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Honorable Bob Smith  
New Jersey State Senate  
Trenton, New Jersey  
(via email)

Dear Chairman Smith:

Thanks for chatting with me briefly yesterday following the hearing on the nuclear power plant issue. You said I should write to you on behalf of the Electric Power Supply Association (EPSA) without waiting too long if we had anything to convey, hence this letter promptly today. I am always available to discuss further.

As I mentioned, we actually welcome the discussion of these issues and only regret time did not permit us to testify. As the national association for independent power producers, whose members once included PSEG and Exelon, we have been both with them on issues over the years, but more recently on the opposite side of what they are up to in states such as New Jersey after they left EPSA at the end of 2016.

Since time is of the essence, let me start by simply saying if I had to reduce what you should know to a single tweet it would be this: "when told to hurry, you really ought to worry." Please allow me to summarize below why this is the case here based on what I heard yesterday as informed by EPSA's expertise on what you correctly termed yesterday are very complex aspects of wholesale electricity markets.

#### **Point #1: Then and Now**

I last testified before you on December 9, 2010, almost exactly seven years ago, on LCAAP, largely at the behest of PSEG and Exelon when they were both members of EPSA. The price of wholesale electric energy was then around \$45 per megawatt hour (MWh) and nuclear plants were printing money. Then, they had me tell you (correctly) that "this is markets at work" and consumers cannot toggle between the *lower* of cost-based and market-based rates. Now, when prices are down to around \$30 per MWh and consumers are getting the benefits of competition, PSEG tells you and your colleagues that the same markets are not working. Mr. Izzo said it is your job to "fix" flawed wholesale markets, but only for them, by requiring New Jersey consumers to buy them a "safety net" to protect their higher expected above-market profits (sort of a minimum wage for nuclear plant operators) without divulging the costs (putting aside how and why a state should fix a perceived flaw in a federally-regulated wholesale market).

## **Point #2: Nuclear Plants Are Not Alone In Facing Challenges**

The historically low wholesale prices that Mr. Izzo complained about yesterday are negatively impacting *all* wholesale power producers, not just nuclear. Last Friday's *Wall Street Journal* had an excellent front page story summarizing why, citing flat demand for power, inexpensive natural gas, increasingly cheaper renewables, and other factors. Thus, a discriminatory "safety net" for nuclear as PSEG seeks actually does not reduce the risk of premature retirement of power plants, it merely shifts it to the non-nuclear plants that supply a majority of New Jersey's needs and that of the PJM regional grid. As a result, plants that are less expensive than nuclear plants will be forced to retire prematurely or seek similar "safety net" treatment by states, the regional grid and FERC. The end result is an irreversible unwinding of New Jersey's restructuring law that has successfully shifted the risks of new and existing power plants from consumers to investors.

## **Point #3: No Need to Rush Now**

As you heard from several witnesses, including those without a commercial interest in the outcome, there is no need to rush to judgment any time soon. In fact you heard that from Mr. Izzo. As he has told his shareholders, the plants are currently profitable. He only testified that he may "seriously consider" closing them in two years if certain conditions come to pass in the future that may or may not actually obtain. In fact, the output from the two nuclear plants is already legally committed to PJM through May 31, 2021 pursuant to the May 2017 capacity auction that runs three years forward. The capacity price for PSEG actually went up about 50 percent from the prior year based on bids PSEG voluntarily made this year when it cleared the PJM capacity auction.

Among other things, the Legislature should carefully probe several assertions that Mr. Izzo made only in passing, preferably with the benefit of an independent consultant. For example, in suggesting why there might be a problem in two years, he mentioned using currently available forward commodity curves for what future prices will be. That was a very loaded statement because the forward curves are widely known in the industry to be lightly traded and usually are priced today well below the actual wholesale prices when the forward years are reached (at least Exelon if not PSEG said so publicly on an earnings call this year).

Mr. Izzo also told you that a factor to consider is the misnamed and misused catchall phrase "fuel diversity" which the nuclear and coal industries are throwing around together in Washington, DC in support of the Trump Administration's plan to subsidize so-called "base load" resources. (As you heard during yesterday's hearing, PSEG is one of only a few utilities supporting this plan, which is strongly opposed by environmental groups for increasing carbon emissions.) PJM will confirm that the PJM supply mix is now more fuel diverse than ever. Mr. Izzo tells you not to rely too much on one fuel, natural gas, when PSEG is building three new natural gas-fired power plants including one in New Jersey.

Finally, Mr. Izzo testified that “things can change” and indeed they can. With all due respect, the Legislature should not “seriously consider” the skeletal “safety net” we heard about publicly for the first time yesterday until you have a better read on the many changes being debated on a regional and national level that could very well obviate the need for what PSEG is seeking.

**Point #4: Devil is in the Details, Whatever Happens Please Do Not Overpay**

What would amount to a \$4-5 billion “safety net” over a decade was only described by PSEG in three short bullets so we need more detail to better evaluate it. It was ominous that Mr. Izzo cited Illinois and New York, where the subsidy is around \$17 per MWh or over 50 percent above current wholesale market prices for electric energy. That will raise consumer bills, not lower them.

There is a big financial disconnect between the amount consumers should have to pay to prevent “premature” retirement and what it sounds like they are seeking. We would oppose any such payment, but please do not let them recover more than needed. Any independent economist worth their Ph.D. will tell you that the proper measure of the amount needed to avoid retirement is only “going forward” costs, which are a fraction of what nuclear plants are seeking. *If* there is going to be a “safety net,” *then* limiting it to “going forward” costs partially protects consumers. Otherwise, the plants are fully protected on the downside at consumer expense while PSEG keeps all the upside.

Finally, please make them open their books *before* legislation is enacted. In Connecticut, Dominion Energy, the owner of the state’s sole nuclear plant, sought a long-term above-market contract but refused to open its books. Governor Malloy issued an executive order requiring state regulators to consider the company’s claims. The consultant concluded that Millstone is profitable through 2035. (While Governor Malloy signed a bill allowing Millstone to apply for the contract, he said the review shows that it is not justified at this time.)

Thank you for the opportunity to speak “from the heart” as you asked of witnesses yesterday. I have been working on these issues since 1981 and especially after having testified seven years ago, I feel a special obligation to give you the complete picture as best I can describe it, given the many adverse consequences of a rush to act.

Sincerely,



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