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OFFICE OF THE  
FULL-TIME  
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65980-2

December 30, 1999

The Honorable Annette Vietti-Cook  
Secretary of the Commission  
U.S. Nuclear Regulatory Commission  
11555 Rockville Pike  
Room O-16-H-15  
Rockville, MD 20852

Attn: Rulemakings and Adjudications Branch

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:

Enclosed, in hard copy form, is the original Response to Commission Order Regarding Right of First Refusal. The Response was filed by Central Hudson Gas & Electric Company and Long Island Lighting Company (d/b/a LIPA) and served today by e-mail delivery. Should you have any questions, please contact me. Thank you for your assistance.

Sincerely,



Robert K. Temple

Enclosure

cc: Office of Commission Appellate Adjudication

**UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION**

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**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)** )

OFFICE OF THE  
GENERAL COUNSEL  
ADJUDICATIVE DIVISION

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

**RESPONSE TO COMMISSION ORDER REGARDING RIGHT OF FIRST REFUSAL**

Pursuant to the Nuclear Regulatory Commission's ("NRC" or "Commission") Memorandum and Order dated December 22, 1999, CLI-99-30 (the "Order"), Central Hudson Gas & Electric Company (CHG&E) and Long Island Lighting Company (d/b/a "LIPA") hereby provide notice that neither CHG&E nor LIPA will exercise their respective rights of first refusal ("ROFR") to purchase the collective or individual ownership interests of Niagara Mohawk Power Corporation ("NMPC") and New York State Electric and Gas Corporation ("NYSEG") in Nine Mile Point Unit 2 ("NMP 2") and NMPC's 100% ownership interest in Nine Mile Point Unit 1 ("NMP 1").

The Order also directs that the co-owners of NMP 2, within five working days of the Order, advise the NRC as to the "deadline by which each of them must decide whether to exercise this right of first refusal . . . ." (Order at 9.) NMPC, NYSEG and AmerGen Energy Company, LLC ("AmerGen") entered into an Asset Purchase Agreement on June 23, 1999, pursuant to which NMPC and NYSEG would sell their respective shares in NMP 2 to AmerGen. On the same date, NMPC and AmerGen entered into an Asset Purchase Agreement covering NMP 1.

LIPA received a redacted copy of AmerGen's offer regarding NMP 1 and NMP 2 on June 28, 1999, and did not receive an unredacted copy of AmerGen's offer

regarding NMP 1 and NMP 2 until September 1, 1999. Accordingly, the ROFR was not triggered until LIPA received AmerGen's unredacted written offer, and thus it is LIPA's position that the ROFR would have remained effective through and including February 28, 2000.

CHG&E received a copy of AmerGen's offer regarding NMP 1 on June 28, 1999, and did not receive a copy of AmerGen's offer regarding NMP 2 until July 8, 1999. Accordingly, the ROFR for CHG&E was not triggered until CHG&E received AmerGen's written offer, and thus the ROFR would have remained effective through and including January 4, 2000. CHG&E does not disagree with LIPA's position on when LIPA received notice and their interpretation that the ROFR was triggered only upon receipt of an unredacted copy of AmerGen's written offer.

Respectfully submitted,



Daniel F. Stenger  
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Walter C. Hazlitt, Jr.  
HOPKINS & SUTTER  
888 Sixteenth Street, N.W.  
Washington, D.C. 20006

Attorneys for CENTRAL HUDSON GAS &  
ELECTRIC CORPORATION, and LONG  
ISLAND POWER AUTHORITY

DATED: December 30, 1999

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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In the Matter of )

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Niagara Mohawk Power Corporation, )  
New York State Electric & Gas )  
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And )  
AmerGen Energy Company, LLC )  
(Nine Mile Point, Units 1 & 2) )

OFFICE OF THE )  
GENERAL COUNSEL )  
Docket Nos. 50-220 & 50-410 )  
License Nos. DPR-63 and NPF-69 )

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that true and correct copies of the foregoing RESPONSE TO COMMISSION ORDER REGARDING RIGHT OF FIRST REFUSAL were served upon the following persons by e-mail in accordance with the requirements of 10 C.F.R. § 2.1313 this 30<sup>th</sup> day of December 1999. Pursuant to the Commission's Memorandum and Order (CLI-99-30) persons marked with an asterisk (\*) have also been served with a hard copy by U.S. mail:

Secretary of the Commission\*  
Attn: Rulemaking and Adjudications  
Staff  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001  
E-mail: [SECY@nrc.gov](mailto:SECY@nrc.gov)

Office of the General Counsel  
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Office of Commission Appellate  
Adjudication\*  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555



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