

August 27, 2001

Mr. John H. Mueller  
Chief Nuclear Officer  
Niagara Mohawk Power Corporation  
Operations Building, Second Floor  
Lycoming, NY 13093

SUBJECT: REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC  
DISCLOSURE, NINE MILE POINT NUCLEAR STATION, UNIT NO. 1  
(TAC NO. MB2528)

Dear Mr. Mueller:

By your application dated August 2, 2001, you submitted a number of documents including a General Electric Company (GE) affidavit dated July 19, 2001, executed by David J. Robare of GE, and a GE report titled "The Evaluation of Observed Cracking at Nine Mile Point Unit 1 H9 Weld for Continued Operation," dated July 2001. You stated that the GE report contains proprietary information, and requested that the NRC staff withhold this document from public disclosure in accordance with 10 CFR 2.790(b)(1). A nonproprietary copy of this document has been placed in the NRC Public Document Room and added to the Agencywide Document Access and Management System's Publicly Available Records System (ADAMS PARS) Library.

The GE affidavit states that the subject GE document should be considered exempt from mandatory public disclosure for the following reasons:

- (i) The information discloses a process, method, or apparatus, including supporting data and analyses, where prevention of its use by GE's competitors without license from GE constitutes a competitive economic advantage over other companies.
- (ii) If used by a competitor, this information would reduce his expenditure of resources or improve his competitive position in the design, manufacture, shipment, installation, assurance of quality, or licensing of a similar product.

We have reviewed the GE report, enclosed as Attachment B to your August 2, 2001, letter in accordance with the requirements of 10 CFR 2.790. On the basis of GE's statements, we have determined that the document contains proprietary commercial information and should be withheld from public disclosure.

Therefore, the GE report submitted as Attachment B to your August 2, 2001, letter 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 No. 50-220

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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B. Platchek, RGI

PDI-1 Reading File

P. Tam

P. Siemien, OGC

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