

February 10, 2000

Mr. Gerald R. Rainey
Chief Executive Officer & Chief
Nuclear Officer
AmerGen Energy Company, LLC
965 Chesterbrook Blvd.
Wayne, PA 19087

SUBJECT: REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC
DISCLOSURE, NINE MILE POINT NUCLEAR STATION,
UNIT NOS. 1 AND 2 (TAC NOS. MA6426 AND MA6427)

Dear Mr. Rainey:

By your application dated September 10, 1999, and affidavit dated September 9, 1999, you submitted "Application for Order and Conforming Administrative Amendments of License Transfers" (Application). The Application included a separately bound "Proprietary Addendum to NRC License Transfer Application," (Proprietary Addendum) dated September 10, 1999, consisting of Enclosures 3A, 4A, 6A, 8A, and 11A of the Application, but displaying confidential commercial or financial information that was redacted in the application. You requested that the Proprietary Addendum be withheld from public disclosure pursuant to 10 CFR 9.17(a)(4) and 10 CFR 2.790. Nonproprietary versions were submitted for placement in the NRC public document room.

Appendix 3A, the Asset Purchase Agreement between AmerGen and Niagara Mohawk Power Corporation, did not originally appear to contain proprietary information. On January 19, 2000, we (Mary P. Siemien and Peter Tam) held a telephone conference with Mr. John Matthews, attorney for AmerGen, for him to clarify the nature of Appendix 3A. We accepted Mr. Matthews' clarification regarding Appendix 3A.

The affidavit stated that the Proprietary Addendum should be considered exempt from mandatory public disclosure for the following reasons:

1. This information is and has been held in confidence by AmerGen.
2. This information is of a type that is held in confidence by AmerGen, and there is a rational basis for doing so because the information contains sensitive financial information concerning AmerGen's projected revenues and operating expenses.
3. This information is being transmitted to the NRC in confidence.
4. This information is not available in public sources and could not be gathered readily from other publicly available information.
5. Public disclosure of this information would create substantial harm to the

competitive position of AmerGen by disclosing AmerGen's internal financial projections and the commercial terms of a unique transaction to other parties whose commercial interests may be adverse to those of AmerGen.

We have reviewed your Application and the Proprietary Addendum material in accordance with the requirements of 10 CFR 9.17(a)(4) and 10 CFR 2.790 and, on the basis of your statements, have determined that the submitted information sought to be withheld contains proprietary commercial information and should be withheld from public disclosure.

Therefore, the Proprietary Addendum will be withheld from public disclosure pursuant to 10 CFR 2.790(b)(5) and Section 103(b) of the Atomic Energy Act of 1954, as amended.

Withholding from public inspection shall not affect the right, if any, of persons properly and directly concerned to inspect the documents. If the need arises, we may send copies of this information to our consultants working in this area. We will, of course, ensure that the consultants have signed the appropriate agreements for handling proprietary information.

If the basis for withholding this information from public inspection should change in the future such that the information could then be made available for public inspection, you should promptly notify the NRC. You also should understand that the NRC may have cause to review this determination in the future, for example, if the scope of a Freedom of Information Act request includes your information. In all review situations, if the NRC makes a determination adverse to the above, you will be notified in advance of any public disclosure.

If you have any questions regarding this matter, I may be reached at 301-415-1451.

Sincerely,

/RA/

Peter S. Tam, Senior Project Manager, Section 1
Project Directorate I
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Docket Nos. 50-220 and 50-410

cc: See next page

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Peter S. Tam, Senior Project Manager, Section 1
Project Directorate I
Division of Licensing Project Management
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