

**BEFORE THE
NEW JERSEY BOARD OF PUBLIC UTILITIES**

IN THE MATTER OF THE APPLICATION) Docket No.: ER20080558
OF PSEG NUCLEAR, LLC AND EXELON)
GENERATION COMPANY, LLC FOR)
THE ZERO EMISSION CERTIFICATE)
PROGRAM – SALEM UNIT 2)

**AFFIDAVIT IN SUPPORT
OF REQUEST OF EXELON GENERATION COMPANY, LLC
REGARDING CONFIDENTIAL TREATMENT OF
INFORMATION SUBMITTED IN SUPPORT OF
ZERO EMISSION CERTIFICATE APPLICATION – SALEM UNIT 2**

DuPage County)
) ss:
Illinois)

I hereby declare under penalty of perjury that:

1. My name is Kevin Garrido. I am of full age. I am Vice President Finance Nuclear for Exelon Generation Company, LLC (“Exelon Generation” or the “Company”), and I am authorized to make this statement on behalf of Exelon Generation relating to materials submitted by Exelon Generation in response to certain questions related to the Zero Emission Certificate Application for the Salem Unit 2 nuclear power plant (the “Plant”), which has been submitted by the Plant’s co-owner and operator, PSEG Nuclear, LLC (“PSEG Nuclear”) to the New Jersey Board of Public Utilities (“Board”) in the above-referenced proceeding (the “Application”).
2. This Affidavit is being provided in this proceeding being conducted under N.J.S.A. 48:3-87.3, *et seq.*, and pursuant to the Board’s rules at N.J.A.C. 14:1-12.1 *et seq.*, and the Board’s September 15, 2020 Order on Motions to Intervene and Participate and Access to Confidential Information concerning the confidentiality of documents

submitted to the Board generally and the confidentiality of materials submitted as part of Application.

3. The materials being submitted by Exelon Generation in response to the questions listed below (“Confidential Information”) are labeled “CONFIDENTIAL” because they contain proprietary, Company sensitive, and/or financially, commercially, and competitively sensitive information that is not available to members of the general public. Without limitation of the foregoing, the release of the information set forth in the attached materials would injure Exelon Generation’s financial and commercial position in the electricity and other markets by providing an unfair competitive advantage to other market participants, and would therefore be injurious to Exelon Generation shareholders and to consumers, particularly in the eastern United States, including New Jersey. The disclosure of this sensitive information would also have negative competitive impacts on the forward capacity markets in the PJM Interconnection (“PJM”), and default load procurements throughout PJM, including the New Jersey Basic Generation Service auction, as well as on competitive supply service in New Jersey and other PJM states.
4. I am advised by counsel that Exelon Generation is submitting the Confidential Information separately from the Application submitted jointly with the Plant’s co-owner and operator, PSEG Nuclear, because disclosure to a competitor of such proprietary, Company sensitive, and/or financially, commercially and competitively sensitive information that is not made available to members of the general public could raise antitrust concerns, providing PSEG Nuclear with an unfair competitive advantage over other market competitors. *See In re Flat Glass Antitrust Litig.*, 385

F.3d 350, 369 (3d Cir. 2004) (verdict finding antitrust violation supported by evidence that company provided competitor with pricing information that it had not announced publicly); *In re Ductile Iron Pipe Fittings (DIPF) Direct Purchaser Antitrust Litig.*, 2014 WL 3971620, at *9 (D.N.J. Aug. 13, 2014) (“[P]articipation in information exchanges in highly concentrated markets involving a fungible product with inelastic demand can be indicative of anticompetitive behavior”).

5. Disclosure of the Confidential Information submitted by Exelon Generation in support of the Application would be compromising to Exelon Generation in several different ways:
 - a. Capacity market information. Disclosing historical or forward-looking cost and revenue information related to the Plant would aid competitors in forming an accurate outlook of the capacity prices that the Plant would require to remain viable in the markets. Understanding this information, competitors could structure their bids to take advantage of the Plant’s costs and expectations, to inform their bids to the benefit of their own unit positions. Information that should remain confidential related to this subject include:
 - Information related to the Plant’s bidding and level of market participation; and
 - Information related to the historical or future expectations of Plant revenues.
 - b. Corporate financial information. The Confidential Information includes certain corporate information that if disclosed could impair the competitiveness of the business or require additional financial disclosures to

the investment community. The business of Exelon Generation includes the buying and selling of assets as part of its overall strategy. Disclosure of certain market information that is used internally as part of these assessments, such as valuation methodologies, cost of capital and future market outlooks, would disadvantage the Company significantly relative to competitors. Further, Exelon Generation does not publicly provide certain detailed financial information, nor does it provide a long-term view on forward market outlooks to the investment community and would be forced to change its disclosure policy if some of this information was released. Information that should remain confidential related to this subject includes:

- Information related to the overall financial structure of the business including cost of capital estimations;
- Information related to forward financial projections; and
- Plant-specific historical or forward revenue information.

6. Given the potential harms to Exelon Generation and to competitive markets associated with the disclosure of certain information as described above, all or portions of the following responses and accompanying attachments should remain strictly confidential:

ZECJ-FIN-1	ZECJ-FIN-16
ZECJ-FIN-3	ZECJ-FIN-17
ZECJ-FIN-5	ZECJ-FIN-19a, b
ZECJ-FIN-8	ZECJ-FIN-21
ZECJ-FIN-9	ZECJ-FIN-23
ZECJ-FIN-10	ZECJ-FIN-24
ZECJ-FIN-11	ZECJ-FIN-26
ZECJ-FIN12	IUD-3
ZECJ-FIN-13a, d	IUD-4

7. The Confidential Information has been clearly labeled “CONFIDENTIAL”
8. Exelon Generation requests that the Board maintain the confidentiality of the Confidential Information for an indefinite period of time.
9. Exelon Generation consistently and vigilantly seeks to prevent disclosure of this and related information to others. Exelon Generation will at all times take measures to protect the Confidential Information from public disclosure, such measures including but not limited to asserting claims of confidentiality in all regulatory and public proceedings, such as this case, as they arise.
10. Exelon Generation does not make the Confidential Information routinely available to the general public through any manner, including without limitation, initial and final orders in contested case adjudications, press releases, copies of speeches, pamphlets and educational materials.

11. Exelon Generation has taken all precautions available to it to prevent the public disclosure of the Confidential Information in proceedings before the applicable state utility commissions or other jurisdictional agencies.
12. To the best of Exelon Generation's knowledge, neither the Board, its Custodian, any other State or Federal agency, nor a court of competent jurisdiction, has previously made an adverse determination with respect to the confidentiality of the Confidential Information.
13. Exelon Generation requests that the Board and its Custodian maintain the confidentiality of the Confidential Information for an indefinite period of time, unless and until such time as Exelon Generation consents to its disclosure upon any request made to disclose such information, or as otherwise ordered by law.
14. I am advised by counsel that the Confidential Information is not subject to the New Jersey Open Public Records Act ("OPRA") because the materials relate to the financial condition of the Plant and, as such, are addressed under N.J.S.A. 48:3-87.5(a), which states that "financial and other information required pursuant to this subsection may be submitted on a confidential basis and shall be treated and maintained as confidential by the Board and shall not be subject to public disclosure, notwithstanding any law to the contrary, including the common law."
15. I am further advised by counsel that the Confidential Information contained in the responses that Exelon Generation has designated as confidential, even if subject to OPRA, falls within the exemption from classification as a "government record," as the information pertains to "proprietary commercial information," and/or "information

which, if disclosed, would give an advantage to competitors or bidders.” N.J.S.A.
47:1A-1.1.

16. Exelon Generation submits the individual identified below as the addressee for
communications related to this request:

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By: *Kevin Garrido*

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DuPage County)
) ss:
Illinois)

Subscribed and sworn to before me this 30
day of September 2020.

Anese L Grigsby
Notary Public

