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August 9, 2012

Via Electronic Filing  
Hon. Jaclyn A. Brillling  
Secretary  
New York Public Service Commission  
Three Empire State Plaza  
Albany, NY 12223

RE: Case No. 12 E-0136, Petition of Dunkirk Power LLC and NRG Energy, Inc.  
For Waiver of Generator Retirement Requirements

Dear Secretary Brillling:

These comments in the above proceeding are submitted on behalf of Central Hudson Gas and Electric Corporation, Consolidated Edison Company of New York, Inc., Orange and Rockland Utilities, Inc., New York State Electric & Gas Corporation, Rochester Gas and Electric Corporation, the Long Island Power Authority, and the New York Power Authority (the "Indicated Transmission Owners"). The Indicated Transmission Owners respectfully request that the Commission accept and consider these late filed comments, given their significant interest in the issues to be addressed in this proceeding, and in the interest of having a complete record. It is further respectfully submitted that acceptance of these comments by the Commission will not adversely affect interests of any other party.

In its filing in this proceeding, Niagara Mohawk Power Corporation d/b/a National Grid ("National Grid") filed its proposed "Binding Term Sheet for Bilateral Agreement for Dunkirk Power Generating Units" (the "Term Sheet Agreement"). The Indicated Transmission Owners have no comments on the substance of the Term Sheet Agreement. However, this proceeding reflects current circumstances in the competitive wholesale electricity markets in New York State that may result in the filing with the Commission additional notices of the

retirement or mothballing of generation facilities. Given the structure of the electric grid in New York State, it is possible that generators that submit a notice of intent to retire or mothball may be needed in order to maintain system reliability, which may lead to other requests to the Commission for out-of-market compensation.

The Indicated Transmission Owners understand the need for the Commission to act expeditiously in this proceeding in order to ensure that the resources needed to maintain reliability remain in operation for as long as they are needed. However, the Indicated Transmission Owners respectfully request that the Commission expressly acknowledge in its final order that the Term Sheet Agreement and the specific treatment accorded to Dunkirk Power LLC in this proceeding are not precedential and that the Commission will consider alternative approaches to any future request for out-of-market compensation in order to maintain system reliability in a just and reasonable way by talking into consideration the specific facts and circumstances surrounding any such future request for compensation. The adoption of that approach by the Commission would be consistent with the Commission's Order Adopting Notice Requirements for Generation Unit Retirements ((December 20, 2005). At page 20 of that order, the Commission states:

"Notwithstanding the inquiry launched into potential remedies for addressing adverse impacts attending a retirement, specific remedies will not be adopted at this time. While we are prepared to take any actions within our jurisdiction necessary for the preservation of safe and adequate service, remedies are better considered on a case-by-case basis, given the potential variety of circumstances that could be encountered. Designing a remedy will depend upon the exact nature of those circumstances, which cannot be adequately forecast at this time."

The Indicated Transmission Owners respectfully request that the Commission accept these comments and issue a final order consistent with the recommendation set forth herein.

*Paul L. Gioia*

Paul L. Gioia

Counsel to the New York Transmission Owners

cc: Active Parties