



November 12, 2015

VIA E-MAIL

Honorable Sean Mullany
Honorable Julia Smead Bielawski
Honorable Ashley Moreno
Administrative Law Judges
New York State Department of Public Service
Three Empire State Plaza
Albany, New York 12223

Re: Case 14-E-0270 - Petition Requesting Initiation of a Proceeding to Examine a Proposal for Continued Operation of the R.E. Ginna Nuclear Power Plant, LLC.

Dear Judges Mullany, Bielawski and Moreno:

Paragraph 10 of the Protective Order in the above-referenced proceeding (Case 14-E-0270 - Petition Requesting Initiation of a Proceeding to Examine a Proposal for Continued Operation of the R.E. Ginna Nuclear Power Plant, LLC, Ruling on Process and Adopting Protective Order (Mar. 12, 2015)) states, in relevant part: “If a party creates a document containing Protected Information in response to a discovery request served on it in these proceedings then: (a) the request for protected status is to be filed with the Secretary and served on all parties; (b) an unredacted copy of the document, together with the request for protected status, is to be served on the ALJ; and (c) an unredacted copy of the document is to be served on those parties who have requested service of discovery responses and who are entitled to receive Protected Information under the terms of this Protective Agreement.”

Pursuant to the New York State Freedom of Information Law (“FOIL”) (N.Y. Pub. Off. Law §§ 84 et seq. (McKinney 2015)) and Part 6 of the New York State Public Service Commission’s (“Commission”) regulations (16 NYCRR § 6.1 et seq.), Rochester Gas and Electric Corporation (“RG&E” or the “Company”), by and through its undersigned attorneys, hereby submits this letter in support of the Company’s request to protect from public disclosure the following attachments to their responses to information requests in the above-captioned proceeding:

- 1) Attachment 1 to GNP-15-210 (DPS-5.5) which provides RG&E’s transmission system map with the proposed Rochester Area Reinforcement Project;
- 2) Attachment 2 to GNP-15-210 (DPS-5.5) which provides RG&E’s existing transmission system map;

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- 3) Attachments 3 and 4 to GNP-15-210 (DPS-5.5) which provide additional single line operating diagrams of the Rochester Area transmission system; and
- 4) Attachments 1-18 to GNP-15-213 (DPS-5.8) which provide power flows output diagrams for the Rochester Area with respect to the Fall 2015 Ginna Retirement Transmission Alternative Reliability Study update (collectively, the “Confidential Information”).

I. ARGUMENT

The Confidential Information should be protected from public disclosure because it qualifies as Critical Infrastructure Information (“CII”) pursuant to the Commission’s regulations and is thus exempt from disclosure under FOIL. Section 89(5) of the New York State Public Officers Law (“POL”) states, in relevant part, that a person or entity that submits records to any agency may identify those records or portions thereof that may contain CII and request that the agency that maintains such records except such information from disclosure. N.Y. Pub. Off. Law § 89(5)(a)(1-a) (McKinney 2015). Critical infrastructure is defined as the 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. POL § 86(5) (McKinney 2015). Consistent with POL, the Commission’s regulations allow CII to be protected from public disclosure. 16 NYCRR § 6-1.3(b)(3).

The Commission has recognized that utility infrastructure is a critical component in maintaining national security and sustaining the economy and that it is important to safeguard public utility assets. See Case 02-M-0953 - Proceeding on Motion of the Commission as to Telephone and Energy Utility Arrangements for Safeguarding the Security of their Physical Equipment and Cyber Systems, Order Directing Further Action (Sept. 30, 2003). Information that provides specific details regarding utility infrastructure constitutes CII. In this instance, the Confidential Information provides confidential figures/diagrams depicting RG&E’s service territory, major features, and transmission lines. This information should be protected because someone with malicious intent could pinpoint locations on the Company’s system that if damaged would cause significant disruptions of service, thereby jeopardizing the health, safety, welfare or security of the state, its residents and/or the economy.

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II. CONCLUSION

In summary, the Confidential Information must be protected from public disclosure because it constitutes CII. Should you have any questions regarding this filing, please contact me.

Respectfully submitted,



Brian T. FitzGerald
Gregory G. Nickson

Enclosures

cc: Honorable Kathleen Burgess (via e-mail w/o enclosures)
Parties who are entitled to receive Protected Information under the terms of the
Protective Order and who have requested services of discovery responses (via e-mail w/
enclosures)
Noelle M. Kinsch, Esq. (via e-mail w/ enclosures)
Gina Speranza (via e-mail w/ enclosures)
DMM Party List (via e-mail w/o enclosures)