



1401 New York Avenue, NW
Suite 950
Washington, DC 20005-2100

(202) 628-8200

April 4, 2018

Honorable Paul Sarlo
Chairman
New Jersey Senate Budget and Appropriations Committee

Honorable John J. Burzichelli
Chairman
New Jersey Assembly Appropriations Committee

Dear Chairmen Sarlo and Burzichelli:

This letter is written with respect to the overlapping hearings on Thursday, April 5, 2018, regarding the proposed PSEG/Exelon nuclear bailout bills (S. 2313 and A. 3724).

In a breaking development, EPSA late yesterday received the attached letter from PSEG to U.S. Secretary of Energy Rick Perry seemingly expressing sympathy for, if not support of, last week's request from FirstEnergy Solutions (FES) for an "emergency order" mandating cost-based rates for coal and nuclear in PJM. Both the FES request and PSEG's letter are based on misrepresentations of an "emergency" that have been refuted by PJM as the independent grid operator and by many others, including EPSA.

The FES request PSEG favorably wrote about would take the decision whether to override New Jersey's restructuring law and force New Jersey consumers to pay higher rates for New Jersey's nuclear plants out of the hands of the New Jersey Legislature, unless PSEG intends to be paid twice; once via the FES order and again by state law.

The letter also exposes PSEG's inconsistencies on climate change. The company tells New Jersey policymakers the nuclear subsidies are needed to reduce carbon emissions. At the same time, PSEG makes common cause with FES in Washington for federal intervention that has the express purpose of keeping coal plants from retiring. In fact, the FES request covers far more megawatts of coal than nuclear (a fact PSEG conveniently ignored by implying in its letter that the FES request only covers nuclear).


In addition, there are two regulatory matters that you should be aware of, and both argue strongly against moving forward with this legislation now. Both matters are relevant to accurately determining the impact of higher electricity costs on consumers, including state and local governments, such as schools and mass transit.

The first is a Federal Energy Regulatory Commission decision on March 9, 2018, on FERC's options to protect wholesale markets from state subsidized resources. As explained in the attachment, future decisions to protect PJM from state subsidies such as those created by the pending nuclear bailout legislation could result in New Jersey's nuclear generation not counting towards the state's annual PJM capacity obligation.

The second matter is next month's annual primary capacity auction in PJM in which resources compete to earn the right to be available to supply consumers three years forward. New Jersey's nuclear plants already have capacity obligations through May 2021 based on their voluntary bids and the final results of prior year auctions. The May 2018 auction covers the new June 2021-May 2022 delivery year period. Notably, the New Jersey nuclear plants did not file retirement notices for the auction which suggests their owners believe they will be competitive through that delivery year as explained in more detail in the attached. By contrast, FES did file formal deactivation notices with PJM last week as to its three nuclear plants the day before FES submitted its request for an unprecedented "emergency order" to Secretary Perry.

In conclusion, New Jersey made the correct decision two decades ago to restructure electricity in the state to avoid the mounting costs and risks of reliance on utility-owned power generation. Separating generation from distribution unleashed competitive market forces that resulted in tangible consumer benefits, including the lowest wholesale rates in two decades. PSEG and Exelon once thrived under competition but now seek to change the rules in the middle of the game as technology and consumer preferences rapidly evolve. They are reverting to their utility roots in the face of these challenges and want you to lock in the past, not embrace the new energy future. They would have you shift the risks of New Jersey's nuclear generation (but not the rewards) from their utility shareholders, where you wisely placed them two decades ago, back to captive New Jersey consumers including state and local governments.

Sincerely,



John E. Shelk
President & CEO
Electric Power Supply Association

CC: Senate and Assembly Committee Members

Attachments

Launched over 20 years ago, EPSA is the national trade association representing leading independent power producers and marketers. EPSA members provide reliable and competitively priced electricity from environmentally responsible facilities using a diverse mix of fuels and technologies. Power supplied on a competitive basis collectively accounts for 40 percent of the U.S. installed generating capacity. EPSA seeks to bring the benefits of competition to all power customers. EPSA members supply New Jersey and other PJM States. The views expressed are those of EPSA as an association.

Electric Power Supply Association Attachment to April 4, 2018 Letter

Nuclear owners have not considered future FERC actions to protect wholesale markets in arguing that bailing out nuclear would lower consumer costs:

PSEG's theory is that you should let them collect \$300 million annually from all New Jersey consumers, including state and local governmental entities, to avoid \$400 million in higher bills it claims would happen after a supposedly "abrupt" retirement of the Salem and Hope Creek nuclear power plants occurs.

Their simplistic math showing \$100 million in "net benefits" has never held up to scrutiny. In fact, \$300 million dramatically *understates* the costs of the bailout, and the \$400 million in supposed consumer cost increases is based on the faulty premise that *any* abrupt retirement of *any* nuclear unit is in the offing (much less that electric bills would rise as predicted). **If consumers were better off with the legislation, the bailout bills would not be so strongly opposed by the Rate Counsel and consumers, from the AARP to manufacturing groups.**

The bailout likely will be far costlier than the \$300 million in direct subsidies given last month's FERC decision involving New England. FERC correctly concluded that it must protect interstate wholesale electricity markets from distortions caused by state subsidies. FERC's tools to protect PJM's capacity market could result in all or much of any subsidized nuclear generation not counting towards the state's annual capacity obligation. Were this to occur, New Jersey would have to procure unsubsidized generation **in addition to** subsidized nuclear. This would easily swamp PSEG's \$100 million in paper savings, even before considering the negative impact of the subsidies on the state's economy.

Legislators should want to see the results of next month's PJM capacity auction:

PSEG and Exelon are pushing for passage in a rush (even though the plants are presently profitable with capacity obligations through May 2021) because the primary annual PJM capacity auction is next month. The Legislature should want to wait for the auction results. If PSEG really believes that its nuclear plants will soon cease being viable, as it incessantly claims, it would have filed deactivation notices prior to next month's auction, **but did not**. PSEG must believe its plants are viable **without a subsidy** through the auction's mid-2022 delivery year.

If New Jersey's nuclear plants clear the auction without a bailout, that means PSEG and Exelon will have extended substantial supply obligations based on the nuclear plants **through mid-2022**, negating any claimed need to give them an immediate bailout. Such supply obligations would have been incurred voluntarily based on their own bids undistorted by subsidies. **Why force consumers, including state and local entities, to pay a lot more for their electricity, especially during years when the nuclear owners already have taken on capacity obligations for their nuclear plants without a consumer subsidy?**

Kenneth R. Carretta
Deputy General Counsel

Law Department
80 Park Plaza, T5, Newark, NJ 07102-4194
tel: 973.430.6462 fax: 973.430.5983
email: kenneth.carretta@pseg.com



April 2, 2018

VIA COURIER

The Honorable James Richard Perry
Secretary of Energy United States
Department of Energy 1000
Independence Avenue, S.W.
Washington, DC 20585

**Re: Request for Emergency Order Pursuant to Federal Power Act Section 202(c) Of
First Energy Solutions/Intervention and Comments of PSEG Companies**

Dear Secretary Perry:

On March 29, 2018, FirstEnergy Solutions (along with its identified affiliates) ("FES") submitted an application ("Application") pursuant to Section 202(c) of the Federal Power Act ("FPA"), Section 301(b) of the Department of Energy ("DOE") Organization Act, seeking a finding by the Secretary of Energy ("Secretary") that an emergency condition exists in the footprint of the PJM Interconnection, L.L.C. ("PJM"). The Application contends that immediate intervention by the Secretary, in the form of a Section 202(c) emergency order is needed to support resiliency and the continued operation of fuel-secure resources.

The PSEG Companies¹ agree the Application identifies an issue that requires immediate attention within the PJM footprint. PJM is faced with the recently announced closure of more 4,048 megawatts of FES nuclear generation and is faced with the risk of losing other nuclear plants in the future. Not only does nuclear generation provide resiliency to the generation fleet but it also provides the largest source of carbon-free generation in the region. The loss of nuclear generation to the PJM footprint would severely undermine the achievement of environmental goals designed to reduce the emission of greenhouse gases. Further, in addition to their fuel-secure and zero-emission attributes, nuclear plants are already hardened against many potential


¹ The "PSEG Companies" consist of PSEG Power LLC, PSEG Energy Resources & Trade LLC and Public Service Electric and Gas Company. In addition to submitting comments, the PSEG Companies also move to intervene in this proceeding to the extent that a formal request for intervention is required. A formal request to intervene and a further description of the PSEG Companies and their interests in this proceeding is set forth in Attachment A hereto.

threats² and provide other national security benefits³. To date, the PSEG Companies do not believe that either PJM or FERC has given this issue the proper level of priority or attention. The PSEG Companies thus urge policy makers to take immediate steps to assure that the attributes of nuclear generation are properly valued in market rules so that nuclear generation retains its role in supporting a resilient and secure electric grid and continues to serve as an important economic driver in the communities they serve.

Finally, the PSEG Companies reserve their rights to supplement their response under 10 C.F.R. § 205.374, and provide any other information relevant to the action requested in the Application.

Respectfully submitted,

PSEG Power LLC
PSEG Energy Resources & Trade LLC
Public Service Electric and Gas Company

By: 
Kenneth R. Carretta
Deputy General Counsel
PSEG Services Corporation
80 Park Plaza – T5
Newark, New Jersey 07102
(973) 430-6462
Kenneth.Carretta@pseg.com

Cc: Bruce J. Walker, Assistant Secretary, DOE Office of Electricity Delivery & Energy Reliability
Patricia A. Hoffman, Principal Deputy Assistant Secretary, DOE Office of Electricity Delivery & Energy Reliability
FirstEnergy Solutions Corp.
Federal Energy Regulatory Commission
Delaware Public Service Commission
Illinois Commerce Commission
Indiana Utility Regulatory Commission

² See *Grid Reliability and Resilience Pricing*, RM18-1-000, “Reply Comments of the PSEG Companies,” Affidavit of Jeremy C. Carl, p. 10 (“Nuclear has an advantage in this world because nuclear power plants are already hardened against risks and have been designed with safety and security (physical and cyber) in mind from the ground up.”)

³ See *Grid Reliability and Resilience Pricing*, RM18-1-000, “Reply Comments of the PSEG Companies,” Affidavit of Jeremy C. Carl, p. 13 (“In addition to our work in non-proliferation, the civilian nuclear enterprise dramatically strengthens our military capability as well, another nuclear attribute that is not priced into the market.”)

Kentucky Public Service Commission
Maryland Public Service Commission
Michigan Public Service Commission
State of New Jersey Board of Public Utilities
North Carolina Utilities Commission
Public Utilities Commission of Ohio
Pennsylvania Public Utilities Commission
Tennessee Public Utility Commissions
Commonwealth of Virginia State Corporation Commission
Public Service Commission of West Virginia
New York Public Service Commission
Public Service Commission of the District of Columbia
PJM Interconnection
ReliabilityFirst Corp.
SERC Reliability Corporation
AES Warrior Run
Avon Lake
B L England
Beaver Valley
Birchwood Power
Braidwood Generation Station
Brandon Shores
Brunner Island
Byron Generating Station
Calvert Cliffs Nuclear Power Plant
Cardinal
Chalk Point
Chambers Cogeneration LP
Chesterfield
Cheswick Power Plant
Clover
Conemaugh
Conesville
Cooper
Covington Facility
CP Crane
Davis Besse
Dickerson
Donald C Cook
Dover
Dresden Generating Station
East Bend
Edgecombe Genco
FirstEnergy Bruce Mansfield
FirstEnergy Fort Martin Power Station
FirstEnergy Harrison Power Station

FirstEnergy Pleasants Power Station
FirstEnergy W H Sammis
FirstEnergy Solutions Corp.
General James M Gavin
H L Spurlock
Herbert A Wagner
Homer City Generating Station
Indian River Generating Station
Ingredion Incorporated
J M Stuart
James River Genco
John E Amos
Joliet 9
Joliet 29
Keystone
Killen Station
Kincaid
LaSalle Generating Station
Limerick
Logan Generating Company
Longview Power Plant
Luke Mill
The Honorable James Richard Perry
Mecklenburg Power Station
Miami Fort
Mitchell (WV)
Morgantown Generating Plant
Mountaineer
Mt Storm
North Aima
Orrville
Oyster Creek
P H Glatfelter
P H Glatfelter Chillicothe Facility
Painesville
Peach Bottom
Perry
Powerton
PSEG Hope Creek Generating Station
PSEG Salem Generating Station
Quad Cities Generating Station
Radford Army Ammunition Plant
Rockport
Spruance Genco
Surry
TalenEnergy Montour

TalenEnergy Susquehanna
Tennessee Eastman Operations
Three Mile Island
University of Notre Dame
Virginia City Hybrid Energy Center
W H Zimmer
Waukegan
Wausau Paper Middletown
Whitewater Valley
Will County
Yorktown

Attachment A: Description of the PSEG Companies and Request to Intervene

The PSEG Companies consist of PSEG Power LLC (PSEG Power), PSEG Energy Resources & Trade LLC (PSEG ER&T) and Public Services Electric and Gas Company (PSE&G) and are each wholly owned, direct and indirect subsidiaries of Public Service Enterprise Group Incorporated (“PSEG”). The principal and executive offices of PSEG are located at 80 Park Plaza, Newark, New Jersey 07102. PSEG is a public utility holding company engaged in, among other things, the generation of electric energy, and the transmission, distribution and sale of electricity and natural gas through its subsidiaries.

The PSEG Companies respectfully submit that they have vital interests in this proceeding and that their participation will serve the public interest. In addition, some or all of the PSEG Companies (or their subsidiaries) may qualify as “entities” that have been “designated as a potential source of emergency assistance or as a potential supplier of transmission services” within the meaning of 10 C.F.R. § 205.374 of the DOE’s regulations.

PSEG Power is a wholesale energy supply company that integrates its generation asset operations with its wholesale energy, fuel supply, energy trading and marketing, and risk management functions through three principal subsidiaries: (i) PSEG Nuclear LLC (“PSEG Nuclear”), which owns and operates nuclear generating stations; (ii) PSEG Fossil LLC (“PSEG Fossil”), which develops, owns, and operates domestic fossil-fuel fired and other non-nuclear generating stations; and (iii) PSEG ER&T, which markets the capacity and production of PSEG Nuclear’s and PSEG Fossil’s generating stations. PSE&G is the largest electric and gas utility located in the state of New Jersey and is a PJM transmission owner.

PSEG Power’s subsidiary, PSEG Nuclear, is the operator of two nuclear generating plants – Salem and Hope Creek -- located in Salem County, New Jersey. Exelon Corporation is a co-owner with PSEG Nuclear of the Salem units. In addition, PSEG is the non-operator co-owner, also with Exelon Corporation, of an interest in the Peach Bottom nuclear plant located in southeastern Pennsylvania. In total, PSEG Nuclear owns approximated 3,630 MWs of nuclear generation capability. All three of the nuclear plants are identified in Attachment A to the Application. PSEG ER&T and PSE&G also have significant interests at stake. PSEG ER&T’s activities in the PJM market and as a supplier of load in the PJM region could be affected by the outcome of this proceeding. PSE&G’s operations and the customers located in its service territory could also be affected.