

RAS-1656

DOCKETED
USNRC

HOPKINS & SUTTER

(A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS)

'00 APR 18 A8:59

888 SIXTEENTH STREET, N. W., WASHINGTON, D.C. 20006-4103 (202) 835-8000

FAX (202) 835-8136

INTERNET <http://www.hopsut.com>

CHICAGO OFFICE THREE FIRST NATIONAL PLAZA 60602-4209

DETROIT OFFICE 2800 LIVERNOIS SUITE 220 TROY, MI 48063-1220

ONLINE
ADJUDICATION
1/24/00

DANIEL F. STENGER
202-835-8185
Direct Fax: 202-835-8136
E-Mail: DStenger@hopsut.com

65980-2

April 14, 2000

The Honorable Annette Vietti-Cook
Secretary of the Commission
United States Nuclear Regulatory Commission
Washington, DC 20555-0001

Re: *Niagara Mohawk Power Corporation, et al.*,
(Nine Mile Point Nuclear Station, Units 1 and 2),
Docket Nos. 50-220 and 50-410, License Nos. DPR-63 and NPF-69

Dear Ms. Vietti-Cook:

Central Hudson Gas & Electric Corporation, Long Island Power Authority, and Rochester Gas and Electric Corporation, co-tenants in Nine Mile Point Unit 2 (collectively "Co-tenants"), have reviewed the letters submitted by AmerGen Energy Company LLC ("AmerGen") on March 30 and April 6, 2000 concerning additional funding commitments by AmerGen's member companies. Co-tenants submit this brief reply.

In our hearing request in the above-referenced matter, Co-tenants questioned the adequacy of AmerGen's financial resources to cover operational costs and the costs associated with an extended outage at Nine Mile Point. In particular, Co-tenants raised questions concerning the availability and adequacy of the supplemental funding commitments provided by PECO Energy Company ("PECO Energy") and British Energy plc ("British Energy"). These more recent letters indicate that the funding commitments continue to be conditioned on the ability of PECO Energy and British Energy to demand unilaterally that AmerGen permanently cease operations at any plant in lieu of disbursements for continued operating costs. Such a condition cannot be reconciled with the Co-tenants' rights under the current Operating Agreement to participate in any shutdown decision affecting Nine Mile Point.

RG&E's position remains that it has validly exercised its right of first refusal, effectively supplanting AmerGen in acquiring Nine Mile Point Units 1 and 2. Significantly, although confidential settlement discussions continue at the New York

Template = SECY-026

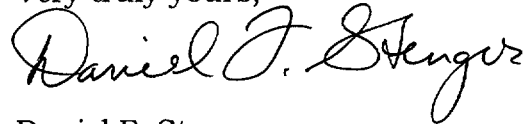
L67890-1

SECY-02

The Honorable Annette Vietti-Cook
April 14, 2000
Page 2

Public Service Commission ("NYPSC") among all the parties, on April 5, 2000 New York State Electric & Gas Corporation, the seller of an 18 percent interest in Nine Mile Point Unit 2 to AmerGen, filed a Motion with the NYPSC to dismiss its application for approval of such sale. Under these circumstances, the NRC's consideration of any increased commitment from PECO Energy or British Energy in connection with Nine Mile Point is not warranted.

Very truly yours,

A handwritten signature in black ink, reading "Daniel F. Stenger". The signature is written in a cursive style with a large, stylized "D" and "S".

Daniel F. Stenger

Counsel for Central Hudson Gas &
Electric Corporation, Long Island Power
Authority, and Rochester Gas and
Electric Corporation

cc: Attached service list.

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

In the Matter of

**Niagara Mohawk Power Corporation,
New York State Electric & Gas
Corporation,**

And

**AmerGen Energy Company, LLC
(Nine Mile Point, Units 1 & 2)**

**Docket Nos. 50-220 & 50-410
License Nos. DPR-63 and NPF-69**

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that copies of the foregoing letter dated April 14, 2000 to the Secretary were served upon the following persons by e-mail this 14th day of April 2000, with a hard copy provided pursuant to the Commission's Memorandum and Order (CLI-99-30) by U.S. mail, first class postage prepaid where indicated by an asterisk (*):

Office of Commission Appellate
Adjudication
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Office of the General Counsel
Mail Stop - O-15 D21
U.S. Nuclear Regulatory Commission
Washington, DC 20555
E-mail: ogclt@nrc.gov

Rulemakings and Adjudications Branch *
Office of the Secretary
U.S. Nuclear Regulatory Commission
11555 Rockville Pike, Room O-16-H-15
Rockville, MD 20852
SECY@nrc.gov

Kevin P. Gallen, Esq.
Paul J. Zaffuts, Esq.
John E. Matthews, Esq.
Morgan, Lewis & Bockius LLP
1800 M Street, NW
Washington, DC 20036-5869
E-mail: kpgallen@mlb.com;
pjzaffuts@mlb.com; jematthews@mlb.com

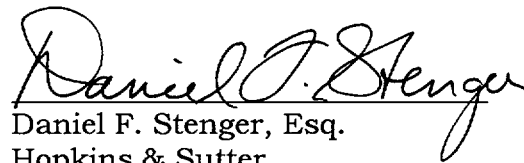
Mark J. Wetterhahn, Esq.
Donald P. Ferraro, Esq.
Winston & Strawn
1400 L Street, NW
Washington, DC 20005-3502
E-mail: mwetterh@winston.com;
Dferraro@winston.com

Samuel Behrends IV, Esq.
Mary A. Murphy, Esq.
LeBoeuf, Lamb, Greene & MacRae, L.L.P.
1875 Connecticut Avenue, NW, Ste 1200
Washington, DC 20009
E-mail: sbehrend@llgm.com;
mmurphy@llgm.com

Richard W. Golden, Esq.
Assistant Attorney General
Telecommunications and Energy Bureau
New York State Department of Law
120 Broadway
New York, NY 10271
cfnrvg@oag.state.ny.us

Gary D. Wilson, Esq.
Niagara Mohawk Power Corporation
300 Erie Boulevard West
Syracuse, NY 13202-4250
E-mail: wilsong@nimo.com

Maureen Leary, Esq.
Assistant Attorney General
Environmental Protection Bureau
New York State Department of Law
Justice Building
Albany, NY 12224
epamfl@oag.state.ny.us

A handwritten signature in black ink, reading "Daniel F. Stenger". The signature is fluid and cursive, with the first name "Daniel" and last name "Stenger" clearly legible. The signature is positioned above the printed name and contact information.

Daniel F. Stenger, Esq.
Hopkins & Sutter
888 Sixteenth Street, NW
Washington, DC 20006
dstenger@hopsut.com