NINE MILE POINT NUCLEAR POWER PLANT, UNIT 2

NIAGARA MOHAWK POWER CORPORATION ET AL

DOCKET NO. 50-410A

FINDING OF NO SIGNIFICANT ANTITRUST CHANGES

CONTENTS

NINE MILE POINT NUCLEAR STATION, UNIT 2
SIGNIFICANT CHANGE ANALYSIS

A. Introduction

Section 105c(2) of the Atomic Energy Act of 1954, as amended, provides for an antitrust review of an operating license if significant changes in a permittee's activities or proposed activities have occurred since the construction permit (CP) antitrust review. Authority to make the significant change determination was delegated to the Director, Office of Nuclear Reactor Regulation (NRR). The Nuclear Regulatory Commission (NRC or Commission) in a Memorandum and Order (CLI-80-28) dated June 30, 1981, set forth three criteria upon which a "significant change" determination is based. These criteria are as follows:

1. The change or changes must have occurred since the construction permit review.

2. The change or changes must be attributable to activities or proposed activities of the licensee.

3. The changed situation must have antitrust implications which would likely warrant a Commission remedy.

In connection with the Nine Mile Point No. 2 (NMP 2) operating license (OL) application, the staff* has reviewed the post construction permit activities and proposed activities of the lead applicant, the Niagara Mohawk Corp. (Niagara) and the co-owners, Central Hudson Gas and Electric Corp. (CHGE), the Long Island Lighting Co. (LILCO), the New York State Electric and Gas Corp. (NYSEG), and the Rochester Gas and Electric Corp. (RGE).

---

* "Staff" herein consists of the Planning and Resource Analysis Branch, Office of Nuclear Reactor Regulation and the Antitrust Section of the Office of the Executive Legal Director in consultation with the U.S. Department of Justice.

It is the staff's opinion that changes which have occurred in the applicants' activities, subsequent to the previous antitrust CP reviews, are changes which can reasonably be expected to occur during the normal course of business of electric utilities and are not "significant" within the context of the Commission's criteria.

B. Background

1. Structure of the Electric Power Industry in New York State

Operating electric systems in the state of New York include eight investor owned companies, 49 municipal systems, four rural electric cooperatives and one state owned bulk power wholesaler. The seven largest investor owned systems in the state along with the state's bulk power wholesaler are signatories to the New York Power Pool (NYPP) agreement.* This pool accounts for over 90% of all electric energy generated within the state.

The NYPP agreement specifies certain operating policies for members. Among these policies are installed reserve requirements, maintenance scheduling, and emergency procedures. Any electric system operating within the state may join the pool, provided sufficient capacity is maintained by that utility to supply its own load responsibility, including the pool's minimum installed reserve requirement.

Members are required to maintain installed reserve capacity equivalent to 18 percent of anticipated peak demand. In adhering to this criterion, the pool membership provided generating capacity of approximately 30,000 MW

* These systems are Central Hudson Gas and Electric Corp., Consolidated Edison Company, Long Island Lighting Co., New York Power Authority, New York State Electric and Gas Corp., Niagara Mohawk Power Corp., Orange and Rockland Utilities, Inc., and Rochester Gas and Electric Corp.

for the 1983 summer peak demand of 21,842 MW. Annual energy requirements during 1983 totalled 122,177 GWh.

Of the capacity existing in the NYPP in 1983, 56 percent was oil fueled, 13 percent was coal fueled, and 16 percent was composed of hydro and refuse generating facilities. The remaining 15 percent was composed of nuclear facilites.*

Because of the member systems' desire to reduce dependence on imported oil, considerable effort has been expended in converting some existing oil fueled units to coal use and in installing refuse fueled plants, hydro facilities and additional coal and nuclear units. This policy will also result in lower overall electric system production costs in the state.

There are approximately 9,748 circuit miles of transmission lines in service within the state. Voltages of these facilities range from 115 kV to 765 kV. Over fifty percent of all transmission is owned by Niagara Mohawk Power Corporation (Niagara). The New York State Electric and Gas Co. (NSEG) owns more than 20 percent with the New York Power Authority (Authority) owning approximately 11 percent. Approximately 585 circuit miles of transmission is underground or submarine.

2. Municipal Systems

Seven of the 53 municipal and cooperative systems operating in the state own generating facilities which supply all or part of their own system load responsibility. These seven systems are owned by the municipalities

* These facilities include: Nine Mile Point No. 1, 610 MW; Indian Point No. 2, 1136 MW; Ginna No. 1, 470 MW; Fitzpatrick, 810 MW; Indian Point No. 3, 855 MW; Indian Point Point No. 1, 265 MW (shut down pending decommissioning); and Shoreham No. 1, 809 MW, constructed but not operating.

of Freeport, Greenport, Jamestown, Rockville Center, Skaneateles, Springville and Watertown. The remainder of the municipals purchase their full requirements from individual members of the NYPP. The majority receive all or part of this service from the Authority.

Three of the seven municipal systems which own generating facilities operate within the LILCO's service area. Each of these three systems, Rockville Center, Freeport and Greenport, purchases portions of its capacity and energy needs directly from the Authority through wheeling arrangements with LILCO. The Watertown Municipal Plant purchases portions of its capacity and energy from Niagara and often sells excess power to Niagara. Jamestown, Skaneateles and Springville purchase portions of their power needs from the Authority over transmission lines of others.

The city of Rockville has been interconnected with LILCO since 1937. Since 1960, the two systems have been operating under a contract which provides for the exchange of emergency power and energy when necessary. During 1983, Rockville owned 31.3 MW of diesel generating facilities which supplied a portion of the 1983 summer peak load of 35.5 MW and a system energy requirement of 151 MWh. Approximately 75 percent of this energy need was supplied through purchases from the Authority over transmission facilities owned by LILCO.

Freeport has been interconnected with the LILCO since 1954. The city owns diesel and combustion turbine capacity totalling 50 MW. The system's 1983 summer peak load was 44 MW with that year's energy requirements amounting to 198,000 MWh. Purchases from the Authority during that year exceeded 184,000 MWh or 93 percent of system requirements.

The Greenport Electric Department, with diesel generating capacity of nearly 7.0 MW, experienced a 1983 peak load of 3.6 MW. Energy

requirements during that year exceeded 18,000 MWh with purchases from the Authority (and wheeled by LILCO) totalling 17,866 MWh. Other than the wheeling agreement between LILCO and Greenport, no contract for other coordination services currently exists between the two systems.

The Jamestown Board of Public Utilities is interconnected with Niagara which wheels purchased power and energy from the Authority. Jamestown's installed generating capacity consists of two coal fueled units with total capacity of 45 MW. These units generated over 228 GWh of electrical energy during 1983. The balance of the city's energy requirements were purchased from the Authority. The system's winter peak demand during 1983 exceeded 106 MW.

The Watertown Municipal System owns approximately 5.4 MW of hydroelectric capacity which served a 1983 peak demand of 5.3 MW. Total energy requirements in 1983 for the city's municipal building and street lighting loads and net sales to Niagara exceeded 31 GWh.

The Skaneateles Municipal Electric Department and the Springville Electric System each owned less than 1 MW of generating capacity in 1983. Peak loads for Skaneateles and Springville in 1983 exceeded 4 MW and 9 MW, respectively. Additional capacity and energy to meet system load requirements was purchased from the Authority over lines owned by Niagara.

3. Applicants

i. Niagara Mohawk

The Niagara Mohawk Power Corporation (Niagara) provides electric service* to nearly 1.4 million customers in New York State.

* Niagara also supplies natural gas service to approximately 433,000 customers in its franchise area.

During the 1983-1984 winter peak period these customers imposed a maximum clock-hour demand of 5,625 MW. Energy required by Niagara's customers during the 1983 calendar year exceeded 37,000 GWh, 47 percent of which was supplied through intersystem purchases.

Demand and energy are both anticipated to increase at an annual average of less than one percent per year over the 1986-1993 planning period. The company plans for the installation of some 83 MW (12 units) of hydroelectric facilities during the 1988-1993 period. This plan reflects the indefinite postponement of the construction of the Erie coal fueled generating unit which was originally scheduled for commercial operation in 1991.* Niagara's revised capacity expansion program results primarily from the decline in the actual rate of growth of demand and predictions that low growth rates will continue.

As previously stated,** Niagara owns approximately fifty percent of all transmission circuits within the state of New York. Over these lines, Niagara is interconnected either directly or indirectly with all of the privately owned systems and many of the publicly owned system within the state. The company maintains, as well, major interstate interconnections with systems in Canada, New England and Pennslyvania. These interconnects provide the means for importing a major portion of the externally generated bulk power and energy purchased by members of the NYPP.

Niagara has no total requirements wholesale customers.

* Applicant's "Information for Antitrust Review of Operating License Applications," February 14, 1983. (Reg. Guide 9.3)

** See discussion in section B.1.

ii. Central Hudson Gas and Electric Co.

The Central Hudson Gas and Electric Co (CHGE) provides electrical service* to over 200 thousand customers in the state of New York. The 1983 peak demand on the system occurred during the summer and totalled 663 MW. Calendar year electrical energy required by CHGE customers exceeded 5,600 GWh. Over seventy percent of this energy was generated by CHGE, with the remainder derived from purchases.

CHGE's 1983 installed capacity consisted of 932 MW of oil fueled units and 43 MW of hydroelectric facilities. Excluding its share of the capacity from NMP 2, the company plans no new generating additions during the 1986-1993 period. However, approximately 24 MW of additional capacity will derive from the conversion of two existing oil fueled units to the use of coal as primary fuel.

CHGE has major intrastate interconnections with Niagara, Consolidated Edison Co., Orange and Rockland Utilities and New York State Electric and Gas. The company's interstate ties include connections with Northeast Utilities and the New Jersey Power and Light Co. These interconnections provide CHGE with a means of exchanging energy with systems outside the pool, and allow daily participation in the NYPP.

iii. Long Island Co.

The Long Island Lighting Company (LILCO) serves over 900 thousand customers, occupying a 1,230 square mile area in the southeastern portion of the state of New York. LILCO's 1983 summer peak demand

* CHGE also supplies natural gas service to approximately 47 thousand customers within the state.

exceeded 3,108 MW. System energy requirements during the 1983 calendar year totalled approximately 14,500 GWh, 20 percent of which was derived through intersystem purchases. LILCO's 1983 installed generating capacity consisted exclusively of oil fueled generating units -- steam, diesel and combustion turbine -- with aggregate summer capacity of 3,721 MW. The company plans the addition of some 841 MW of generating capacity during the 1985-1993 period. The 809 MW Shoreham nuclear generating unit accounts for the bulk of this capacity, with the balance composed of two refuse fueled plants built by LILCO in conjunction with the town of Hempstead*.

Unlike the other co-owners of NMP 2, LILCO is a comparatively isolated system as a result of the physical characteristics of its service area. There are two major electric systems adjacent to LILCO with which the company has established interconnections, Consolidated Edison Company (Con-Ed) to the west and Connecticut Light and Power Company (CLP) to the north. These interconnections foster coordination arrangements between LILCO and CLP and between LILCO and the New England Power Pool (of which CLP is a member). These interconnections also allow LILCO's participation in the NYPP. Furthermore, it is over these ties that LILCO wheels power and energy for the municipals operating adjacent to its service area.**

* Northeast Power Coordinating Council, Long Range Coordinated Bulk Power Supply Programs, Report to the Department of Energy (EP-411, April 1, 1984).

** See "Municipals" section of this discussion.

iv. New York State Electric and Gas

New York State Electric and Gas (NYSEG) serves approximately 681 thousand electrical customers* in the state of New York. Its 1983 winter peak demand totalled 2,175 MW with energy requirements for the year exceeding 13,590 GWh.

NYSEG has historically relied on purchases from the Authority to supplement its capacity and energy needs. During the annual peak demand periods of 1980-1984, the company's purchases ranged from eight to 32 percent of its capacity requirements. During the 1986-1993 period, the company anticipates annual capacity purchases of about nine percent of peak demand. NYSEG's annual peak load and energy requirements are expected to increase at rates of about 1.7 percent and 1.3 percent, respectively, during the 1986-1993 planning period.**

The Company's segmented service area encompasses approximately 17,000 square miles in the south central, eastern and western portions in the state of New York. The Company has major intrastate interconnections with Consolidated Edison, the Authority, and, with the exception of LILCO, other co-owners of NMP 2. NYSEG's interstate interconnections consist of 345 kV, 230 kV and 115 kV ties to the Pennsylvania Electric Co. NYSEG supples transmission services to sixteen of the Authority's small requirements customers located adjacent to the NYSEG service area.

* NYSEG is a combination utility with approximately 130 thousand natural gas customers in the state.

** Company's response to Reg. Guide 9.3.

v. Rochester Gas and Electric Co.

The Rochester Gas and Electric Co. (RGE) serves approximately 300 thousand customers in the state of New York. These customers accounted for a 1983 summer peak demand for the RGE system of 1,037 MW. System energy requirements during the year exceeded 6,000 GWh with approximately twenty percent of this energy derived through purchases from other electric systems. System demand and energy are expected to increase at average annual compound rates of 1.7 and 2.2 percent respectively during the 1985-1994 planning period.

RG&E's 1983 installed generating capacity during the summer peak consisted of coal, oil and nuclear fueled facilities totalling 1,183 MW. Other than the NMP 2 unit, the company plans no additional generating facilities during the 1985-1994 planning period.

The company has major intrastate interconnections with Niagara, NYSEG and the Authority. These interconnections provide RGE with the means for deriving the economic and operating benefits of pooled operation.

The company has no electric utility customers operating adjacent to its service area to which partial or total bulk power supply services are sold.

4. Previous Antitrust Reviews

On June 15, 1972, Niagara filed application for permission to construct a second nuclear reactor at its 900 acre Nine Mile Point site on the southeast shore of Lake Ontario in the town of Scriba,

Oswego County, New York. On June 21, 1972, the staff requested the advice of the U.S. Attorney General regarding the necessity to conduct an antitrust hearing with respect to this application. The Attorney General's advice letter stated that "at least one situation [involving applicant and a competitor] warrants ..." commentary. At the time of the Attorney General's review, the city of Jamestown, New York was the only municipal system in Niagara Mohawk's service area with appreciable generating facilities. Jamestown was generating 45 megawatts of power from its coal fueled plant. Jamestown supplemented this generation with purchases from the New York Power Authority. The Authority's power was wheeled to Jamestown over transmission facilities owned by Niagara.

Because of its inability to comply with evolving state air quality standards for generating facilities, Jamestown was contemplating, among other options, purchasing its total power requirements at wholesale and discontinuing the operation of its coal unit. The Attorney General indicated that "the two most logical sellers" would have been the Authority and Niagara with the Authority probably providing the lowest cost power. Niagara indicated, at the time, its inability to wheel more power than that contracted with Authority. Niagara was "apparently not interested in entering into a joint venture with Jamestown" for construction of new transmission facilities to accommodate the transfer nor did Niagara appear inclined to construct additional facilities on its own.

When the Attorney General rendered his antitrust advice, discussions between Jamestown and Niagara were continuing. Since Niagara had not "foreclosed prospects of providing Jamestown with necessary wheeling of power when and if the city determine[d] to by all of its bulk power requirements...", the Attorney General did not find a situation inconsistent with the antitrust laws. However, the Attorney General

advised that when the applicant filed an application for an operating license, careful further consideration should be given to Niagara's conduct with the city of Jamestown.

On May 30, 1975, Niagara entered into an agreement with Central Hudson, Orange and Rockland, and Rochester to share the expenses and energy output of the Sterling Power Project, Nuclear Unit No. 1 (Docket No. STN 50-485A).* The staff requested the Attorney General's advice regarding antitrust aspects of the proposed joint venture. On April 22, 1976, the Attorney General submitted his advice letter to the Commission. Of the four co-owners of the proposed Sterling Power Plant, only the activities of Niagara gave the Attorney General cause for concern.

The Attorney General's review revealed Niagara's continuing opposition to the efforts of the town of Messena, New York to establish a municipal electric system and to condemn certain Niagara facilities within its corporate limits. The town was at that time receiving electric power, at retail, from Niagara. The town sought and obtained assurance of the allocation of power from the Authority. Messena indicated a desire to have Niagara wheel the power allocation to the town's distribution system.

Niagara neither refused nor agreed to provide transmission services, indicating any commitments would have been premature, at the time, since no formal request had been made by the town and no Messena system was in place. The Attorney General's review concluded that, given the then preliminary status of Messena's efforts to form an electric system, and the "apparent absence of other actual or

* On January 23, 1980, the New York State Board on Electric Generation Siting and the Environment voted to vacate the Sterling construction permit which it had issued two years prior, citing no public need for the proposed plant. Subsequently, the owners cancelled the project.

prospective antitrust problems involving Niagara or any of the other" proposed co-owners of the Sterling Power Project, no antitrust hearing was necessary. However, the advice letter recommended that Niagara's ongoing involvement with Messena be closely scrutinized.

On September 22, 1975, Niagara entered into an agreement with the co-owners to build, own, and operate NMP 2 with each participant's share of the expenses and energy output as follows:

Niagara	41%
LILCO	18%
NSEG	18%
RG&E	14%
Central Hudson	9%

Subsequently, the staff requested the Attorney General's advice regarding the necessity of an antitrust hearing in light of the proposed change in ownership. On July 26, 1978, the Attorney General rendered his advice stating that each of the proposed owners had been the subject of prior antitrust advice letters written by the Department of Justice staff as follows: (1) On April 22, 1976, the Attorney General rendered antitrust advice on an application by Central Hudson to participate in the Sterling Power Project, Nuclear Unit No. 1; (2) On January 7, 1975, antitrust advice was rendered on an application by LILCO to construct the Jamesport Nuclear Power Station, Units 1 and 2; (3) RG&E was the subject of antitrust advice letters of December 27, 1974, and April 22, 1976, on an application to construct the Sterling Power Project, Nuclear Unit No. 1; (4) On January 26, 1978, the Justice Department rendered antitrust advice

concerning the Authority with respect to its application to participate in the Jamesport Nuclear Power Station, Units 1 and 2; and (5) On December 27, 1974, antitrust advice was provided on the state Power Authority's application to construction the Somerset Nuclear Station, Units 1 and 2.

Each of the above-referenced antitrust advice letters concluded that the activities under the licenses applied for would not create or maintain a situation inconsistent with the antitrust laws. The Attorney General noted that subsequent to the issuance of these antitrust advice letters, only LILCO had a change in its activities which warranted discussion, in view of the application for joint ownership of NMP 2.

In April 1978, the Greenport New York Municipal Electrical System,* which until that time had been isolated, interconnected with LILCO. In addition, Greenport, as well as Freeport* and Rockville Centre,* the only other comparatively small municipal utilities in the LILCO service area, obtained commitments from Authority to supply their bulk power needs. LILCO, as well as other investor-owned utilities in the state, agreed to wheel that power from the Authority's transmission facilities to the three municipal systems. The Attorney General found nothing in these new coordination arrangements which would create or maintain a situation inconsistent with the antitrust laws.

The Attorney General's advice letter regarding the application for joint ownership concluded that no circumstances had arisen which warranted a reversal of the advice he had given with respect to each of the new applicants in prior antitrust advice letters.

* See "Municipals" section earlier in this discussion.

C. Analysis of changes occurring subsequent to prior Antitrust Reviews

Subsequent to the staff's original construction permit antitrust review, various documentation has been submitted by Niagara Mohawk. These documents have included: (1) a February 6, 1978 request for license amendment in connection with a change in unit ownership; (2) Regulatory Guide No. 9.3 information dated February 14, 1983; (3) a May 9, 1983 response to staff's request for additional antitrust review information; and (4) updated Regulatory Guide 9.3 information dated April 11, 1985. The foregoing material along with information from other federal agencies, public documents, and written and verbal communications with affected parties forms the basis upon which the following analysis was made.

1. Jamestown Board of Public Utilities

In 1975 and 1976, Jamestown installed electrostatic precipitators on its coal fueled plants. These additions allowed the plants to meet the environmental emission standards promulgated by the state; thereby obviating Jamestown's need to purchase its total capacity and energy requirements.* The Attorney General's concern regarding the limited issue, as described in his 1972 advice letter, has been alleviated because the city did not choose to purchase its total bulk power requirements. Thus, the issue has been mooted by Jamestown's decision to install electrostatic precipitators.

2. The city of Messena

In September 1980, the city of Messena filed an antitrust suit in the U.S. District Court of New York against Niagara, alleging that Niagara was in violation of Section 2 of the Sherman Antitrust Act by refusing

* See discussion on page 13.

to assume an unconditional wheeling commitment to the city.* The District Court concluded that the city had demanded an unreasonably broad "borderline agreement" and had insisted on subtransmission, transformation and multiple delivery points without additional compensation to the utility. Although Niagara resisted the condemnation of its distribution facilities by the city, the District Court found no intention on Niagara's part to use its strong market position to inhibit competition in the area. Rather, the Court found that Niagara's actions were those which would reasonably be expected from an entity operating in a competitive environment. The decision further indicated that Niagara was willing to provide wheeling service to the city under the same terms and conditions applied to Niagara's other wheeling customers.

A transfer of the Messena system from Niagara's direct service occurred on May 8, 1981.** The city now purchases its total capacity and energy needs from Authority. Under formal agreement,*** Niagara wheels capacity and energy to the city from the Authority's generating facilities.

Thus, the issue has been resolved because the District Court's decision coupled with the current wheeling agreement between Niagara and Messena eliminates the need for any remedial action.

---

* CCH Trade Cases 1980-2, "Town of Messena vs. Niagara Mohawk Power Corp.," [¶ 63,526], Commerce Clearing House, Inc.

** Niagara's Regulatory Guide 9.3 submittal.

*** FERC Rate Schedule No. 122, September 6, 1982.

3. Other Changes

i. Load and Capacity Projections

Since the staff's CP antitrust review, each of the co-owners of NMP 2 has reduced its forecast of future load growth and/or cancelled plans to construct certain generating units. There are several reasons given by the co-owners in support of these changes. Chief among these reasons are: (1) changing economic conditions, and (2) increased conservation and load management programs with attendant variations in consumer usage patterns. These types of changes are not unique to the applicants. Electric systems throughout the nation have been modifying their load forecasts and capacity expansion programs in response to dramatic variations in consumer use since the 1973 Arab oil embargo. Growth in energy use and demand has been slowed, necessitating these changes in capacity and energy plans. Staff discerns no anticompetitive motives or impacts due to these changes.

ii. Rate Schedule Changes

Each of the co-owners notes several rate schedule changes since the CP antitrust reviews. For Niagara, RGE and NYSEG, these changes have been made at the direction of the New York Public Service Commission (PSC) and are designed to encourage conservation of electrical power. This conservation is accomplished by varying the costs of power in relation to the time of use of the power, that is, capacity and energy are priced at a cheaper rate during "off peak" periods then during "peak periods of consumption.*

* Typically, electrical power is less efficiently produced during peak periods of consumption.

Although CHGE and LILCO indicate* no mandate from the PSC to alter rate schedules, both companies have added schedules which are designed to foster conservation of electrical energy.

Rate determinations fall under the jurisdictions of the local regulatory authority or the Federal Energy Regulatory Commission. Unless new or existing rates schedules suggest anticompetitive behavior, the staff does not normally conduct an extensive review. Nothing in the new schedules instituted by the co-owners suggests any anticompetitive motives.

iii. Acquisitions

On October 3, 1980, NYSEG acquired Peach Lake Utilities, a privately owned wholesale customer of NYSEG. Prior to the acquisition, Peach Lake's 185 customers** imposed a peak hour demand totalling approximately 200 kW.*** This acquisition imposed a diminimus impact on market concentration in the region of competition. For purposes of analysis, staff selected a seven county area within which the Peach Lake load resides. The seven counties include Putnam, Westchester, Orange, Rockland and Dutchess counties in New York and Fairfield and Litchfield counties in Connecticut. Electric systems in proximity to and competing in this defined area, along with their 1980 peak demands, are as follows:

---

* Response to Regulatory Guide 9.3.

** Electrical World Directory of Electric Utilities, McGraw-Hill Publications, 1982-1983.

*** NYSEG's response to staff questionnaire dated March 21, 1983.

CHGE	633 MW
Consolidated Edison Co.	6702 MW
Orange and Rockland Utilities	662 MW
NYSEG	2072 MW
Northeast Utilities Co.*	3266 MW

Since no appreciable change in area market concentration occurred as a result of this acquisition, and absent any formal consumer complaint or regulatory opposition, staff concludes that no situation exists which has current or potential antitrust implications.

D. Conclusion

Nine Mile Point Nuclear Station, Unit 2 (NMP 2) is to be jointly owned by five investor owned utilities in New York as follows:

Niagara Mohawk Power Corporation	41%
Long Island Lighting Company	18%
New York State Electric and Gas Corporation	18%
Rochester Gas and Electric Corporation	14%
Central Hudson Gas and Electric Corporation	9%

The five co-owners of NMP 2 received antitrust reviews by the Department of Justice with respect to their participation in NMP 2 and in various other planned nuclear generating plants during the period from 1972 through 1978. The Attorney General, in his antitrust advice letters to the Nuclear Regulatory Commission, expressed concern only with respect to Niagara. One concern was that Niagara might not be willing to wheel power for the Jamestown municipal electric system if Jamestown decided to purchase at

* Includes loads of two operating subsidiaries, the Connecticut Light and Power Co. and the Hartford Electric.

wholesale all of its electric power requirements. The other concern regarded Niagara's continuing opposition to the efforts of the town of Messena to establish a municipal electric system. Although the Attorney General did not recommend a hearing, he did advise the Commission to monitor the subsequent activities of Niagara with respect to these two issues.

Subsequently, Jamestown decided to install electrostatic precipitators on its coal fired plants rather than purchase its total power requirements. Also, Messena has established a distribution system, and Niagara has agreed to wheel power to Messena. Thus, the two concerns expressed by the Attorney General have been resolved.

Staff's review of changes in load forecasts, capacity expansion programs, and rate schedules does not suggest any anticompetitive effects. New York State Electric and Gas Corporation's acquisition of the Peach Lake system did not significantly alter regional market concentration and was a business transaction with no apparent consumer or regulatory opposition.

In light of the Commission's guiding criteria, none of the changes which have been surfaced in this review can be considered "significant", and therefore, staff does not recommend a finding of "significant change."