



October 26, 2009

Mr. Steven Blow, Esq.  
Records Access Officer  
State of New York Department  
of Public Service  
Three Empire State Plaza  
Albany, NY 12223

Re: Case 93-G-0932 - Proceeding on Motion of the Commission to Address  
Issues Associated with the Restructuring of the Emerging Competitive  
Natural Gas Market -- **Request for Trade Secret Status**

Dear Mr. Blow:

Pursuant to the rules of the New York State Public Service Commission ("PSC" or the "Commission") regarding trade secrets (16 NYCRR § 6-1.3) and Public Officers Law Section 87.2(c) and (d), Rochester Gas and Electric Corporation ("RG&E" or the "Company") hereby requests trade secret status for certain non-public data which are being filed with the Office of Consumer Services ("OCS") of the State of New York Department of Public Service ("DPS") by RG&E in accordance with the Commission's January 28, 1999 and March 15, 2000 Orders Approving Interim Reporting Requirements in the above-referenced proceeding ("Orders").

In the Orders, the Commission required the utilities to file interim retail access reports with the OCS on a monthly basis through the year 2000 and quarterly thereafter. Each report must include data from the reporting month regarding: (i) the number of customers by service classification eligible for retail access, (ii) the number of customers by service classification receiving retail access from each energy service company ("ESCO"), (iii) the amount of kWh by service classification that is eligible for retail access, (iv) the amount of kWh by service classification provided by each ESCO, and (v) the numbers of customers that have returned to jurisdictional service and that have left one ESCO for another ESCO.

In the Orders, the Commission left the determination of the trade secret status of information filed in the required reports to the operation of the processes set forth in provisions of the Public Officers Law and Commission regulations. Pursuant to a Freedom of Information Law (FOIL) request made by an ESCO seeking certain information from the reports, and objections made thereto by various interested parties, Secretary Brilling determined that "disclosure of a list of ESCOs, with total number of customer and associated volume of gas of each ESCO on a

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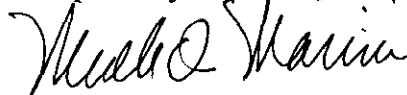
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statewide basis would be likely to cause substantial injury to the competitive positions of the ESCOs . . .", and therefore should not be publicly disclosed.<sup>1</sup> Letter to Parties Regarding Request for Certain Information in Unredacted ESCO Gas Flow-Through Data Reports for November and December 2005 (Trade Secret 06-1), dated October 20, 2006.

RG&E hereby requests trade secret status for all information in the attached filing which comes within the scope of both Secretary Brilling's October 20, 2006 and Steven Blow's May 19, 2008 determinations. The Company believes that some data which it is filing with the OCS as part of the interim retail access report effectively indicates the usage of certain retail access customers. Based upon the number and type of customers, the amount of kWh or Dth, as the case may be, and the placement of these figures in the chart which RG&E is filing with the OCS, anyone with a working knowledge of the Company's customer base and the ESCOs participating in RG&E's retail access program would be able to ascertain the usage of specified customers. The disclosure of such information could adversely affect the competitive position of the Company's customers by revealing pricing information and the identity of ESCOs to competitors and, thus, "would cause unfair economic or competitive damage" 16 NYCRR § 6-1.3(b)(2)(i). On May 19, 2008, Steven Blow determined that it is his opinion "that current circumstances are similar to those existing at the time Secretary Brilling made her determination. I therefore conclude that the ESCOs and Utilities have met the burden of proof they bear pursuant to POL §89(5)(e)."

Please contact me at (585)771-4692 if you have any questions regarding this request for trade secret status.

Respectfully submitted,



Mark O. Marini  
Manager, Regulatory and Tariffs  
Rates and Regulatory Economics

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<sup>1</sup> Although the matter before Secretary Brilling had to do with the disclosure of information with respect to gas volumes, 94-E-0952, Competitive Opportunities Regarding Electric Service (the Reporting Order), issued January 28, 1999, is referenced in connection with Commission policy regarding disclosures of this nature. It is assumed, therefore, that the determination in the Brilling letter applies to both gas and electric filings.