

March 29, 2012

CONFIDENTIAL

Via Electronic Mail to recordsaccessofficer@dps.state.ny.us

Donna Giliberto, Esq.
Records Access Officer
State of New York Department of Public Service
Three Empire State Plaza, 18th Floor
Albany, New York 12223-1350

Subject: Disclosure of Confidential Information

Dear Ms. Giliberto:

Leka P. Gjonaj of the New York State Department of Public Service Staff (“NYSDPS”) has requested that the New York Independent System Operator (“NYISO”) provide energy production data for 2011 for NRG’s Dunkirk units one (1) through four (4). The NYISO hereby provides the requested production data.

For the reasons set forth below, the NYISO requests that the production data for Dunkirk units 1 through 4 (“Production Data”), provided herein, be accorded confidential, non-public treatment. In addition to the NYISO’s request for non-disclosure of the Production Data, the NYISO requests confidential treatment of this letter which sets forth the bases for the NYISO’s position.

The Production Data contains commercially sensitive business information that was provided to or calculated by the NYISO and is maintained as Confidential Information pursuant to the provisions of the NYISO’s Market Administration and Control Area Services Tariff and its Open Access Transmission Tariff (“OATT”). In particular, the attached report contains generator-specific unit by unit output and capacity factor data. While this information will be publically released in the NYISO’s Report titled *2012 Load and Capacity Data*, it has not yet been made public. Until it is, this data is commercially sensitive business information. Until such information for all New York generation facilities is made public in the *2012 Load and Capacity Data*, individual generator data, if released to the public, would put the individual generator at a competitive disadvantage vis-à-vis generators about which such commercially sensitive information has not been released. As such, the report contains information that constitutes Confidential Information as defined in the NYISO’s Code of Conduct contained in Attachment F to the NYISO’s OATT.

For the reasons stated above, the NYISO provides this information based upon the understanding that Confidential Information is not subject to disclosure and that the NYSDPS will protect that information from disclosure pursuant to Public Officers Law, Section 87(2)(d) because it constitutes commercially sensitive information “that if disclosed would cause substantial injury to the competitive position of the subject enterprise.” (N.Y.Pub.Off.L. § 87(2)(d) (2010). If requests for disclosure of this or future reports are received by the NYDPS, we respectfully request prompt notice so that the NYISO can address the confidential nature of the information provided as required by the NYISO’s Code of Conduct and as provided in the NYSDPS procedures.

Please contact me at (518) 356-7530 or at mlampi@nyiso.com if you have any questions or concerns.

Very truly yours,

/s/ Mollie Lampi

Mollie Lampi

Assistant General Counsel

New York Independent System Operator, Inc.

10 Krey Boulevard

Rensselaer, NY 12144

Tel: (518) 356-6000

Fax: (518) 356-4702

mlampi@nyiso.com

cc: Sara B. Keegan, Senior Attorney, New York Independent System Operator, Inc.
Joy Kimberlin, Regulatory Affairs Specialist, New York Independent System Operator, Inc.