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Via Electronic Mail

September 23, 2013

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RE: Case 12-E-0577 - Request for un-redacted versions of 12 filed documents¹, the non-public submissions, the non-public communications, the meeting records, and future submissions

¹ a. Dunkirk Part 2 Reliability Study, Filing No. 11 filed February 15, 2013 on behalf of Niagara Mohawk Power Corporation (Ni Mo); b. NYSEG Transmission Cost Submission, Filing No. 14 filed February 19, 2013 on behalf of NYSEG; c. Information Related to Estimated Costs of Anticipated Transmission System Upgrades to Address Long-term Reliability Needs, Filing No. 15 filed February 19, 2013 on behalf of Ni Mo (see footnote 3); d. Redacted Version of

Dear Mr. Amato, et al.:

This is in response to your Motion to Secretary Burgess received September 16, 2013 in the above-entitled matter whereby you requested certain records described above. Please be advised that this matter has been referred to me by Secretary Burgess and will be treated as a request for records pursuant to the Freedom of Information Law (FOIL), Public Officers Law (POL) Article 6.

This letter has a two-fold purpose. First, I hereby acknowledge Mr. Amato's request of September 16, 2013 for the record(s) described above, pursuant to FOIL, POL Article 6. Access to the 12 records outlined in footnote 1 will be determined in accordance with POL §89(5). The non-public submissions and the non-public communications are un-redacted copies of the above-entitled records that are submitted to the Records Access Officer (RAO) with a request for protection from disclosure under Public Officers Law (POL) §87(2)(d) and (f), §89(5)(a)(1-a), and 16 NYCRR 6-1.3. Meeting records are not filed as part of a proceeding instead, certain meetings among senior staff in active cases are tracked under Project Sunlight.² With regard to future submissions, agencies are not obligated to respond to requests for future filings or submissions as these records do not yet exist.³

The second purpose of this letter is to inform the companies listed above, through their attorneys, of the intention of the Department of Public Service to determine the entitlement of the information contained in the record(s) described above for which the companies have sought an exception from public disclosure as trade secrets and/or critical infrastructure information pursuant to POL §§87(2)(d), (f), 89(5)(a)(1) and (1-a), and 16 NYCRR §6-1.3.

The companies, pursuant to the rules may, within 10 business days of receipt of this notification, submit a written statement of the necessity for such exception from disclosure pursuant to POL §89(5)(b)(1)(2).⁴ Unless a contrary showing is made, receipt of this letter will

Cayuga Operating Company LLC's Repowering Proposal, Filing No. 21 filed March 26, 2013 on behalf of Cayuga; e. Dunkirk Repowering Options - Redacted, Filing No. 24 filed April 1, 2013 on behalf of NRG; f. Report on Repowering Options – Redacted, Filing No. 51 filed May 17, 2013 on behalf of Ni Mo; g. NYSEG Report on Cayuga Repowering Analysis, Filing No. 52 filed May 17, 2013 on behalf of NYSEG; h. Repowering Reports, Filing No. 70 filed June 28, 2013 on behalf of Ni Mo; i. Cayuga Comments on NYSEG Report, Filing No. 83 filed August 16, 2013 on behalf of Cayuga; j. Comments of National Grid, Filing No. 86 filed August 19, 2013 on behalf of Ni Mo; k. Redacted Response, Filing No. 97 filed September 5, 2013 on behalf of Ni Mo; and l. Cayuga Revised March 26 Proposal, Filing No. 98 filed September 6, 2013 on behalf of Cayuga.

² Project Sunlight, Ch, 399, L. 2011, The Public Integrity Reform Act of 2011, provides the public an opportunity to see which outside individuals and entities are interacting with state government decision-makers in certain ways on designated topics. To achieve that goal, Project Sunlight creates an online database and imposes reporting requirements on certain "covered individuals" in State government. Covered individuals at DPS are Commissioners, Executive Office, including Commission Advisors, Office Directors and Deputy Directors, and Administrative Law Judges. These records can be found at <http://www.projectsunlight.ny.gov/>.

³ See FOIL-AO-13290, April 3, 2002; FOIL-AO-17737, July 30, 2009.

⁴ This statement of necessity should be submitted to recordsaccessofficer@dps.ny.gov.

be presumed to have occurred on September 23, 2013, so the deadline for my receipt of any such written statement of necessity is October 7, 2013.

Please be advised that requests b, c⁵, d, e, f, g, and h – as detailed in footnote 1 are the subject of a separate request under Public Officers Law (POL) Article 6, Freedom of Information Law (FOIL) for which the above-entitled companies have already submitted statements of necessity and documents with fewer redactions than their original filings. You may re-submit the same statements of necessity in response to this request. However, as to the remaining requests, you must submit original statements of necessity, and it is recommended that you consider re-submitting the requested documents with fewer redactions than your original filings

Very truly yours,

Donna Giliberto
Assistant Counsel
Records Access Officer

⁵ National Grid filed an un-redacted update to the February 19 correspondence on July 31, 2013, which is available at <http://dmm.dps.state.ny.us/dmm/MatterManagement/CaseMaster.aspx>.

