

**February 12, 2025**

**Chairman Brian Feldman**

**Senate Education, Energy, and the Environment Committee**

**2 West Miller Senate Office Building**

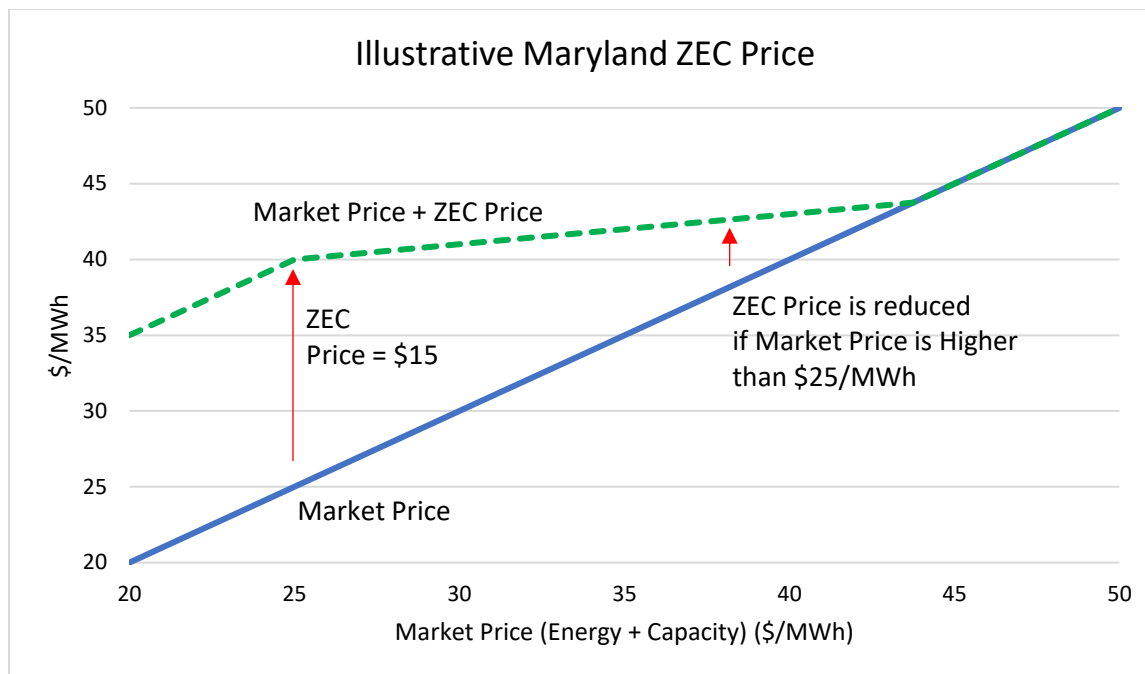
**Annapolis, Maryland 21401**

**RE: Information – Abundant Affordable Clean Energy – Procurement and Development  
(SB 316/HB 398)**

Constellation is pleased to provide information on the Abundant Affordable Clean Energy Act (SB 316/HB 398) -- specifically the benefits to Maryland, with clarifying amendments, of a Zero Emission Credits (ZEC) program. Sections 7–231 to 7–235 reflect the federal nuclear production tax credit in Section 13105 of the Inflation Reduction Act of 2022, as codified in Section 45U of the Internal Revenue Code (Federal Nuclear Credit). The Maryland ZEC program will serve as a state-level backstop to the Federal Nuclear Credit should the federal program not be extended beyond its current 2032 expiration or is repealed.

The Federal Nuclear Credit program has provided significant benefits to the nuclear industry, and the country, by providing a revenue floor to the nation's existing nuclear fleet, which secures the continued operation of the country's most abundant and reliable sources of clean energy. Beneficiaries of the Federal Nuclear Credit include Maryland's largest producer of zero-emission electricity – the Calvert Cliffs Clean Energy Center.

The ZEC program proposed in SB 316/HB 398 will provide consumer protection similar to the Federal Nuclear Credit through a simple to administer formula that caps the maximum amount of the ZEC at \$15/mwh, inflation adjusted, and reduces the amount of the credit between \$15 to \$0 in each year based on the amount of revenues a nuclear plant receives from the market in that year. The chart below illustrates a \$15/mwh ZEC price when market prices are at or below \$25/mwh, and linear reduction of the ZEC price from \$15 to \$0 when market prices are between \$25/mwh and \$44/mwh.



The proposed Maryland ZEC program, with the attached clarifying amendments to more directly align with the Federal Nuclear Credit will provide similar benefits to Maryland by safeguarding the environmental and reliability benefits of Calvert Cliffs. Further, by serving as a backstop to the Federal Nuclear Credit, it provides necessary long-term certainty to justify important investment decisions, most notably a decision to relicense Calvert Cliffs to operate for another 20 years and play its vital role in Maryland reaching its ambitious 100% clean climate goals.

The licenses are set to expire for Calvert's two units in 2034 and 2036, both after the 2032 expiration of the Federal Nuclear Credit, assuming no extension. However, the relicensing process begins five or more years prior to current license expiration, meaning that important business decisions to move forward with a costly relicensing process will need to be made by 2029. Currently, these decisions must be made under the uncertainty of an expiring Federal Nuclear Credit. The proposed 2055 expiration of the Maryland ZEC program would match the end of extended 20-year license renewals for Calvert Cliffs, thereby, removing post-2032 uncertainty by preserving a policy in Maryland through 2055.

Attached to this testimony are proposed clarifying amendments to HB 398 to better align the Maryland program with the federal program, but to not alter the purpose and intent of the bill. We appreciate the sponsor's willingness to work with us.

Sincerely,

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**Amendments to Nuclear PTC Backstop Provision**

PART III. ZERO-EMISSION CREDITS.

7-231.

(A) IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “BENEFICIAL NUCLEAR FACILITY” MEANS A NUCLEAR REACTOR THAT IS LOCATED IN AND PROVIDES ENVIRONMENTAL BENEFITS TO THE STATE.

(C) “ZERO-EMISSION CREDIT” OR “ZEC” MEANS A PAYMENT EQUAL TO THE GENERATION ATTRIBUTES OF 1 MEGAWATT-HOUR OF ELECTRICITY THAT IS DERIVED FROM A BENEFICIAL NUCLEAR FACILITY.

7-232.

(A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, A BENEFICIAL NUCLEAR FACILITY MAY SUBMIT AN APPLICATION TO THE COMMISSION TO RECEIVE ZERO-EMISSION CREDITS **FOR A TERM OF TEN YEARS.**

(B) (1) A BENEFICIAL NUCLEAR FACILITY MAY NOT RECEIVE

ZERO-EMISSION CREDITS DURING ANY PERIOD IN WHICH THE FACILITY RECEIVES

ZERO-EMISSION NUCLEAR POWER PRODUCTION TAX CREDITS UNDER § 13105 OF THE INFLATION REDUCTION ACT OF 2022.

(2) THE COMMISSION MAY NOT OFFER ZERO-EMISSION CREDITS AFTER 2055.

(3) TO BE ELIGIBLE TO RECEIVE A ZERO-EMISSION CREDIT, A

BENEFICIAL NUCLEAR FACILITY MUST MAINTAIN A NEUTRAL POSITION IN ANY

LABOR ORGANIZING THAT TAKES PLACE AT THE FACILITY **AND ENSURE THAT ANY LABORERS AND MECHANICS EMPLOYED BY THE TAXPAYER OR ANY CONTRACTOR OR SUBCONTRACTOR IN THE ALTERATION OR REPAIR OF SUCH FACILITY SHALL BE PAID WAGES AT RATES NOT LESS THAN THE PREVAILING RATES FOR ALTERATION OR REPAIR OF A SIMILAR CHARACTER IN THE LOCALITY IN WHICH SUCH FACILITY IS LOCATED AS MOST RECENTLY DETERMINED BY THE SECRETARY OF LABOR, IN ACCORDANCE WITH SUBCHAPTER IV OF CHAPTER 31 OF TITLE 40, UNITED STATES CODE.**7-233.

(A) AFTER NOTICE AND AN OPPORTUNITY FOR A HEARING, THE

COMMISSION SHALL APPROVE OR DENY AN APPLICATION SUBMITTED UNDER § 7-232 OF THIS SUBTITLE WITHIN 9 MONTHS AFTER THE APPLICATION IS FILED.

(B) THE COMMISSION MAY APPROVE AN APPLICATION:

(1) IN WHOLE OR IN PART; AND

(2) SUBJECT TO ANY LIMITATIONS AND QUALIFICATIONS THAT THE COMMISSION CONSIDERS NECESSARY AND IN THE PUBLIC INTEREST.

(C) EACH ELECTRIC COMPANY MUST PURCHASE THE PORTION OF THE ZERO EMISSION CREDITS APPROVED BY THE COMMISSION EQUAL TO THE RATIO OF THE ELECTRIC COMPANY'S DISTRIBUTION SALES DURING EACH DELIVERY YEAR COMPARED TO THE TOTAL DISTRIBUTION SALES IN THE STATE DURING SUCH YEAR.

18 7-234.

(A) (1) SUBJECT TO SUBSECTION (B) OF THIS SECTION, THE PRICE FOR A ZERO-EMISSION CREDIT SHALL BE CALCULATED ANNUALLY BY THE COMMISSION STAFF EQUAL TO THE AMOUNT THAT THE BASE ZEC PRICE EXCEEDS THE REDUCTION AMOUNT.

(2) THE BASE ZEC PRICE SHALL BE \$15 PER MEGAWATT-HOUR.

(3) THE REDUCTION AMOUNT SHALL EQUAL 80% OF THE AMOUNT THAT THE MARKET INDEX PRICE EXCEEDS \$25 PER MEGAWATT-HOUR.

(4) THE MARKET INDEX PRICE SHALL EQUAL THE SUM OF:

(i) THE ANNUAL AVERAGE LOCATIONAL MARGINAL PRICE FOR THE PJM WESTERN HUB FOR THE APPLICABLE DELIVERY YEAR, AS DETERMINED BY PJM INTERCONNECTION, LLC, AND

(ii) THE BASE RESIDUAL AUCTION PRICE FOR THE SWMAAC LOCATIONAL DELIVERABILITY AREA FOR THE APPLICABLE DELIVERY YEAR, AS DETERMINED BY PJM INTERCONNECTION, LLC., DIVIDED BY 24 HOURS PER DAY.

(B) THE \$15 PER MEGAWATT-HOUR AND \$25 PER MEGAWATT-HOUR IN SUBSECTION (A) SHALL BE ADJUSTED FOR INFLATION FROM A BASE YEAR OF 2023.

24 7-235.

(A) THE COMMISSION SHALL ADOPT REGULATIONS TO IMPLEMENT THIS PART NOT LATER THAN 365 DAYS BEFORE THE EXPIRATION OF THE AVAILABILITY

OF ZERO-EMISSION NUCLEAR POWER PRODUCTION TAX CREDITS UNDER § 13105  
OF

THE INFLATION REDUCTION ACT OF 2022.

(B) THE REGULATIONS SHALL:

(1) INCLUDE DATA SUBMISSION REQUIREMENTS NECESSARY TO  
EVALUATE A BENEFICIAL NUCLEAR FACILITY'S PROJECTED ENVIRONMENTAL  
BENEFITS AND ANNUAL GROSS RECEIPTS;

(2) **ESTABLISH A NONBYPASSABLE SURCHARGE APPLICABLE TO ALL  
DISTRIBUTION CUSTOMERS THAT ALLOWS EACH ELECTRIC COMPANY IN THE  
STATE TO RECOVER ITS COSTS ASSOCIATED WITH THE PURCHASE OF ZERO  
EMISSION CREDITS; AND**

(3) PROVIDE FOR THE RECAPTURE OF THE ALLOCATION OF ANY  
ZERO-EMISSION CREDIT WITHIN THE PREVIOUS 3 YEARS TO A BENEFICIAL  
NUCLEAR  
FACILITY THAT PERMANENTLY TERMINATES OPERATIONS, EXCEPT IN THE CASE  
OF  
FORCE MAJEURE.

**§45U. Zero-emission nuclear power production credit**

**(a) Amount of credit**

For purposes of section 38, the zero-emission nuclear power production credit for any taxable year is an amount equal to the amount by which-

- (1) the product of-
  - (A) 0.3 cents, multiplied by
  - (B) the kilowatt hours of electricity-
    - (i) produced by the taxpayer at a qualified nuclear power facility, and
    - (ii) sold by the taxpayer to an unrelated person during the taxable year, exceeds
- (2) the reduction amount for such taxable year.

**(b) Definitions**

**(1) Qualified nuclear power facility**

For purposes of this section, the term "qualified nuclear power facility" means any nuclear facility-

- (A) which is owned by the taxpayer and which uses nuclear energy to produce electricity,
- (B) which is not an advanced nuclear power facility as defined in subsection (d)(1) of section 45J, and
- (C) which is placed in service before the date of the enactment of this section.

**(2) Reduction amount**

**(A) In general**

For purposes of this section, the term "reduction amount" means, with respect to any qualified nuclear power facility for any taxable year, the amount equal to the lesser of-

- (i) the amount determined under subsection (a)(1), or
- (ii) the amount equal to 16 percent of the excess of-
  - (I) subject to subparagraph (B), the gross receipts from any electricity produced by such facility (including any electricity services or products provided in conjunction with the electricity produced by such facility) and sold to an unrelated person during such taxable year, over
  - (II) the amount equal to the product of-
    - (aa) 2.5 cents, multiplied by
    - (bb) the amount determined under subsection (a)(1)(B).

**(B) Treatment of certain receipts**

**(i) In general**

Subject to clause (iii), the amount determined under subparagraph (A)(ii)(I) shall include any amount received by the taxpayer during the taxable year with respect to the qualified nuclear power facility from a zero-emission credit program. For purposes of determining the amount received during such taxable year, the taxpayer shall take into account any reductions required under such program.

**(ii) Zero-emission credit program**

For purposes of this subparagraph, the term "zero-emission credit program" means any payments with respect to a qualified nuclear power facility as a result of any Federal, State or local government program for, in whole or in part, the zero-

PTC Price =  
5 x 0.3 =  
1.5 ¢/kWh or  
\$15/MWh

5x multiplier  
in formula  
defined  
below

PTC Adj. =  
5 x 16% x  
(Gross Rec. –  
2.5 ¢/kWh)  
or  
80% x  
(Mrkt Price –  
\$25/MWh)

emission, zero-carbon, or air quality attributes of any portion of the electricity produced by such facility.

**(iii) Exclusion**

For purposes of clause (i), any amount received by the taxpayer from a zero-emission credit program shall be excluded from the amount determined under subparagraph (A)(ii)(I) if the full amount of the credit calculated pursuant to subsection (a) (determined without regard to this subparagraph) is used to reduce payments from such zero-emission credit program.

**(3) Electricity**

For purposes of this section, the term "electricity" means the energy produced by a qualified nuclear power facility from the conversion of nuclear fuel into electric power.

**(c) Other rules**

**(1) Inflation adjustment**

Inflation  
adjustment  
for the \$15  
and \$25 with  
2023 base  
year

The 0.3 cent amount in subsection (a)(1)(A) and the 2.5 cent amount in subsection (b)(2)(A)(ii)(II)(aa) shall each be adjusted by multiplying such amount by the inflation adjustment factor (as determined under section 45(e)(2), as applied by substituting "calendar year 2023" for "calendar year 1992" in subparagraph (B) thereof) for the calendar year in which the sale occurs. If the 0.3 cent amount as increased under this paragraph is not a multiple of 0.05 cent, such amount shall be rounded to the nearest multiple of 0.05 cent. If the 2.5 cent amount as increased under this paragraph is not a multiple of 0.1 cent, such amount shall be rounded to the nearest multiple of 0.1 cent.

**(2) Special rules**

Rules similar to the rules of paragraphs (1), (3), (4), (5), and (13) of section 45(e) shall apply for purposes of this section.

**(d) Wage requirements**

5x multiplier,  
if satisfying  
prevailing  
wage reqs.

**(1) Increased credit amount for qualified nuclear power facilities**

In the case of any qualified nuclear power facility which satisfies the requirements of paragraph (2)(A), the amount of the credit determined under subsection (a) shall be equal to such amount (as determined without regard to this sentence) multiplied by 5.

**(2) Prevailing wage requirements**

**(A) In general**

The requirements described in this subparagraph with respect to any qualified nuclear power facility are that the taxpayer shall ensure that any laborers and mechanics employed by the taxpayer or any contractor or subcontractor in the alteration or repair of such facility shall be paid wages at rates not less than the prevailing rates for alteration or repair of a similar character in the locality in which such facility is located as most recently determined by the Secretary of Labor, in accordance with subchapter IV of chapter 31 of title 40, United States Code.

**(B) Correction and penalty related to failure to satisfy wage requirements**

Rules similar to the rules of section 45(b)(7)(B) shall apply.

**(3) Regulations and guidance**

The Secretary shall issue such regulations or other guidance as the Secretary determines necessary to carry out the purposes of this subsection, including regulations or other guidance

which provides for requirements for recordkeeping or information reporting for purposes of administering the requirements of this subsection.

**(e) Termination**

This section shall not apply to taxable years beginning after December 31, 2032.