

**STATE OF NEW YORK
PUBLIC SERVICE COMMISSION**

**Proceeding on Motion of the Commission to
Implement a Large-Scale Renewable Energy
Program and a Clean Energy Standard**

Case 15-E-0302

**COMMENTS OF
MULTIPLE INTERVENORS
ON DEPARTMENT OF PUBLIC SERVICE STAFF
ZERO-EMISSIONS CREDIT PROGRAM EXTENSION PROPOSAL**

Dated: October 20, 2025

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TABLE OF CONTENTS

	Page
PRELIMINARY STATEMENT.....	1
COMMENTS.....	6
POINT I	
NEW YORK’S POLICIES AND CURRENT CONDITIONS NECESSITATE RETENTION OF A ZEC PROGRAM IN SOME FORM TO MAINTAIN ELECTRIC RELIABILITY	6
POINT II	
THE TERM OF THE STAFF PROPOSAL IS EXCESSIVE AND HAS NOT BEEN JUSTIFIED	7
POINT III	
THE PROPOSAL TO SUBSIDIZE ALL FOUR EXISTING NUCLEAR GENERATING FACILITIES FOR THE ENTIRETY OF TERM HAS NOT BEEN JUSTIFIED	9
POINT IV	
THE FAILURE TO JUSTIFY – OR EVEN QUANTIFY – EITHER THE PROJECTED OR THE MAXIMUM COST OF THE PROPOSAL AS WELL AS THE CORRESPONDING IMPACTS ON CUSTOMERS IS HIGHLY PROBLEMATIC.....	11
POINT V	
IF THE ZEC PROGRAM IS EXTENDED, ITS COSTS SHOULD BE RECOVERED PARTLY ON THE BASIS OF ENERGY AND PARTLY ON THE BASIS OF DEMAND	14
CONCLUSION.....	17

PRELIMINARY STATEMENT

Pursuant to the Notice of Proposed Rule Making published in the *New York State Register* by the New York State Public Service Commission (“Commission”) on August 20, 2025 (I.D. No. PSC-33-25-0001-P), Multiple Intervenors, an unincorporated association of approximately 55 large industrial, commercial, and institutional energy consumers with manufacturing and other facilities located throughout New York State, hereby submits its Comments in response to the Department of Public Service Staff (“Staff”) Zero-Emissions Credit (“ZEC”) Program Extension Proposal (hereinafter, the “Proposal”), dated July 31, 2025, which was filed in Case 15-E-0302.¹ For the reasons set forth below, the Commission should rule on the Staff Proposal in a manner consistent with these Comments.²

The existing ZEC program commenced on April 1, 2017, and, pursuant to its 12-year term, is scheduled to expire on March 31, 2029.³ The program is being implemented in six two-year tranches (*i.e.*, Tranches 1-6). For the first tranche (running from April 1, 2017, through March 31, 2019), an initial ZEC price of \$17.48 per megawatt-hour (“MWh”) was established. (Proposal at 10.) For Tranches 2-6, the Commission adopted a complicated ZEC pricing methodology that, at a high level, can be summarized as follows:

$$\text{ZEC Price (\$/MWh)} = \text{Social Cost of Carbon (“SCC”) } \textit{minus} \\ \text{Baseline Effect of Regional Greenhouse Gas Initiative (“RGGI”)}$$

¹ Case 15-E-0302, *Proceeding on Motion of the Commission to Implement a Large-Scale Renewable Energy Program and a Clean Energy Standard*.

² This pleading reflects the views of Multiple Intervenors with respect to the issues addressed herein and does not necessarily reflect the views of each individual member.

³ Cases 15-E-0302, *supra*, and 16-E-0270, *Petition of Constellation Energy Nuclear Group LLC; R.E. Ginna Nuclear Power Plant, LLC; and Nine Mile Point Nuclear Station, LLC to Initiate a Proceeding to Establish the Facility Costs for the R. E. Ginna and Nine Mile Point Nuclear Power Plants*, Order Adopting a Clean Energy Standard (issued August 1, 2016) at 19-20.

minus Amount Zone A Forecast Energy Price and Rest-of-State Forecast Capacity Price combined exceeds \$39/MWh.

(Id.)

In the Proposal, Staff recommends that the ZEC program be extended, largely in its current form and using the same general pricing methodology, from April 1, 2029, through December 31, 2049 – an additional 20 years and nine months. (Proposal at 25.) Staff proposes to update the SCC used in the current pricing formula to rely upon guidance formulated by the New York State Department of Environmental Conservation (“DEC”) in 2023. *(Id.)* Staff also proposes relatively modest modifications of (i) the conversion factor to adjust dollars per short ton of carbon to dollars per megawatt-hour (“MWh”) and (ii) the baseline effect of RGGI. *(Id. at 27-28.)* Finally, Staff proposes the use of one short tranche, running from April 1 to December 31, 2029 (*i.e.*, Tranche 7), and then ten two-year tranches encompassing the period January 1, 2030, through December 31, 2049 (*i.e.*, Tranches 8-17). *(Id. at 29.)*

Pursuant to the Proposal, the cost of ZECs ultimately borne by customers could more than quadruple. Compared to the initial ZEC price of \$17.48 per MWh, Staff calculates that under the Proposal, the maximum ZEC price could jump to \$36.27 per MWh in Tranche 7 and continue to escalate all the way up to \$82.75 per MWh in Tranche 17. (Proposal at 30.) Staff also indicates, without any explanation, justification, or assurances, that based on its forecasts, “the actual ZEC prices could be less than half of the maximum ZEC prices over the full period.” *(Id.)*

Initially, Multiple Intervenors recognizes and accepts that, in order to maintain electric reliability, which is of paramount importance, at least a portion of the State’s existing fleet of nuclear generating facilities will need to remain operational for some period of time beyond

March 31, 2029.⁴ Moreover, Multiple Intervenors recognizes that New York’s energy policies, coupled with current conditions, leave the State with little practical choice but to extend the ZEC program and the provision of customer-funded subsidies/incentives for some period of time to ensure the continued operation of the existing nuclear generating facilities. (*See Point I, infra.*) Based on these circumstances, Multiple Intervenors is not opposed to a limited, rational extension of the ZEC program beyond March 31, 2029.

Notwithstanding the foregoing, Multiple Intervenors has several significant concerns regarding the Proposal. First, Staff has failed to justify the proposed term of 20 years and nine months, which seems quite excessive. If adopted, the Proposal would commit customers to subsidizing/incentivizing previously-existing nuclear generating facilities for an extraordinary period of 32 years and nine months. At a minimum, the Proposal should be modified to require a reassessment of the need for continued subsidies/incentives on a periodic basis. (*See Point II, infra.*)

Second, Staff has failed to explain or justify why the continued operation of all four of the State’s existing nuclear generating facilities – Nine Mile 1, Nine Mile 2, FitzPatrick, and Ginna – need to be subsidized/incentivized through the end of 2049 (over 24 years from now). The Proposal provides no information as to either the projected costs or projected wholesale market revenues associated with continuing to operate any or all of the facilities, leaving parties entirely in the dark as to whether certain facilities would be far more expensive to continue subsidizing/incentivizing than others. (*See Point III, infra.*)

⁴ New York’s existing nuclear generating facilities are: (1) Nine Mile Point Nuclear Generating Station, Unit 1 (“Nine Mile 1”); (2) Nine Mile Point Nuclear Generating Station, Unit 2 (“Nine Mile 2”); (3) James A. FitzPatrick Nuclear Power Plant (“FitzPatrick”); and (4) R.E. Ginna Nuclear Power Plant (“Ginna”). (*See Proposal at 1.*)

Third, Staff should be required to quantify the projected cost of the Proposal and its impact on customers. For instance, the Proposal is devoid of any information pertaining to projected or maximum customer impacts. Given the enormity of ZEC programs costs on customers – between \$462 million and \$590 million annually to date (Proposal at 13) (which equates to approximately between \$5.5 billion and \$7 billion over an initial 12-year term and massively larger for the proposed extended term) – the omission of analyses of projected costs and customer impacts is both perplexing and troubling.⁵ Given the continued upward pressure on electric rates from numerous sources, this absence of cost and customer impact projections is unacceptable. (*See* Point IV, *infra*.)

Fourth, the allocation and cost recovery for ZECs must be modified. Currently, ZEC costs are allocated to and recovered from load-serving entities (“LSEs”) entirely on an energy basis, resulting in such costs being allocated to and recovered from end-use customers in a similar manner. Such approach, however, ignores that the primary motivation for potentially continuing the ZEC program is the growing need for the capacity provided by the existing nuclear generating facilities, as well as other considerations unrelated to energy consumption. (*See, e.g.*, Proposal at 18-20.) Without question, basic cost allocation principles justify allocating and recovering future ZEC costs partly on an energy basis and partly on a demand basis and, given the enormous magnitude of the costs at issue, the Commission should implement such a cost recovery allocation. (*See* Point V, *infra*.)

⁵ Multiplying the existing annual cap on ZEC purchases at 27,618,000 MWh (*id.* at 11-12) by Staff’s proposed maximum Tranche 17 ZEC price of \$82.75 per MWh (*id.* at 30) produces a potential annual cost to customers in each of 2048 and 2049 of almost \$2.3 billion.

Importantly, in evaluating the Proposal, the Commission should consider Staff's positions with respect to the current ZEC program and how the pending Proposal differs therefrom.

In its *Order Adopting a Clean Energy Standard*, the Commission describes that:

Staff further proposes that public necessity [for a ZEC program] be determined on a plant-specific basis at the discretion of the Commission, using criteria the Commission finds to be reasonable, on the basis of (a) the verifiable historic contribution the facility has made to the clean energy resource mix consumed by retail consumers in New York State regardless of the location of the facility; (b) the degree to which energy, capacity and ancillary services revenues projected to be received by the facility are at a level that is insufficient to provide adequate compensation to preserve the zero-emission environmental values or attributes historically provided by the facility; (c) the costs and benefits of such a payment for zero-emissions attributes for the facility in relation to other clean energy alternatives for the benefit of the electric system, its customers and the environment; (d) the impacts of such costs on customers; and (e) the public interest.⁶

Here, Staff: (a) proffers no analysis of public necessity “on a plant-specific basis;” (b) provides no information whatsoever on the existing nuclear facilities’ projected energy, capacity, and ancillary revenues for the proposed term, nor does it demonstrate that such projected revenues would be insufficient absent ZEC payments; (c) fails to analyze or quantify the costs and benefits of forcing customers to make the proposed ZEC payments through 2049; and (d) omits any analysis of the impacts of ZEC costs on customers. In other words, the Proposal does not come remotely close to satisfying the very criteria that Staff itself advocated be relied upon by the Commission in evaluating the current ZEC program.

⁶ Cases 15-E-0302 and 16-E-0270, *supra*, Order Adopting a Clean Energy Standard at 124.

ARGUMENT

POINT I

NEW YORK'S POLICIES AND CURRENT CONDITIONS NECESSITATE RETENTION OF A ZEC PROGRAM IN SOME FORM TO MAINTAIN ELECTRIC RELIABILITY

In general, Multiple Intervenors disfavors policies and programs that require customers to subsidize/incentivize the development and/or the continued operation of merchant-owned generating facilities (of any type). Notwithstanding that position, Multiple Intervenors acknowledges that, due to New York's policies and current conditions, a ZEC program will need to be continued in some form and for some period of time beyond its scheduled expiration on March 31, 2029, in order to maintain electric reliability, which is of paramount importance.

Ever since the ZEC program was approved in its current form on August 1, 2016, there has been an expectation that the program would terminate upon its expiration on March 31, 2029. Such date is consistent with the scheduled license expirations of Nine Mile 1 (August 2029) and Ginna (September 2029). (Proposal at 2.) In other words, the State, and the Commission, was allotted almost 13 years to plan for the possible retirement of the State's nuclear generating fleet. Yet here we are, faced with a situation where the ZEC program must be extended beyond March 2029 in order to maintain electric reliability.

There currently are numerous challenges impacting future electric reliability in New York, including, but not limited to: (a) lack of private investment in base load generation; (b) overreliance on subsidized/incentivized renewable, intermittent generation; (c) aging fossil-fuel generation facilities that need to be repowered or replaced; (d) growing loads due to economic development and electrification efforts; (e) overly prescriptive permitting processes; and (f) shrinking margin in neighboring control regions, reducing the amount of emergency assistance

available. In fact, the New York Independent System Operator, Inc. (“NYISO”) estimates that in order to maintain reliability and achieve a zero emissions electric system by 2040 (“Zero by 40”) as mandated by the Climate Leadership and Community Protection Act (“CLCPA”), the State will need between 100,000 MW and 130,000 MW of installed capacity, including at least 20,000 MW of new dispatchable emissions-free resources (“DEFERs”).⁷ Importantly, however, DEFERs currently do not exist – *i.e.*, there are no known DEFERs that are technologically and/or economically viable, at scale, at this time.

Against this backdrop, it is clear to Multiple Intervenors that the State is in a situation where some amount of generation from New York’s fleet of nuclear facilities will be needed to (hopefully) maintain electric reliability. Thus, Multiple Intervenors is supportive of continuing the ZEC program, in some form, for some – preferably limited – period of time beyond the current expiration date of March 31, 2029. The remainder of these Comments offer constructive suggestions as to how the Proposal should be implemented to protect customers from unnecessary and excessive costs.

POINT II

THE TERM OF THE STAFF PROPOSAL IS EXCESSIVE AND HAS NOT BEEN JUSTIFIED

Staff proposes that the ZEC program be extended by 20 years and nine months, from April 1, 2029, through December 31, 2049. (Proposal at 25.) If adopted by the Commission, utility customers would be forced to subsidize/incentivize the State’s existing nuclear generating fleet for a total period of almost 33 years (*i.e.*, from April 1, 2017, through December 31, 2049) –

⁷ NYISO, 2025 Power Trends at 25.

an exceedingly long period of time. Staff discusses its proposed term in a single paragraph of the Proposal. For the reasons set forth below, the proposed term is excessive and has not been justified.

In the Proposal, Staff first asserts that “maintaining the existing nuclear fleet is a cost-effective and viable solution to help meet the State’s growing electric load with zero emission resources, while maintaining system reliability and progress toward GHG reduction goals.” (Proposal at 25.) Staff, however, has failed to show how the Proposal is “cost-effective.” Initially, Staff provides no information whatsoever regarding the projected costs of continuing to operate the existing nuclear facilities or the projected market revenues for those facilities – critical information that is needed to evaluate the level of financial support from customers that might be necessary. Staff also provides no analysis of the projected impacts of the Proposal on customers – information that is fundamental to evaluating the Proposal. Similarly, Staff provides no quantification of the benefits of the Proposal. Thus, Staff has not shown that maintaining the existing nuclear fleet is cost-effective and should be required to address the above omissions.

The remainder of Staff’s assertion – that maintaining the existing nuclear generation fleet “to help meet the State’s growing electric load with zero emission resources, while maintaining system reliability and progress toward GHG reduction goals” – also does not justify the proposed term. Initially, as set forth in Point I, *supra*, Multiple Intervenors acknowledges that, due to State policies and other factors, New York probably has little choice but to continuing subsidizing/incentivizing all or a portion of the existing nuclear fleet for some period of time to maintain electric reliability, which is paramount. Significantly, however, the fact that New York may require the output from some or all of the existing nuclear generating facilities to maintain electric reliability beyond March 31, 2029, does not mean that the capacity from all four existing facilities will be needed through the end of 2049, more than two decades later. In the Proposal,

Staff relies on the Zero by 40 CLCPA requirement as a primary justification. (*See* Proposal at 21.) Reliance on the Zero by 40 requirement, however, does nothing to explain or justify extending customer-funded subsidies/incentives from 2040 through the end of 2049 – an additional decade.⁸

Staff’s proposal to extend the ZEC program through the end of 2049 – representing an extension of 20 years and nine months to what was intended to be a self-extinguishing 12-year program – has not been justified. Staff should be required to provide analyses justifying such a lengthy extension, both in isolation and in comparison to shorter durations. Additionally, the Commission should require periodic checks (*e.g.*, at five- or seven-year intervals) on whether the program needs to be continued, and at what level of compensation.

POINT III

THE PROPOSAL TO SUBSIDIZE ALL FOUR EXISTING NUCLEAR GENERATING FACILITIES FOR THE ENTIRETY OF TERM HAS NOT BEEN JUSTIFIED

In the Proposal, Staff recommends that the State’s entire existing fleet of nuclear generating facilities – *i.e.*, Nine Mile 1, Nine Mile 2, FitzPatrick, and Ginna – all receive customer-funded subsidies/incentives for more than two additional decades (*i.e.*, from April 1, 2029, through December 31, 2049) following expiration of the current, 12-year ZEC program. However, Staff has failed to explain why all four facilities purportedly require out-of-market customer support for the entirety of the proposed term extension. Moreover, Staff’s recommendation stands in stark

⁸ Moreover, inasmuch as the State is relying on the emergence of tens of thousands of megawatts of currently non-existent DEFRs to meet future demand needs and satisfy the 2040 requirement, the emergence and proliferation of such DEFRs may obviate any need to subsidize/incentivize the existing nuclear fleet, at customer expense, beyond 2040. The State should not be relying upon a massive build-out of DEFRs as a primary strategy for satisfying the 2040 requirement and then ignoring that build-out of DEFRs to justify extending the ZEC program from 2040 through the end of 2049.

contrast to its prior position that “public necessity [for a ZEC program] be determined on a plant-specific basis.”⁹

In the Proposal, Staff treats the existing nuclear fleet as a single entity, as opposed to four separate generating facilities. The Proposal contains no analysis of the amount of nuclear energy and/or capacity that will be needed, by year, or, for instance, between 2040 and 2049. The Proposal also fails to analyze the costs of forcing customers to subsidize/incentivize the facilities individually. For instance, to the extent one or two of the four current facilities would be much more costly to subsidize/incentivize than the others, it might be optimal to limit the ZEC extension period to the least expensive facilities or to terminate the program sooner for the more expensive facilities. The periodic check-in period recommended in Point II would be helpful here.

Unfortunately, the Proposal is devoid of any facility-specific information relating to the projected costs of continuing to operate the four facilities or the projected market revenues that such facilities would realize if they remained in operation. This absence of information, and analysis, makes it impossible to evaluate whether all four of the existing nuclear generating facilities should be included in any extension of the ZEC program, or if, alternatively, an extended program should be limited to one, two, or three of those facilities (and which ones should be included or excluded). Instead, the Proposal suggests – without providing any underlying data or analyses – that the decision to continue subsidizing/incentivizing the State’s existing nuclear generating facilities and for how long is an all-or-nothing proposition.

For the foregoing reasons, Staff has failed to justify its recommendation in the Proposal that all four of the existing nuclear generating facilities be eligible to receive customer-

⁹ See Cases 15-E-0302 and 16-E-0270, *supra*, Order Adopting a Clean Energy Standard at 124.

funded subsidies/incentives through the end of 2049. Importantly, the Commission should correct this oversight by requiring Staff to provide any facility-specific information or analysis as to projected costs, projected market revenues, and/or reliability needs so that customers are protected from unnecessary cost incurrence.

POINT IV

THE FAILURE TO JUSTIFY – OR EVEN QUANTIFY – EITHER THE PROJECTED OR THE MAXIMUM COST OF THE PROPOSAL AS WELL AS THE CORRESPONDING IMPACTS ON CUSTOMERS IS HIGHLY PROBLEMATIC

In the Proposal, Staff seeks to largely maintain the existing pricing methodology of the ZEC program with updates to certain key inputs. Significantly, however, there is no analysis of – or attempt to justify – either the projected or the maximum cost of the Proposal, or the corresponding impacts on customers. Due to such omissions, it is not possible for the Commission (and interested parties) to rationally ascertain whether adoption of the Proposal, including the pricing methodology advanced therein, would result in just and reasonable rates for customers.

Initially, the Commission should recognize that the existing ZEC program comes at an enormous cost to customers. To date, the ZEC program has resulted in customers bearing between \$462 million and \$590 million in subsidies/incentives per year, to the owner of the State's existing nuclear fleet. Pro-rated over the currently-effective 12-year term, that equates to between roughly \$5.5 billion and \$7.0 billion in customer costs.¹⁰ The existing ZEC program is not self-

¹⁰ While the continued operation of the nuclear fleet has resulted in certain unquantified, offsetting benefits to customers, some or all of those benefits may have been realized irrespective of the ZEC program had: (1) the owner of the fleet continued operations of one or more of the existing facilities without customer-funded subsidies/incentives; and/or (2) state policies had allowed other, market-based generation projects to have been developed in place of retiring nuclear facilities.

funding, nor are its costs small or even moderate. Its implementation depends upon literally billions of dollars in increased payments by customers and, therefore, the proposed extension of such program by over two full decades warrants comprehensive, transparent, and unbiased analyses of the projected and the maximum costs to customers and the resulting impacts, which analyses are absent from the Proposal.

The Proposal does contain maximum ZEC prices by tranche. Those proposed maximum ZEC prices increase from \$36.27/MWh in the first new tranche (*i.e.*, Tranche 7, encompassing April 1 through December 31, 2029) to \$82.75/MWh in the proposed final tranche (*i.e.*, Tranche 17, encompassing January 1, 2048, through December 31, 2049). (Proposal at 30.) Based on a maximum historical output for the State’s nuclear generating facilities of 27,618,000 MWh (*Id.* at 11-12), the indicative annual maximum cost of the Proposal ranges from \$1,001,704,860 in the first new tranche to \$2,285,389,500 in the final tranche. Thus, the maximum cost of the Staff Proposal appears to be between approximately \$1 billion and \$2.3 billion per year for over 20 years – an enormous cost that warrants significantly more analysis and justifications than those proffered therein.

Staff states in the Proposal that, based on its “current forecasts of energy and capacity revenues, the actual ZEC prices could be less than half of the maximum ZEC prices over the full period.” (Proposal at 30.) Significantly, however, there is no way to evaluate or place any credence into that statement because Staff fails to provide any supporting information whatsoever as to its forecasts of energy and capacity revenues or the actual ZEC prices that it believes would be borne by customers under its Proposal. While Multiple Intervenors acknowledges, and indeed hopes, that the methodology advanced by Staff in the Proposal could result in ZEC prices that are less than the maximum permissible, the Proposal provides no basis for the Commission to rely

upon Staff's unsupported statement as a likely – or the most likely – outcome. Moreover, even if true, the incremental costs to customers over the term of the Proposal still could be well in excess of \$10 billion.

In addition, the Proposal contains no analyses as to the impacts of ZEC costs on customers of different types over a proposed term extension that would run for more than two decades. Customer impact analyses are conducted and presented routinely in rate and other proceedings involving the potential imposition of significantly less costs on customers. Prior to ruling on the Proposal, the Commission should direct that customer impact analyses be conducted for different customer types based on the maximum potential ZEC costs under the Proposal as well as Staff's projections of the actual ZEC costs that would be paid by customers.¹¹

In terms of total costs to customers, approval of the Proposal would be hugely impactful on customers, potentially for more than two decades. Indeed, upon information and belief, there have been few, if any, prior proposals that have come before the Commission to date having larger potential price tags than the subject Proposal. Accordingly, Multiple Intervenors urges the Commission to direct that additional cost- and impact-related information and analyses be presented for public comment prior to ruling on the Staff Proposal.

¹¹ As detailed in Point V, *infra*, because ZEC costs currently are incurred on a purely energy basis (by design as opposed to any analysis of cost causation or resulting benefits), such costs have disparate impacts on customers based on their load factors, with high-load-factor large non-residential customers paying considerably more on both a dollar and percentage basis than other customer types.

POINT V

IF THE ZEC PROGRAM IS EXTENDED, ITS COSTS SHOULD BE RECOVERED PARTLY ON THE BASIS OF ENERGY AND PARTLY ON THE BASIS OF DEMAND

Currently, ZEC costs are charged to LSEs, and ultimately borne by customers, on an energy (*i.e.*, per MWh) basis. Such approach, adopted despite vigorous opposition from Multiple Intervenors, presumably furthers administrative convenience, but is inconsistent with cost causation and beneficiaries pay principles. The current approach also imposes inequitable impacts on certain customer types – *e.g.*, it imposes the greatest percentage impacts on high-load-factor large non-residential customers, such as energy-intensive manufacturers that the State desires to attract and retain. For the foregoing reasons, if the ZEC program is extended, its costs should be recovered partly on an energy basis and partly on a demand basis. Multiple Intervenors recommends that a 50% energy/50% demand allocation formula be utilized.

Initially, Multiple Intervenors acknowledges that the State's existing nuclear fleet provides emissions-free energy. On that basis, a portion of ZEC costs should continue to be recovered on an energy basis. Significantly, however, the nuclear fleet also provides emissions-free capacity, as well as certain other, non-energy-related attributes relied upon by Staff to justify its proposal to extend the ZEC program by more than two decades. Accordingly, a material portion of ZEC costs should be recovered on a non-energy basis to ensure fairness, as well as the avoidance of inequitable, disparate customer impacts.

In the Proposal, Staff states that: "Progress toward the [CLCPA's] Zero by 40 Target ... will require a substantial amount of zero-emission resources to reliably meet statewide electricity demand by 2040. Consideration should be given to policy decisions that help ensure the continued operation of existing zero-emission generation assets which are critical to achieving

the State's CLCPA targets." (*Id.*; footnote omitted.) The Zero by 40 objective is as much a demand-related target as it is an energy-related target (if not more so). Indeed, Staff discusses the need to "reliably meet statewide electricity demand" with respect to that target. (*Id.*) Staff then compares the amount of the State's nuclear generation capacity under two different scenarios, both of which focus on demand, or capacity, as opposed to energy production. (*Id.* at 18-19.) Thus, one of the key justifications advanced by Staff for extending the ZEC program is to retain the zero-emissions *capacity* provided by the existing nuclear generating fleet. Capacity is needed to meet customer demand, and, therefore, it would be appropriate – and equitable – to allocate and recover a material portion of ZEC costs on the basis of demand.

In support of the Proposal, Staff also relies upon direct and indirect employment figures and economic contributions, including the payment of state taxes, in support of retaining the existing nuclear fleet. (Proposal at 20.) Indeed, Staff references the economic harm caused by the State's actions in shutting down Indian Point (which "employed more than 1,000 people, with a payroll of more than \$140 million") as support for subsidizing/incentivizing the continued operation of the remaining nuclear generating facilities. (*Id.*) Staff also links the availability of reliable electricity to the attraction of new economic development to New York. (*Id.*)

Multiple Intervenors agrees that economic impacts are a relevant consideration here, although Staff looks only at the consequences of the existing nuclear fleet potentially retiring and disregards those associated with forcing customers to fund tens of billions in out-of-market subsidy/incentive payments to the owner of that fleet through the end of 2049. Regardless, there is little to no basis for recovering ZEC costs incurred for economic development reasons on a purely energy basis. The persons employed at the facility and other economic development considerations (*e.g.*, wages, taxes paid) do not vary materially (if at all) based on the amount of

energy actually produced by the nuclear generation facilities or consumed by customers; those factors (employment levels, wages paid, taxes paid) are largely fixed and, therefore, are linked equally, if not more so, to the capacity of the facilities and the demand that they serve than to energy production.

Staff then relies on land use concerns, arguing that: “Nuclear is the most efficient source of energy in terms of the Land Use Intensity of Energy (LUIE) metric when compared to natural gas, wind, solar, geothermal, hydroelectric, and biomass generation.” (Proposal at 22; citation omitted.) Multiple Intervenors does not object to the evaluation of land use considerations with respect regulatory policies involving nuclear – and other – generating technologies. Significantly, however, to the extent the ZEC program is continued due in part to land use considerations, such considerations bear no relationship to customer energy consumption and, consequently, further support transitioning away from allocating and recovering ZEC costs purely on the basis of energy consumption.

Multiple Intervenors recognizes that continuing to pay for ZECs on a purely energy basis may be administratively convenient. Significantly, however, when dealing with costs totaling as much as tens of billions of dollars over two-plus decades, administrative convenience should take a backseat to fairness and equity. Whether evaluating the incurrence of ZEC costs on a cost causation or beneficiaries pay basis, there can be no serious dispute that treating such costs as solely energy-related is neither accurate nor equitable.¹² In comparison, recovering ZEC costs partly on the basis of energy and partly on the basis of demand would be far more equitable and

¹² This inequity is compounded by numerous other Commission-approved programs and initiatives whose costs also are being recovered, inequitably, solely or predominantly on the basis of energy consumption.

reflect the numerous demand-related and other non-energy-related considerations giving rise to Staff's proposal to extend the ZEC program.

For the foregoing reasons, if, *arguendo*, the ZEC program is extended, its costs should be recovered partly on the basis of energy and partly on the basis of demand.

CONCLUSION

For all the foregoing reasons, the Commission should rule on the Staff Proposal in a manner consistent with Multiple Intervenors' Comments.

Dated: October 20, 2025
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Respectfully submitted,

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