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October 01, 2020

Mr. Simon Kinsella
PO Box 792
Wainscott, NY 11975

Re: FOIL Request #2020-0444

Dear Mr. Simon Kinsella,

Pursuant to your Freedom of Information Law (Public Officers Law, Article 6 (FOIL) request, dated August 24, 2020, seeking the following: The names and addresses of all respondents to the Request for Proposals for South Fork Resources released June 24, 2015 ("2015 South Fork RFP") issued by PSEG Long Island, LLC ("PSEG LI") through its operating subsidiary, Long Island Electric Utility Servco, LLC as agent of and acting on behalf of Long Island Lighting Company d/b/a LIPA ("LIPA") that filed a NYS Vendor Responsibility Questionnaire with OSC; a copy of each "NYS Vendor Responsibility Questionnaire" filed with OSC by any respondent pursuant to the 2015 South Fork RFP; and any correspondence between OSC and any respondent that filed a NYS Vendor Responsibility Questionnaire pursuant to the 2015 South Fork RFP with OSC pertaining to the 2015 South Fork RFP. Attached are records responsive to your request.

POL Section 87(2)(d) authorizes an agency to withhold records or portions thereof that "are trade secrets or are submitted to an agency by a commercial enterprise or derived from information obtained from a commercial enterprise and which if disclosed would cause substantial injury to the competitive position of the subject enterprise." Based on the foregoing, it has been recognized that competition in business turns on the relative costs and opportunities faced by members of the same industry, and that there is a potential windfall, not contemplated as part of FOIL's principal aim of promoting openness in government, for competitors to whom valuable information is released under FOIL (*Encore College Bookstores, Inc. v Auxiliary Service Corp. of State University of New York at Farmingdale*, 212 A.D.2d 418, 622 NYS2d 684, leave to appeal granted, 85 NY2d 811, 631 NYS2d 287, affirmed as modified 87 NY2d 410, 639 NYS2d 990). Portions of the VRQ's retrieved in response to your request contain proprietary information or trade secrets which could injure differing vendors' competitive position in the marketplace if made public and are, accordingly, withheld.

In the event that you do not agree with our determination to deny access to portions of the records retrieved in response to your request, please be advised that you have the right, within thirty days of the receipt of this letter, to appeal, in writing, to: Camille Jobin-Davis, Records Appeals Officer, Office of the State Comptroller, 110 State Street, 14th Floor, Albany, New York 12236.

Sincerely,

Jane Hall
Records Access Officer