

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the matter of the
NIAGARA MOHAWK POWER
CORPORATION

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Docket No. 50-410

(Nine Mile Point Nuclear Station
Station Unit No. 2)

EXEMPTION

I.

Niagara Mohawk Power Corporation (the licensee) is the holder of Facility Operating License No. NPF-69, which authorizes operation of the Nine Mile Point Nuclear Station Unit 2 (NMP-2 or the facility). The license provides, among other things, that it is subject to all rules, regulations, and orders of the Commission now or hereafter in effect.

The facility is a boiling water reactor at the licensee's site in Oswego County, New York.

II.

10 CFR Part 50.71(e)(3)(i) requires, in part, that licensees submit a revision of the Final Safety Analysis Report (FSAR) containing those original pages that are still applicable plus new replacement pages within 24 months of July 22, 1980 or the date of issuance of the operating license, whichever is later, and this revision shall bring the FSAR up to date as of a maximum of 6 months prior to the date of filing the revision. This regulation would have required submittal of the revised FSAR by October 31, 1988.

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..III.

By letter dated September 16, 1988, the licensee requested an exemption from certain requirements of 10 CFR Part 50.71(e). Specifically, the licensee requested that it be permitted (1) to delay the submittal of the revised FSAR from the required date of no later than October 31, 1988 to no later than April 30, 1989; (2) to update the FSAR to April 30, 1988, up to a full year prior to the revised submittal date, and (3) to submit revised pages only and not resubmit the original pages.

Pursuant to 10 CFR 50.12, "The Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of the regulations of [10 CFR Part 50], which are ... Authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security." Further, Section 50.12(a)(2) provides inter alia, "The Commission will not consider granting an exemption unless special circumstances are present. Special circumstances are present whenever ... (ii) Application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule; or (iii) Compliance would result in an undue hardship or other costs that are significantly in excess of those contemplated when the regulation was adopted, or that are significantly in excess of those incurred by others similarly situated, or... (v) The exemption would provide only temporary relief from the applicable regulation and the licensee has made good faith efforts to comply with the regulation."



IV.

The requested exemption is administrative and would not affect plant equipment, operations or procedures. Moreover, in response to an NRC request the licensee provided an additional FSAR update in May 1987, seven months after the operating license was issued, to incorporate a large volume of commitments made by letter subsequent to Amendment No. 27 and to reflect changes resulting from the replacement of main steam isolation valves. Thus, some of the changes that would have been required to be in the update to be submitted within 24 months after issuance of the operating license have already been incorporated.

The FSAR update will be up to date as of April 30, 1988 which is the date six months prior to the original required date of October 31, 1988. Therefore, this date will be unaffected by the later submittal. Furthermore, the licensee has stated that the next revision would be filed within 12 months of the original date for submittal (i.e., October 31, 1989) so future submittal dates would remain unaffected.

The extension of time for the submittal is needed because of the unusually large size of the FSAR for NMP-2, the large volume of changes that need to be processed for this initial update, and the unexpected delays in the power ascension program. The licensee estimates that over 55,000 person hours of effort will be required to complete the process in which about 80 individuals are involved. In addition, the licensee has assigned persons familiar with the plant to review the changes, therefore, the number of people available to perform this function is limited. In addition, the licensee has



indicated in discussions with the staff that it will be exploring ways to streamline the FSAR update process for future updates. Therefore, the Commission has determined that the licensee has made a good faith effort to comply with the regulation but, because of the unexpected complexity of the task and the delays in the power ascension program, will be unable to complete the effort by the required date of October 31, 1988. Therefore special circumstances exist that warrant a temporary delay in the submittal of the updated FSAR.

Because of the large size of the FSAR for NMP-2 (35 volumes vs. 2 volumes for Unit 1), reprinting and shipping complete sets of the FSAR would result in costs that are significantly in excess of what was typically incurred for other plants when updating the FSAR. The licensee has stated that a complete, new set of updated FSARs would cost \$150,000, whereas the proposed alternative (i.e., replacement pages) would cost only \$66,000. As a comparison the most recent update for Nine Mile Point Unit 1 cost approximately \$10,000 to produce.

The purpose of having the licensee submit a complete copy of the FSAR with original pages was to ensure that the NRC had an updated copy of the FSAR from licensees that had not updated the FSAR in some time. The original NMP-2 FSAR was submitted in April 1983 and has been updated 28 times since then. Each time replacement pages were submitted to the Commission. In addition, the licensee will be requested to submit a list which identifies the current page of the FSAR following page replacement as is required when FSARs are updated using the replacement page method. This has already been the licensee's practice in recent FSAR amendments. As these lists will identify the current effective pages in the FSAR, and the Commission already has a copy of the



unaffected pages of the FSAR, resubmission of the unaffected pages is not necessary to achieve the underlying purpose of the rule. Therefore, special circumstances exist that warrant the granting of an exemption to allow the initial FSAR update to be accomplished by the replacement page method.

V.

Accordingly, the Commission has determined, pursuant to 10 CFR Part 50.12(a), that (1) an exemption as described in Section III. is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security and (2) in this case, special circumstances are present as described in Section IV. Therefore, the Commission hereby grants the following exemption:

Accordingly, the Commission hereby grants an exemption, as described in Section III above from 10 CFR Part 50.71(e)(3)(i) from the requirement to file a separate and new updated FSAR for NMP-2 by October 31, 1988. The initial FSAR update is to be submitted by April 30, 1989, may be up-to-date as of April 30, 1988, and may be submitted by the replacement page method.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not result in any significant environmental impact (FR 53 43953).

This exemption is effective upon issuance.



Dated at Rockville, Maryland, this 31 day of October 1988.

FOR THE NUCLEAR REGULATORY COMMISSION

Original signed by

Gus C. Lainas, Acting Division Director
Division of Reactor Projects, I/II
Office of Nuclear Reactor Regulation

*SEE PREVIOUS CONCURRENCE

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Dated at Rockville, Maryland, this day of October 1988.

FOR THE NUCLEAR REGULATORY COMMISSION

Steven A. Varga, Division Director
Division of Reactor Projects, I/II
Office of Nuclear Reactor Regulation

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