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**EPSA STATEMENT ON APPEALS COURT DECISION  
UPHOLDING NY ZEC PROGRAM**

WASHINGTON, DC – Electric Power Supply Association (EPSA) President & CEO John E. Shelk released the following statement in response to Second Circuit Court of Appeals voting to uphold the lower court’s decision on the New York Zero Emission Credit Program (ZEC):

“EPSA will review the Second Circuit’s opinion and consider all its available legal options in due course.

“Regardless of any further legal steps EPSA may pursue, EPSA underscores that the 2nd Circuit and 7th Circuit courts each relied on representations from the U.S. Government that FERC can effectively address any adverse impacts that ZEC nuclear bailouts have on wholesale power markets. FERC must now do what it told the two courts of appeal it would do.

“Subsequent to filing the government’s brief that the two circuit courts relied on, FERC found in a contested proceeding that adverse impacts from nuclear ZECs make existing PJM wholesale market rules unjust and unreasonable and thus unlawful under the Federal Power Act.

“FERC now has a legal duty to establish effective mitigation measures to keep ZEC bailouts and certain other out-of-market subsidies from producing the uncompetitive outcomes that prompted EPSA to pursue this litigation in the first place.”

-EPSA-

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.