

September 28, 2012

**VIA ELECTRONIC FILING**

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 OF NIAGARA MOHAWK POWER CORPORATION  
d/b/a NATIONAL GRID FOR PROTECTION OF CONFIDENTIAL  
INFORMATION**

**ATTACHMENTS CONTAIN CONFIDENTIAL INFORMATION**

Dear Ms. Giliberto:

Niagara Mohawk Power Corporation d/b/a National Grid (“National Grid” or the “Company”) respectfully requests protection of trade secret and critical infrastructure information pursuant to Sections 87(2) and 89(5)(a) of the Public Officers Law, Pub. Off. L. §§ 87(2)(d) and (f), and 89(5)(a)(1) and (1-a), and Section 6-1.3 of the Commission’s Rules, 16 N.Y.C.R.R. § 6-1.3. The information for which the Company seeks protection from disclosure (the “Confidential Information”) is contained in the following documents: “Review of Dunkirk Mothball Notice – Part 1, Version 0 (July 23, 2012) (“Part 1 Study”) and “Review of Dunkirk Mothball Notice – Part 2; Review of Additional Solutions Associated with Dunkirk Mothball Notice, Version 0 (September 26, 2012) (“Part 2 Study”) (together, the Part 1 and Part 2 studies are referred to as the “Dunkirk Study Reports”). The Dunkirk Study Reports relate to National Grid’s evaluation of reliability needs and system vulnerabilities associated with the proposed mothballing of the Dunkirk Power LLC (“Dunkirk”) generating facilities.

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.

Critical Infrastructure includes "systems, assets, places or things, whether physical or virtual, so vital to the state that the disruption, incapacitation or destruction of such systems, assets, places or things could jeopardize the health, safety, welfare or security of the state, its residents or its economy." NY Pub. Off. L. § 86(5). Critical Infrastructure Information ("CII") also is exempted from disclosure under the Public Officers Law and the Commission's Rules. NY Pub. Off. L. § 87(2)(f) and 16 N.Y.C.R.R. § 6-1.3(b).

National Grid submits that the Confidential Information qualifies for trade secret protection as well as for protection as CII, and is therefore exempt from disclosure to the public. The Confidential Information includes information regarding electric system vulnerabilities under different operating conditions and contingencies. If made public, such information could be used by market participants to affect the performance of the electricity market in the region, leading to unfair economic advantage and competitive damage that would be harmful to customers. The Confidential Information also identifies critical vulnerabilities in the electric system under different operating scenarios. Disclosing such information would highlight important system assets the disruption of which could have significant adverse effects on electric service and reliability in western New York and jeopardize the health, safety, welfare or security of the state, its residents or its economy. 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 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 and/or CII status pursuant to Section 6-1.3 of the Commission's Rules.

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The confidential Dunkirk Study Reports are being provided directly to DPS Staff members participating in this proceeding to facilitate their review, with direction that they are to treat the materials as confidential in accordance with the Commission's rules absent a contrary determination by your office or the Commission. Thank you for your attention to this matter.

Respectfully submitted,

/s/ Carlos A. Gavilondo  
Carlos A. Gavilondo

cc: Service List Case 12-E-0136 (letter only, via DMM)  
Raj Addepalli  
David Drexler  
Tammy Mitchell  
Allen Chieco  
Cathy Hughto-Delzer  
Carol Sedewitz