



**Department of
Public Service**

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Three Empire State Plaza, Albany, NY 12223-1350

www.dps.ny.gov

September 11, 2015

Via U.S. Mail and Electronic Mail

The Honorable James F. Brennan
New York State Assembly
Legislative Office Building, Room 422
Albany, New York 12248

Re: Matter 13-01288 and Case 11-M-0294 - Request for a copy of the un-redacted and complete annual report for the calendar year ending on December 31, 2013 submitted by all gas or electric corporations and entities subject to the PSC's lightened ratemaking regulation.

Dear Assemblyman Brennan:

This letter will acknowledge your appeal in the above-captioned matter and case with respect to the July 2, 2015 Determination of the Records Access Officer (RAO). In light of the concerns described in the September 3, 2015 response to your appeal from the Independent Power Producers of New York (IPPNY) about potential access to allegedly confidential information, your appeal and supporting papers were locked, from public access, pending review. Subsequently, your appeal letter and the resume of Mr. Robert F. McCullough, Jr. were unlocked for public access on the Department of Public Service's Document Management Matter (DMM) system. Mr. McCullough's Affidavit has been reviewed and a redacted copy of his Affidavit, which removes access to allegedly confidential information, has been posted for public access on DMM.

I will endeavor to provide a decision on the appeal as soon as practical. In light, however, of the length of the appeal, and particularly the 190-page McCullough Affidavit, and of the issues raised in the oppositions received thus far from IPPNY and Entergy, a decision on the appeal will require some period of time. I am accordingly extending the directory period of ten business days for a Commission decision on the Freedom of Information Law appeal, stated in Public Officers Law §89(5)(c)(2), to and including October 19, 2015, pursuant to 16 NYCRR §3.3(a)(1).

Honorable James F. Brennan

Your letter of September 9, 2015 states your belief that I have to act on the appeal by September 11, 2015. I extended your time to appeal by 30 business days, from July 13, 2015, to August 27, 2015, via two extensions and can likewise extend the time for a decision. While you contend that there is a straightforward question of whether the annual reports at issue should be considered "trade secret," there are substantial new issues to be resolved on the appeal. You also demand an explanation of the RAO's decision allowing the utilities to remedy any incomplete redaction by refiling reports, but whether the reports should be protected remains to be decided. The RAO has properly preserved confidentiality in the interim, given the claims of improper access to redacted reports and the agency's obligation to shield confidential information.

Sincerely yours,

A handwritten signature in blue ink that reads "Kathleen H. Burgess". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Kathleen H. Burgess
Secretary

cc: Service Lists in Matter 13-01288 and Case 11-M-0294