

BEFORE THE
STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

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PREFACE

In recognition that the Matter parties to this proceeding (each a "Party" or collectively "Parties") may submit in this proceeding material that may warrant protection from public disclosure, this General Protective Order ("Order") is adopted to provide a suitable means for obtaining access to, taking possession of the Petition Filed By Entergy Nuclear FitzPatrick, LLC, Entergy Nuclear Indian Point 2, LLC, Entergy Nuclear Indian Point 3, LLC, Entergy Nuclear Operations, Inc., NewCo and Entergy Corporation for a Declaratory Ruling Regarding a Corporate Reorganization or, in the Alternative, an Order Approving the Transaction and an Order Approving Debt Financings

-----Case 08-E-0077

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PROTECTIVE ORDER

In recognition that the parties to this proceeding (each a "Party" or collectively "Parties") may submit in this proceeding material that may be of a confidential or proprietary nature or constitute trade secrets, this Protective Order ("Order") is adopted to provide a suitable means for ~~obtaining access to,~~ and/or limiting distribution and copies of documents, data, information, studies and materials (such documents, data, information, studies and other materials hereinafter collectively referred to as "Information") in a Party's possession and control, which are relevant to matters in this proceeding, in instances where a good faith claim is made by the Party possessing or controlling such Information (such party hereinafter referred to as the "Providing Party") that such Information ~~constitutes trade secrets as defined by 16 NYCRR §6.1-3 or are otherwise confidential or proprietary information covered by~~ qualifies for one or more exemptions from disclosure under the Freedom of Information Law ("FOIL"), Public Officers Law ("POL") §§84, *et seq.* (hereinafter referred to collectively as "~~Trade Secret~~ Information Claimed Exempt").

_____ In order to protect any potential ~~Trade Secret~~-Information Claimed Exempt so as to preclude the unrestricted disclosure thereof prior to or after a final determination of its status ~~as trade secret, confidential, or proprietary information~~ by the Administrative Law Judge ("ALJ") assigned to this proceeding, the New York State Public Service Commission ("Commission") or a court, the following provisions are hereby adopted to supplement and assist in the administration and application of 16 NYCRR §§6-1.3, 6-1.4 and POL §§87-89 in this proceeding:

1. All Information furnished in this proceeding that is in good faith claimed by the Providing Party to be ~~Trade Secret~~ Information warranting an exemption from public disclosure shall be furnished pursuant to the terms of this Order and shall be treated by all persons afforded access thereto ~~as Trade Secret and/or possession thereof as~~ Information that is exempt from public disclosure and shall neither be used nor disclosed except for the purposes of this proceeding, and solely in accordance with this Order. Similarly, access to copies of ~~Trade Secret~~-Information Claimed Exempt or notes taken from ~~Trade Secret~~-Information Claimed Exempt shall neither be used nor disclosed except for the purposes of this proceeding, and solely in accordance with this Order. ~~Except for Highly Sensitive Trade Secret Information (see Paragraph 9)~~

1.—In general, counsel for the New York State Department of Public Service -("DPS Staff Counsel") shall be provided with complete copies, including both redacted and unredacted, versions of all documents) submitted by a Providing Party seeking ~~Trade Secret Protection for any Information~~an exemption from public disclosure. Such copies shall be provided simultaneously with the ~~submission of~~

~~the~~ request for protection or as soon thereafter as is reasonably practicable.

2. DPS Staff Counsel shall safeguard such Information in accordance with the Public Service Law, the State Code of Ethics (POL §74), applicable policies and regulations, and the provisions of this Order.

3. When ~~Trade Secret~~ Information Claimed Exempt is sought by a Party ("Requesting Party"), the Providing Party shall provide the Information to the counsel or representative of the Requesting Party by electronic mail if practicable (otherwise by overnight delivery) ~~the Trade Secret Information to the Requesting Party subject to this Order. The Providing Party shall also contemporaneously submit a form (annexed hereto as Exhibit 2) to the Requesting Party listing the Information for which protection under this Order is sought. The Requesting Party must return an executed Exhibit 2 to the Providing Party upon receipt of the Trade Secret Information. Should the Requesting Party object in writing to the need to execute an Exhibit 2 for specific Information, the Providing Party will submit the Information at issue to the ALJ for *in-camera* review pursuant to 16 NYCRR §6-1.4. Determination of the trade secret status of any Information so identified and submitted will be made on a case by case basis by the ALJ in accordance with 16 NYCRR §6-1.4 and POL §87. If the ALJ determines that the Information is relevant Trade Secret Information, the Requesting Party shall execute the Exhibit 2 and the Trade Secret Information will be subject to the terms of this Order. If the ALJ determines that the Information sought by the Requesting Party is not properly subject to treatment as Trade Secret Information, the protections set forth in this Order shall not govern. Nothing in the foregoing shall restrict a Requesting Party, after executing an Exhibit 2 and receiving the Information, from making a subsequent objection to the trade secret designation or from seeking a determination of trade secret status by making a motion under 16 NYCRR §3.6 or otherwise, before, during or after the making of any filing submitted, or any hearing conducted, in this proceeding. Except as provided below, one copy of items designated by the Providing Party as Trade Secret Information will be made upon the request of counsel for, or representative of the Requesting Party who have agreed in writing to be bound by this Order by executing Exhibit 1 attached hereto. The copy of the Information to be provided will be made by the Providing Party who will affix a stamp on the cover or otherwise reasonably identify the Information as Trade Secret Information. Counsel for the Requesting Party seeking Trade Secret Information shall maintain~~

~~a log which acknowledges the date of receipt and enumerates all items of Trade Secret Information. Access to such Trade Secret Information~~ _____ The Information Claimed Exempt will be accompanied by a copy of a pleading served on the ALJ at that time. The pleading will explain what specific bases for exemption apply to which portions of the Information Claimed Exempt. The pleading will also set forth in detail all the information necessary to prove each element of each exemption claimed. For example, information claimed to warrant a trade secret exemption must be accompanied by more than a statement that disclosure would result in substantial economic or competitive damage.

_____ The Providing Party shall also contemporaneously submit a form (attached as Exhibit 2) to the Requesting Party, listing the Information for which an exemption is sought. The Requesting Party must promptly return an executed Exhibit 2 to the Providing Party upon receipt of the Information Claimed Exempt or return such Information confidentially to the providing party.

_____ Nothing in the foregoing shall restrict a Requesting Party, after executing an Exhibit 2 and receiving the Information Claimed Exempt, from making a subsequent objection to such designation at any point in time after the interested parties attempt to resolve any disagreements and before a determination of the Information's status is made by the ALJ.

4. _____ Except as provided below, one electronic or hard copy of items designated by the Providing Party as containing Information Claimed Exempt will be made upon the request of counsel for or representative of the Requesting Party who have agreed in writing to be bound by this Order by executing Exhibit 1, a copy of which is attached. The copy of the Information to be provided will be made by the Providing Party who will affix a stamp on the cover or otherwise reasonably identify the Information as Information Claimed Exempt. Counsel for the Requesting Party seeking Information Claimed Exempt shall maintain a log which enumerates and acknowledges the date of receipt of all items containing Information Claimed Exempt.

Access to Information Claimed Exempt shall be limited to a Party's counsel or representative, and, except as otherwise provided in Paragraph 6, those Experts identified pursuant to this Order. ~~No other or further duplication or reproduction of the Trade Secret Information shall be made, except that nothing shall preclude a motion seeking permission to disclose the Information to persons not referred to in this Protective Order.~~

If any party receives Information Claimed Exempt and concludes that the bases for exemption have not been proven adequately, it must communicate its concerns within a reasonable period to the Providing Party and any other Receiving Party, but without disclosing any Information Claimed Exempt. Those interested shall thereafter attempt to resolve or narrow the disagreement. Immediately after that effort is concluded, the Providing Party must advise the ALJ in writing of the results of such discussions, including the extent and nature of any continuing disagreement, with a copy to each Receiving Party.

5. ~~DPS Staff and, DPS Staff Counsel who have agreed in writing to be bound by this Order~~ and the Counsel and Experts who have agreed in writing to be bound by this Order of other parties, to the extent each has executed an Exhibit 1 or is subject to both PSL §15 and POL §74, may take notes regarding ~~such Trade Secret~~ Information Claimed Exempt as may be necessary in connection with this proceeding. Such notes shall be ~~treated~~ accorded the same level of protection as the ~~Trade Secret~~ Information Claimed Exempt from which the notes were taken and subject to the undertakings conditions regarding secured storage, destruction and return as specified elsewhere in this ~~agreement~~ Order.

6. All ~~Trade Secret~~ Information Claimed Exempt produced pursuant to this Order shall be made available solely to counsel for the ~~Parties~~ representative of each party; provided, however, that access to any ~~Trade Secret~~ Information Claimed Exempt may be authorized by said counsel or representative, on a "need to know" basis and solely for the purposes of this proceeding, to persons indicated by the Parties as being their Experts in this matter, with the following exceptions and subject to the conditions set forth herein. For purposes of this Order,

Experts shall include consultants, contractors ~~and~~, witnesses, and potential witnesses that need reasonable access to the ~~Trade Secret Information~~ Information Claimed Exempt in order to assist a Party for the purposes of this proceeding. Counsel or the representative for each Party shall obtain and retain executed copies of ~~the acknowledgment and agreements attached as~~ Exhibit 1 from each ~~person~~ Expert to whom it discloses any ~~Trade Secret~~ Information ~~other than its own Trade Secret Information~~ Claimed Exempt.

7. Prior to giving access to ~~Trade Secret~~ or possession of Information Claimed Exempt to any such Expert, the ~~counsel~~ counsel or representative for the Requesting Party shall deliver a copy of this Order to such person and, prior to disclosure, such person shall read the Order language and agree in writing, in the form of Exhibit 1 ~~attached hereto~~, to comply with and be bound by this Order. If possession and/or control of ~~such Trade Secret~~ Information Claimed Exempt is given to an Expert pursuant to this Order, Requesting ~~Party~~ Party's counsel shall provide a statement to counsel for the Providing Party, designating the name and address of such Expert into whose custody such documents will be delivered. ~~The provisions of this Paragraph 6 applicable to Experts shall not apply to the internal agency Experts of DPS Staff Counsel; instead they will be required to maintain a log of all internal agency Experts and employees who have been provided with a copy of the Trade Secret Information protected by this Order. These requirements do not apply to DPS Counsel and other DPS Staff assigned to this case as they are subject to PSL §15 and the State Ethics Law (POL §74). In lieu of providing the names and addresses of experts, DPS Staff is required to maintain a log of all DPS Staff members (Support Staff excluded) assigned to this case who are provided access to or possession of Information Claimed Exempt.~~ The Providing Party shall have the right to inspect such logs from time to time upon reasonable notice.

8. When the Requesting Party seeking access to the ~~Trade Secret~~ Information Claimed Exempt is a Competitor of the Providing Party, as defined below, prior to giving access to ~~Trade Secret~~ or possession of Information Claimed Exempt to any such Expert, the counsel or representative for the Requesting Party

shall deliver a copy of this Order to such person and, prior to disclosure, such person shall read the terms of this Order and agree in writing, in the form of Exhibit 1 ~~attached hereto~~, to comply with and be bound by this Order. In addition, at least five (5) business days before giving access to such ~~Trade Secret~~ Information Claimed Exempt to such person, Requesting ~~Party counsel~~ Party's counsel or representative shall deliver to the counsel for the Providing Party a copy of Exhibit 1 which shall show the signatory's full name, business address and employer, ~~title or job~~ responsibility in the case, and the Party with whom the signatory is associated. With the signed agreement, counsel or the representative shall also submit the specific reason(s) ~~for which~~ why the signatory needs the ~~Trade Secret~~ Information Claimed Exempt, why such needs cannot be satisfied with other Information, and a legal opinion confirming that access to such Information will not violate the rules and regulations of the Federal Energy Regulatory Commission or any federal or state antitrust regulation. Counsel for the Providing Party shall have five (5) ~~business days~~ business days to object to ~~such person~~ the signatory receiving ~~Trade Secret~~ Information Claimed Exempt. The objection shall be in writing, filed with the ALJ and served upon the counsel ~~for~~ or representative of the Requesting Party. ~~The~~ If an objection is made, the ALJ will determine ~~the matter~~ as expeditiously as possible if an objection is made whether the signatory can have access in whole or in part to the Information Claimed Exempt. Failure to so object, or denial of such objection by the ALJ, in any instance, shall not ~~affect the status of the Information to which access is sought as Trade Secret Information, nor~~ be construed as a waiver of the right of the Providing Party to object to access to ~~such Trade Secret~~ Information Claimed Exempt by a different person. In any case in which there is a dispute about whether ~~Trade Secret Information~~ Information Claimed Exempt can be provided to an Expert of a Competitor of the Providing Party, and the dispute is brought to the ALJ for resolution, the ~~Trade Secret~~ Information Claimed Exempt will be withheld from the Expert unless and until such time as a ruling is made that the ~~Trade Secret~~

~~Information~~Information Claimed Exempt may properly be provided to the Expert in question. For purposes of this Order, "Competitor" shall include ~~but not necessarily be limited to~~ persons or entities that (a) compete in the same general business as the Providing Party; (b) have commercial relationships or potential relationships with the Providing Party as suppliers, customers, employees or contractors, or as associations of any of the foregoing; or (c) ~~have the capability of exploiting the Trade Secret Information for gain to entities other than the Providing Party or to the detriment of the Providing Party or other parties for whom the Trade Secret Information has similar significance;~~ or (d) ~~an~~ any investment firm or other group that invests directly or indirectly in securities of the Providing Party.

9. To facilitate the review and inspection of ~~Trade Secret~~-Information Claimed Exempt to be made available to an Expert ~~pursuant to this Order as herein above set forth, a person authorized~~qualified to receive such Information ~~will be provided with~~under the terms of this Order, the Providing Party will provide such Information promptly by overnight mail or electronic transmission unless the Providing Party asserts that the volume of such materials would be unduly burdensome.

~~Trade Secret Information may be handled by clerical personnel (including stenographers or other persons preparing transcripts of testimony) in the employ of any Party that has executed and Exhibit 1 and who are performing purely clerical duties, such as mail handling, copying, bates stamping, filing, etc., without such personnel signing the Exhibit 1 provided that they been provided a copy of this Order. Copying of the Trade Secret Information should be _____~~

Alternatively, counsel or the representative of the Requesting Party may have copies prepared for experts, subject to the limitation that copying must be limited to what is reasonably necessary for the Parties and their Experts to participate use such information solely for purposes of participating in this proceeding. Counsel shall or the representative for each party with access to Information Claimed or Ruled Confidential must maintain a log of all instances the Trade Secret that such Information is copied, indicating what is copied, the date, recipient, and purpose of the copying. The Providing Party shall

have the right to inspect ~~thesuch~~ logs from time to time upon reasonable notice.

10. ~~Should the Providing Party allege that any Trade Secret Information to be provided pursuant to this Order is of such a highly sensitive nature that access to and copying of such Trade Secret Information as hereinabove set forth would expose the Providing Party or any of its affiliates to an unreasonable risk of harm or to legal liability to third parties, the following procedure shall apply.~~ Information Claimed Exempt may be handled by clerical personnel (including stenographers or other persons preparing transcripts of testimony) in the employ of the Department of Public Service or any Party or Expert that has executed an Exhibit 1 and who are performing purely clerical duties, such as mail handling, copying, bates stamping, filing, etc., without such personnel signing the Exhibit 1 or having their names listed on any log, provided that all such persons are first provided with and required to read Exhibit 3, which is attached.

11. Should the Providing Party allege that any Information Claimed Exempt warrants protections that differ from those provided here, the following procedure shall apply. On or before the 10th day following the receipt of an information request from a Requesting Party, the Providing Party shall file with the ALJ and serve upon the Requesting Party, in writing, a motion requesting that the items ~~of Trade Secret Information in question be declared to be Highly Sensitive Trade Secret Information. The motion must include the special protection and treatment desired, the grounds why the Trade Secret Information in question needs special~~ receive different protection and a detailed list of the items of Trade Secret Information alleged to be too highly sensitive to be accessed or copied under the provisions of this Order. The motion must clearly identify the Information Claimed Exempt that warrants different protection, state the special protection and treatment desired, and explain the grounds why such different protection is warranted. The Requesting Party has ~~five (5) business~~ eight (8) calendar days ~~to declare its intent to oppose the Highly Sensitive Trade Secret designation. The Requesting Party shall from receipt of the request to file a written and serve its response presenting its arguments in opposition to the Highly Sensitive Trade Secret designation within ten (10) business days of raising its intent to object,~~ which response must include

the need for access to such ~~Trade Secret~~ Information and why such a need cannot be satisfied with other Information, whether ~~Trade Secret Information or otherwise~~. Claimed Exempt or not. A copy of the response, if any, must be filed with the ALJ and served upon the Providing Party. The ALJ shall ~~determine the status of the Highly Sensitive Trade Secret Information sought and the treatment that should be afforded to it~~ rule on the dispute as expeditiously as possible. Prior to providing access to ~~Highly Sensitive Trade Secret~~ Information Claimed Exempt to any outside Expert representing such Requesting Party, each such outside Expert shall agree in writing in the form of Exhibit ~~14~~ to comply with and be bound by the terms of this Order and such other protective conditions that the ALJ may prescribe ~~for the treatment of Highly Sensitive Trade Secret Information. The Highly Sensitive Trade Secret Information shall be provided to DPS Staff Counsel in accordance with the Exhibit 2 procedures described in Paragraph 3, and subject to the protective conditions proposed by the Providing Party, until such time as replaced by the protective conditions the ALJ prescribes.~~

12. During the period between the Providing Party's motion for special protections and the ALJ's ruling under paragraph 11, DPS Staff shall have access to the Information Claimed Exempt for which special protection is sought, but must comply with the terms of this Order and the special protections proposed by the Providing Party until such time as the ALJ rules on the motion.

13. The ALJ will generally rule one time concerning whether Information Claimed Exempt is, in fact, exempt. Such ruling will be made on the judge's initiative after the active parties have an opportunity to comment, only with respect to Information Claimed Exempt that one or more parties propose to place in an evidentiary record or otherwise present for purposes of persuading the Commission about how the pending case should be decided. Alternately, such ruling will be made upon receipt of a request under the Freedom of Information Law for Information Claimed Exempt. In the latter case, the procedures of POL §89(5) will be followed for Information Claimed Exempt solely under POL §87(2)(d)(Trade Secrets) as well as for any critical infrastructure information (POL §89(5)(1-a)). In the

event of a FOIL request for Information Claimed Exempt based in whole or in part on reasons other than trade secret or critical infrastructure, the FOIL request will be addressed reasonably and efficiently in the contest of all issues that are then pending. In either case, Information Claimed Exempt retains that status, pending the outcome of any appeal, following an ALJ determination that the information does not warrant an exemption. If the determination is otherwise, the status changes to "Information Ruled Exempt."

14. All briefs, transcripts, exhibits, responses to discovery requests, prefiled testimony and other documents submitted in this proceeding containing Information ~~designated as Trade Secret Information or determined by the ALJ to constitute or to contain Trade Secret Information~~ Claimed or Ruled Exempt and any Information which discusses or reveals ~~any such Trade Secret Information~~ Information Claimed or Ruled Exempt, shall be served on all Counsel and representatives executing an Exhibit 1 in this proceeding, unless the ALJ shall require otherwise. ~~Trade Secret~~ Information Claimed or Ruled Exempt shall be segregated from the balance of the record in this proceeding and placed in a sealed file or otherwise given appropriate protection against disclosure in accordance with 16 NYCRR §§6-1.3 and 6-1.4 and this Order. Any employee or ~~consultant or facilitator~~ other person specifically authorized by the Commission to assist the Commission in this proceeding ~~and any ALJ in this proceeding~~ may have access to such records ~~and, but~~ shall ~~not, except~~ neither use such information other than for the purposes of this proceeding, ~~use or, except pursuant to this Order, nor~~ disclose the contents of any such records to any person, firm or corporation other than as permitted by the terms of this Order.

15. At any hearing or conference in this proceeding, no witness, other than any employee or representative of the Providing Party, may be questioned with respect to any ~~Trade Secret~~ Information Claimed or Ruled Exempt unless that person has read this Order and agreed ~~in writing, by executing Exhibit 1 and/or Exhibit 4,~~ to be bound by its terms.

16. No person other than those who have signed an agreement-Exhibit 1 and agreed to be bound by this Order shall be permitted to hear or review testimony given or discussion held with respect to ~~Trade Secret~~ Information Claimed or Ruled Exempt.

~~15.~~—The court reporter(s) shall be instructed by the ALJ to protect the ~~Trade Secret~~ Information Claimed or Ruled Exempt and shall be further instructed to and shall start a separate transcription for testimony or discussion on the record of ~~Trade Secret~~ Information Claimed or Ruled Exempt. Such transcriptions shall be marked "Confidential," sealed and filed with the Commission and copies ~~of same~~ shall be made available only to persons afforded access to ~~Trade Secret~~ Information in accordance with the terms of this Order.

17. ~~All persons who may be entitled to receive, Claimed or who are afforded access to any Trade Secret Information by reason of this Order, shall neither use nor disclose the Trade Secret Information for any purposes other than the limited purpose of preparation for and conduct of this proceeding and then solely as contemplated herein, and shall keep the Trade Secret Information secure and Ruled Exempt in accordance with the terms of this and any subsequent orders or rulings in this case.~~

After confidential transcripts are prepared, the ALJ, following an opportunity for parties to comment, will determine whether any information in the Confidential record does not warrant an exemption under POL §87(2). Steps will be taken at that time to make public, including through the use of redacted pages, any information that does not warrant such an exemption.

18. All persons who are afforded access to or possession of any Information Claimed or Ruled Exempt by reason of this or any subsequent order or ruling, shall neither use nor disclose such Information for any purposes other than the limited purpose of preparation for and the conduct of this proceeding and then solely as contemplated herein, and shall keep such secure in accordance with the purposes and intent of this Order. In addition, the Receiving Party agrees not to purchase or sell, or advise third parties to purchase or sell securities of the Providing Party or any of its affiliates for a period of six months following receipt of the Trade Secret Information, a final decision in this case by the Commission or a reviewing court. To this end, all persons having custody of any ~~Trade Secret~~ Information Claimed or Ruled Exempt shall (a) make available upon request a log of all persons who have access to or have received the ~~Trade Secret~~ Information Claimed or Ruled Exempt; and (b) keep copies of all such Information segregated from other files or information under lock or otherwise properly secured during all times when the same are not being reviewed, and withheld from inspection by any person except those entitled to access thereto or possession thereof as provided by the terms of this ~~Order~~ or any subsequent order or ruling, unless and until such ~~Trade Secret~~ Information is released from the restrictions of this Order or other order or rulings either through agreement of the Parties that is reported to the ALJ, or, after notice to the Parties and a hearing, an opportunity to be heard pursuant to ~~the~~ order of the Commission or, ~~to the extent appropriate, pursuant to the~~ a final order of a court having jurisdiction.

19. In the event any ~~Trade Secret~~ Information Claimed or Ruled Exempt is made public or is otherwise released or used more broadly than provided for in this ~~Order~~ and any subsequent order or ruling, the Providing Party and the ALJ shall be notified in writing immediately. Detailed information must be provided at that time concerning all steps being taken to reverse or minimize the effects of any improper such unauthorized release. If the Providing Party agrees to share any of its

information protected by this ~~Order~~ and any subsequent order or ruling with persons beyond those provided for herein, the ALJ must be informed promptly in writing.

20. Individuals who release ~~confidential information~~ Information Claimed or Ruled Exempt contrary to the terms of this ~~Order~~ and any subsequent order or ruling shall be subject to whatever sanctions may be imposed by the ALJ, the Commission or as otherwise provided by law or regulation, including potential civil (e.g., for breach of contract and/or negligence) and criminal liabilities under the federal or state securities laws regarding the misappropriation of material non-public information relating to a publicly-traded company.

21. If any Party possessing copies of any information protected by this ~~Order~~ or any subsequent order or ruling intends to place it on the record as evidence or in any other manner, or to the extent any testimony or exhibits are prepared that include both ~~Trade-Secret~~ Information Claimed or Ruled Exempt and unprotected public information, redacted versions shall be prepared and timely filed and served on all Parties. Unredacted versions shall be prepared and timely served only on those active Parties authorized persons or parties authorized by this or any subsequent order or ruling to receive ~~them by this Order~~ Information Claimed or Ruled Exempt.

22. The Parties ~~hereto~~ affected by the terms of this Order ~~further~~ retain the right to question, challenge and object to the admissibility of any and all ~~Trade-Secret Information~~ Information Claimed or Ruled Exempt and furnished under the terms of this Order on the grounds of relevancy and materiality.

23. This Order shall in no way constitute any waiver of the rights of any Party herein to contest any assertion, or to appeal any finding, that specific Information ~~is does~~ or ~~is does~~ not ~~Trade-Secret Information~~ qualify for an exemption from public disclosure or that such Information should or should not be subject to the protective requirements of this Order. This Order ~~shall in has~~ no way constitute any waiver of effect on the rights of a Party to appeal, in accordance with 16 NYCRR §6-1.4, or POL §87,

a ruling of the ALJ or to appeal a final ruling decision of the Commission as to the status of any Information sought in connection with this proceeding ~~as Trade Secret Information~~.

24. Within ~~sixty (60) days~~ four (4) months following completion of this proceeding, including administrative or judicial review thereof, all ~~Trade Secret~~ Information ~~furnished under the terms of this Order~~ Claimed or Ruled Exempt shall be returned to the Providing Party or counsel for the Providing Party unless such Providing Party or counsel receives written certification from an officer ~~or,~~ counsel, or representative of the Receiving Party that all such ~~Trade Secret~~ Information has been destroyed, or unless an application to the presiding ALJ for a Ruling providing for retention of a document or documents for a longer period of time is made within sixty (60) days following completion of the proceeding, including administrative and judicial review thereof, and is granted, subject to administrative or judicial review. ~~Trade Secret Information~~ Information Claimed Exempt whether returned or destroyed or which shall remain in the possession of the Commission shall continue at all times to be subject to the protective requirements ~~terms~~ of this Order.

25. The interim protection afforded to Information Claimed Exempt and previously provided to DPS Staff is vacated effective upon issuance of this Order. Such Information Claimed Exempt contemporaneously becomes subject to all the terms of today's Order. No interim ruling will be made concerning Information Claimed Exempt filed on Friday, June 13, 2008 and Monday, June 16, 2008. Such information will be provided to DPS Staff Counsel by the undersigned promptly, subject to the terms of this Order.