

**Submitted by the Electric Power Supply Association (EPSA)
For Joint Senate and Assembly Committees Hearing
On Senate Bill No. 877 and Assembly Bill No. 2850**

February 22, 2018

“Heads Nuclear Wins, Tails Consumers and Competitors Lose: Examples”

EPSA is the national trade association for independent power producers (IPPs) who would be forced to compete with PSEG and Exelon on a decidedly uneven playing field under this legislation. EPSA detailed its concerns with the 2017 legislation in letters dated December 5, 2017, and December 18, 2017. EPSA testified at the joint hearing on December 20, 2017. In addition, EPSA shared a *PowerFact* dated February 2, 2018, filed for the February 5, 2018 hearing.

EPSA has reviewed the latest publicly available versions of the two bills. The concerns expressed in the past continue to exist and, if anything, have been amplified. Rather than repeat the prior materials, EPSA provides the following examples of how the New Jersey ZEC program as drafted would harm consumers and competitors. In all cases nuclear plant owners and their shareholders would receive an estimated \$300 million per year regardless of need, and regardless of whether the projections used to justify subsidies prove correct.

Either the outcomes illustrated below are not intended, in which case the bills need to be substantially redrafted to conform with the intent of their supporters, or these are intended and expected outcomes. If the latter, the bills amount to an unprecedented wealth transfer from consumers and competitors to two of the largest and most profitable electric utilities in the country. This would raise serious policy and legal issues. The numbers below are illustrative because to date PSEG has not provided relevant financial information publicly, and under the bills would not be required to do so even during the BPU’s implementation.

#1 The amount of the subsidy is constant regardless of need in each year.

Costs	\$100 million
Revenues	\$ 75 million
Loss	\$ 25 million (BUT THE SUBSIDY IS \$300 MILLION)

#2 The bills allow nuclear plants to artificially inflate “costs” – the definition is broader than going forward costs, including subjective “operational and market risks” including those the New Jersey restructuring law and FERC tariff rules intend to be assumed by the nuclear plants that can manage them, as is true for non-nuclear competitors, but would be shifted to captive consumers who could not manage them. In addition, there is no test that allowed costs be prudently incurred, as is customary when shifting costs and risks to consumers.

Operating Costs	\$100 million
Operating Revenues	\$125 million
Operating Profit	\$ 25 million
Added "Risks/Costs"	\$150 million
Operating Revenues	\$125 million
Now a "Loss"	\$ 25 million (Subsidy = \$300 million)

#3 Artificially low "revenues" – the bills allow nuclear plants to avoid counting wholesale price impacts of RGGI or FERC reforms because only those that "eliminate the need" to retire are required offsets when nuclear implied at December 4, 2017, hearing that RGGI and wholesale reforms would be fully offset.

Operating Costs	\$275 million
Operating Revenues	\$200 million
Apparent Loss	\$ 75 million
RGGI/Market rules	\$ 50 million revenue increase
Actual Loss	\$ 25 million (Subsidy = \$300 million)

#4 The use of multi-year time periods - the bills state the nuclear plants are to look at their financials "over" a three-year period (ambiguous is that per year or aggregated), but qualify if "a risk of loss" (read ANY risk) "in" the next 3 years.

Year 1	Revenues exceed costs - \$100 million
Year 2	Revenues exceed costs - \$ 75 million
Year 3	Costs exceed revenues - \$ 25 million

Only projected loss is in year 3 - even though net profitable over the aggregated 3-year period - and may return to profitability in year 4 - the projected loss in year 3 triggers ZECs over all 3 years - \$900 million!?!

#5 The lack of a "true up" or adjustment up or down based on actual results is another major flaw - especially when it comes to accurately projecting all the variables that go into future costs and revenues in the power sector (comparison of EIA and professional forecasts shows inaccuracy to be normal).

Year 1	Projected revenues exceed costs - \$ 25 million
Year 2	Projected costs exceed revenues - \$ 10 million
Year 3	Projected costs exceed revenues - \$ 50 million

Year 1	Actual revenues exceed costs - \$ 30 million
Year 2	Actual revenues exceed costs - \$ 25 million
Year 3	Actual revenues exceed costs - \$ 75 million

So even if actual profit each year, and over the three-year period, the nuclear plants still get \$300 million each year for 3 years, or \$900 million!