

May 4, 2012

VIA ELECTRONIC MAIL

Ms. Donna Giliberto, Esq.
Records Access Officer
State of New York Department of Public Service
Three Empire State Plaza
Albany, NY 12223-1350

Re: Case 12-E-0136 – Petition of Dunkirk Power LLC and NRG Energy, Inc. for Waiver of Generator Retirement Requirements

**REQUEST FOR PROTECTION OF TRADE SECRET AND
CRITICAL INFRASTRUCTURE INFORMATION BY
NIAGARA MOHAWK POWER CORPORATION d/b/a NATIONAL GRID**

ATTACHMENT CONTAINS CONFIDENTIAL INFORMATION

Dear Ms. Giliberto:

Niagara Mohawk Power Corporation d/b/a National Grid (“National Grid” or the “Company”) respectfully requests trade secret and critical infrastructure information protection pursuant to Sections 87(2) and 89(5)(a) of the Public Officers Law, Pub. Off. L. §§ 87(2)(d) and (f), and 89(5)(a)(1) and (1-a), and Section 6-1.3 of the Commission’s Rules, 16 N.Y.C.R.R. § 6-1.3, for the enclosed electric system assessment information requested by Department of Public Service Staff (“DPS Staff”) regarding the retirement of the Dunkirk Power LLC (“Dunkirk”) generating facilities. The enclosed information (the “Confidential Information”) contains summaries of electric system vulnerability assessments under different operating conditions and contingencies.

Trade secret protection is warranted “if disclos[ure] would cause substantial injury to the competitive position of the subject enterprise.” NY Pub. Off. L. § 87(2)(d); *see also* 16 N.Y.C.R.R. § 6-1.3(b)(2). In determining whether information should be given trade secret or confidential commercial information protection, the Commission’s Rules set forth six non-exclusive factors to be considered:

1. the extent to which disclosure would cause unfair economic or competitive damage;
2. the extent to which the information is known by others and can involve similar activities;
3. the worth or value of the information to the person and the person’s competitors;

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4. the degree of difficulty and cost of developing the information;
5. the ease or difficulty associated with obtaining or duplicating the information by others without the other person's consent; and
6. other statute(s) or regulations specifically excepting the information from disclosure.

Critical Infrastructure includes "systems, assets, places or things, whether physical or virtual, so vital to the state that the disruption, incapacitation or destruction of such systems, assets, places or things could jeopardize the health, safety, welfare or security of the state, its residents or its economy." NY Pub. Off. L. § 86(5). Critical Infrastructure Information ("CII") also is excepted from disclosure under the Public Officers Law and the Commission's Rules. NY Pub. Off. L. § 87(2)(f) and 16 N.Y.C.R.R. § 6-1.3(b).

National Grid submits that the Confidential Information qualifies for trade secret protection as well as for protection as CII, and is therefore exempt from disclosure to the public.

The Confidential Information includes information regarding electric system vulnerabilities under different operating conditions and contingencies. If made public, such information could be used by market participants to affect the performance of the electricity market in the region, leading to unfair economic advantage and competitive damage that would be harmful to customers. The Confidential Information also identifies critical vulnerabilities in the electric system under different operating scenarios. Disclosing such information would highlight important system assets the disruption of which could have significant adverse effects on electric service and reliability in western New York, and jeopardize the health, safety, welfare or security of the state, its residents or its economy.

The Confidential Information was prepared by National Grid, has not been provided to any commercial third parties, and is not available to the public at large. The Confidential Information was difficult, time-consuming and costly to prepare and could not easily be developed or replicated by someone else.

For the foregoing reasons, National Grid respectfully requests that the Confidential Information be exempted from public disclosure and granted trade secret and/or CII status pursuant to Section 6-1.3 of the Commission's Rules.

The enclosed unredacted information can be provided directly by your office to the following DPS Staff to facilitate review:

Raj Addepalli,
Jerry Ancona,
Bill Heinrich, and
Tammy Mitchell.

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Thank you for your attention to this matter.

Respectfully submitted,

/s/ Carlos A. Gavilondo

Carlos A. Gavilondo

Enc.

cc (letter only, via electronic mail):

Service List Case 12-E-0136

Raj Addepalli, DPS Staff

Jerry Ancona, DPS Staff

Bill Heinrich, DPS Staff

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