

June 19, 2012

VIA ELECTRONIC MAIL

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

Re: Case 12-E-0136 – Petition of Dunkirk Power LLC and NRG Energy, Inc. for Waiver of Generator Retirement Requirements

**REQUEST FOR PROTECTION OF TRADE SECRET INFORMATION BY
NIAGARA MOHAWK POWER CORPORATION d/b/a NATIONAL GRID**

ATTACHMENT CONTAINS CONFIDENTIAL INFORMATION

Dear Ms. Giliberto:

Pursuant to Section 87(2) of the Public Officers Law, Pub. Off. L. § 87(2), and Section 6-1.3 of the Commission’s Rules, 16 N.Y.C.R.R. § 6-1.3, Niagara Mohawk Power Corporation d/b/a National Grid (“National Grid” or the “Company”) respectfully requests trade secret protection of confidential information contained in the attached presentation materials relating to National Grid’s technical response to the Dunkirk Power LLC (“Dunkirk”) proposal to “mothball” its four generator units. The information for which protection from disclosure is requested (the “Confidential Information”) relates to projects being considered by National Grid to address reliability concerns resulting from the Dunkirk mothball proposal, as well as the Company’s projection of how many units may be needed to maintain reliable transmission service, and for how long they would be needed.

Trade secret protection is warranted “if disclos[ure] would cause substantial injury to the competitive position of the subject enterprise.” NY Pub. Off. L. § 87(2)(d); *see also* 16 N.Y.C.R.R. § 6-1.3(b)(2). In determining whether information should be given trade secret or confidential commercial information protection, the Commission’s Rules set forth six non-exclusive factors to be considered:

1. the extent to which disclosure would cause unfair economic or competitive damage;
2. the extent to which the information is known by others and can involve similar activities;
3. the worth or value of the information to the person and the person’s competitors;
4. the degree of difficulty and cost of developing the information;

5. the ease or difficulty associated with obtaining or duplicating the information by others without the other person's consent; and
6. other statute(s) or regulations specifically excepting the information from disclosure.

National Grid submits that the Confidential Information qualifies for trade secret protection and is therefore exempt from disclosure to the public. The Company is currently in negotiations with NRG Energy, Inc. ("NRG"), the owner of the Dunkirk facility, on a potential agreement whereby one or more Dunkirk units would remain available for a period of time to mitigate transmission reliability issues resulting from the proposed mothball action. If made public, the Confidential Information in the presentation could be used by NRG to its competitive advantage in negotiations, and to the disadvantage of National Grid and its customers. The Confidential Information was prepared by National Grid, has not been provided to any commercial third parties, and is not available to the public at large. The Confidential Information was produced as a result of studies performed by National Grid that were difficult, time-consuming and costly to prepare and could not easily be developed or replicated by someone else.

For the foregoing reasons, National Grid respectfully requests that the Confidential Information be exempted from public disclosure and granted trade secret status pursuant to Section 6-1.3 of the Commission's Rules.

The enclosed unredacted information can be provided directly by your office to DPS Staff participating in this proceeding to facilitate their review, but should be treated as confidential and not disclosed pending any contrary determination by your office.

Thank you for your attention to this matter.

Respectfully submitted,

/s/ Carlos A. Gavilondo
Carlos A. Gavilondo

Enc.

cc (letter only, via electronic mail):
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