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Date: 08/28/2012 03:16 PM
Subject: RESA Motion

All Parties:

On August 16, 2012 the Retail Energy Supply Association (RESA) submitted a motion seeking to: (1) prevent Niagara Mohawk's response to the Public Utility Law Project's (PULP) interrogatory - PULP IR No. 107 and strike the Company's response to PULP IR No. 91 on grounds that the information sought is not relevant and its release would violate the Billing Services Agreement (BSA) between the Company and energy services companies operating in the utility's service territory; and (2) protect the Company's response to PULP IR Nos. 91 and, ultimately 107, from being publicly disclosed.

We have now received all anticipated party responses to the motion and our questions posited to the Company, RESA, and PULP via an August 21, 2012 email. In light of the upcoming deadline for the submission of Staff and intervenor testimony (due Friday, August 31, 2012), we resolve two of the three issues presented by RESA's motion in this email. First, we find that the information sought by PULP in IR Nos. 91 and 107 satisfies the discovery criteria set forth in 16 NYCRR 5.1(a) and 5.8(a). The information is relevant, or likely to lead to relevant information and may be used by parties in cross examination or in preparation of their cases. Second, we find that the BSA does not prohibit the Company's release of the requested information. PULP, in seeking the information requested in PULP IR Nos. 91 and 107, is not attempting to exercise any rights under the BSA. We will address both the issue of relevance and the BSA more fully in a forthcoming written ruling.

Therefore, the Company is free to provide its response to PULP IR No. 107. The Company should serve its response to this IR on us as well as those parties that have executed the protective order or those parties that are required to keep the information confidential pursuant to the Public Officers Law.

With respect to the third issue raised in RESA's motion - confidential treatment of the information - we will address this issue in our written ruling. As directed in our August 21 email, the information provided by the Company in response to PULP IR Nos. 91 and 107 is to be kept confidential, consistent with our protective order, until otherwise directed by us.

In PULP's response to RESA's motion we are informed that the Company provided in its response to PULP IR No. 92 information of a similar nature to that provided in response to PULP IR No. 91. Therefore, the discussion above is equally applicable to the Company's response to PULP IR No. 92 and the information provided in response to it will be treated as confidential information consistent with our protective order. We will address the matter of PULP IR No. 92 further in our written ruling. The Company is directed to provide us with its response to PULP IR No. 92 by the end of the day tomorrow, August 29.

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Administrative Law Judges

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