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June 22, 2016

Via E-Mail and Federal Express

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

RE: Case 16-G-0369 - Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Corning Natural Gas Corporation for Gas Service - Request for Protection from Disclosure of Confidential Commercial Information and/or Trade Secrets

Dear Ms. Giliberto:

In connection with the above-referenced application by Corning Natural Gas Corporation (“Corning” or the “Company”) to increase rates for gas service, Corning is providing to the Public Service Commission (the “Commission”) a compact disk (“CD”) containing the proprietary Cost of Service Model (the “COS Model”) of the Company’s consultant, Management Applications Consulting, Inc. (“MAC”). The COS Model supports the rate increase filing, specifically, the direct testimony and exhibit (Exhibit CNG-10) of witness Paul M. Normand pertaining to cost of service and rate design. Because the CD contains information pertaining to the COS Model that qualifies for protection as “trade secrets” and/or “confidential commercial information” (collectively, the “Confidential Information”) under the Commission’s regulations (16 NYCRR §§ 6-1.3, 6-1.4), Corning hereby requests that the Confidential Information be accorded protection from disclosure.

The Commission’s regulations define “trade secrets” to include “any formula, pattern, device or compilation of information which is used in one’s business, and which provides an opportunity to obtain an advantage over competitors who do not know or use it” (16 NYCRR § 6-1.3(a)). While “confidential commercial information” is not specifically defined in the regulations, the term is commonly understood to include information that gives the possessor an advantage over others and that would be valuable to others, if they could obtain it, in the context of commercial relationships. For purposes of the showing required of the person seeking to avoid disclosure, “trade secrets” and “confidential commercial information” are treated nearly identically in the regulations.

A person seeking protection from disclosure of data as a “trade secret” or as “confidential commercial information”

must show the reasons why the information, if disclosed, would cause substantial injury to the competitive position of the subject commercial enterprise. Factors to be considered include, but are not necessarily limited to:

- (i) the extent to which the disclosure would cause unfair economic or competitive damage;
- (ii) the extent to which the information is known by others and can involve similar activities;
- (iii) the worth or value of the information to the person and the person’s competitors;
- (iv) the degree of difficulty and cost of developing the information;
- (v) the ease or difficulty associated with obtaining or duplicating the information by others without the person’s consent; and
- (vi) other statute(s) or regulations specifically excepting the information from disclosure.

16 NYCRR § 6-1.3(b)(2).

Consideration of these factors underscores the competitive sensitivity of the subject COS Model, and the prejudice that could result to MAC upon disclosure of such Confidential Information to a public that would include competitors, present or potential, of MAC.

MAC is a consultant whose business is to provide cost of service, rate design and numerous other services to the utility industry and others. MAC developed the COS Model that is the subject of this request for protection. That model meets the criteria enumerated above for defining and protecting Confidential Information. It is used in MAC’s business and is maintained in confidence (and, therefore, is not known by others). Its development required substantial resources on MAC’s part and it could not readily be replicated by others independently. Even if the Confidential Information could be obtained or replicated by others, obtaining or replicating such Confidential Information could only be accomplished by others with great difficulty and great cost. The COS Model represents an “edge” for MAC in obtaining and retaining clients for its services. Disclosure to competitors would deprive MAC

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of this advantage and result in “substantial injury to the competitive position” of MAC within the meaning of 16 NYCRR § 6-1.3(b)(2).

Providing the Confidential Information subject to protection, as requested herein, will not impair the Commission’s ability to perform its review of the rate increase application that is the subject of this proceeding. In view of the likely interest of the Staff of the Department of Public Service (“Staff”) in this material, we ask that it be made available to the appropriate representative or representatives of Staff as soon as feasible.

Consistent with the Commission’s regulations and standard practice, we are enclosing, with the original of this letter that is being delivered via Federal Express, one copy of the CD containing the COS Model, marked “Protected Materials.” Since the COS Model is only being provided in CD form, it is not attached to the e-mailed copy of this letter.

As indicated below, we are providing a copy of this letter, via e-mail and without the confidential enclosure, to Secretary Burgess.

If you should have any questions regarding this filing, please contact me.

Very truly yours,



Stanley W. Widger, Jr.

Enclosure

cc: Hon. Kathleen H. Burgess (w/o enc.)