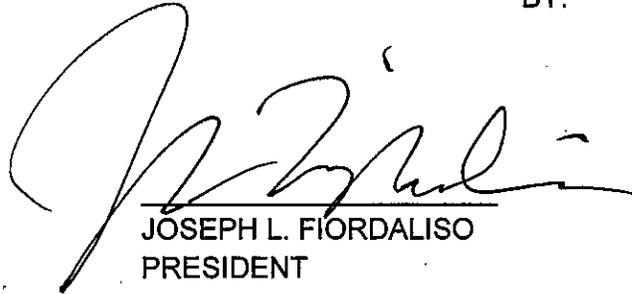
Findings

Based upon the above analysis and the criteria established in the November 19, 2018 Order, and the February 27, 2019 Order the Board **HEREBY FINDS** that the recommendation made by the Ranking Team is reasonable and appropriate. Therefore, the Board **HEREBY ADOPTS** the Ranking Team's recommendation of the eligible units as follows: 1) Hope Creek; 2) Salem 1; and 3) Salem 2. The Board **HEREBY RATIFIES** the decisions of President Fiordaliso rendered during the proceedings for the reasons stated in his orders. The Board **ALSO DENIES** PSEG Nuclear's motion for interlocutory review, clarification and reconsideration.

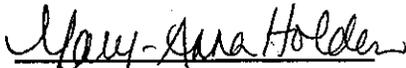
This Order shall be effective on April 18, 2019.

DATED: 4/18/19

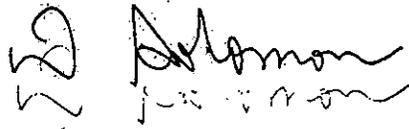
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BY:



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MARY-ANNA HOLDEN
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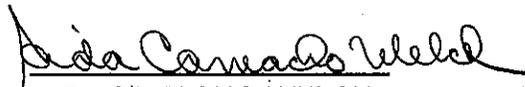


UPENDRA J. CHIVUKULA
COMMISSIONER



ROBERT M. GORDON
COMMISSIONER

ATTEST:



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

AND

Application for Zero Emissions Certificates of Salem 1 Nuclear Power Plant

Application for Zero Emissions Certificates of Salem 2 Nuclear Power Plant

Application for Zero Emissions Certificates of Hope Creek Nuclear Power Plant

BPU DOCKET NOS. EO18080899,
EO18121338, EO18121339, & EO18121337

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