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November 15, 1999
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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

OFFICE OF THE
PUBLIC
ADJUDICATOR

In the Matter of)
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)
Niagara Mohawk Power Corporation, New)
York State Electric & Gas Corporation,)
and)
AmerGen Energy Company, LLC)
(Nine Mile Point Nuclear Station, Units 1)
and 2))
_____)

Docket Nos. 50-220-LT
50-410-LT

**NIAGARA MOHAWK POWER CORPORATION'S RESPONSE
TO THE COMMENTS OF OSWEGO COUNTY AND THE
OSWEGO CITY SCHOOL DISTRICT**

On November 1, 1999, pursuant to 10 C.F.R. § 2.1305 and the September 30, 1999 Federal Register Notice,¹ Oswego County, New York and the Oswego City School District submitted comments related to, inter alia, Niagara Mohawk Power Corporation's ("Niagara Mohawk") proposed sale of its interests in the Nine Mile Point Nuclear Station, Units 1 and 2 to AmerGen Energy, LLC. In accordance with 10 C.F.R. § 1305(c), Niagara Mohawk submits this response to those comments.

Oswego County and Oswego City School District indicate that the Nine Mile Point Nuclear Station is the largest taxpayer and the largest private employer in Oswego County and the Oswego City School District and that the residents of Oswego County have a strong interest in the continued safe operation of these facilities.

¹ Notice of Consideration of Approval of Transfer of Facility Operating Licenses and Conforming Amendments (62 Fed. Reg. 52,798 (September 30, 1999)).

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The commenters state:

Because the revenues received from Nine Mile 1 and Nine Mile 2 nuclear facilities have been, and will continue to be, critical to their financial viability, Oswego County and the Oswego City School District have a strong interest in the continued operation of these facilities until the end of their respective license terms.²

Niagara Mohawk has had a close and long-term working relationship with Oswego County and associated entities. Many of its employees at Nine Mile Point live in the county and have active roles in many aspects of life in the County including charitable activities and in the educational systems within the county. After the sale, the involvement of the Nine Mile Point nuclear employees will continue. Niagara Mohawk will have a continuing presence in the county and AmerGen has indicated that it will continue the initiatives begun by Niagara Mohawk and endeavor to work with the county and the entities that comprise it in a cooperative manner to resolve mutual problems.

For example, Niagara Mohawk has had and is continuing meaningful and productive discussions with the taxing entities within the county to arrive at tax levels for its nuclear power plants that are responsive to the needs of the citizens of the county and yet will permit Nine Mile Point nuclear plants to be price competitive as deregulation is phased in. The parties are endeavoring to reach appropriate tax levels in a staged manner so as not to precipitously affect the recipients of tax revenues from the Station. The parties are attempting to achieve this utilizing informal discussions to avoid litigation and uncertainty. AmerGen has indicated it wishes to continue these initiatives.

² Comments of Oswego and the Oswego City School District ("Comments") at 3-4.

Niagara Mohawk and AmerGen are also addressing the issues raised by commenters in the context of the Section 70 proceeding currently ongoing before the New York State Public Service Commission to determine whether the sale is within the public interest.

Commenters raise two issues. The first involves the commitments of AmerGen's members to fund, in the absence of available internal funds, a simultaneous six month outage of both Nine Mile Point units. Commenters would require consideration of the simultaneous shutdown of all units owned by an entity and require financial assurance for the total additive amount. Initially, there is no Nuclear Regulatory Commission ("NRC") requirement that such simultaneous shutdown be considered. Second, as an entity increases its assets, there are more sources and diversity of revenue available to it. Thus, there is no reason to implement such a requirement in this case.

Next, commenters state that the NRC "must assure that AmerGen will continue to have sufficient management and operating resources to run Nine Mile 1 and Nine Mile 2 safely going forward."³ It asks the Commission to "predicate approval of the Application upon the requirement that AmerGen must submit a business plan for each successive proposed acquisition demonstrating that it will continue to have sufficient management and operating capabilities to operate the Nine Mile facilities and all of its other plants safety."⁴

The review of the technical qualifications of the proposed transfer of an operating license is a required element of the Commission's review prior to issuing its consent to transfer of control. Because this is a necessary element of NRC review and because of Niagara

³ Comments at 7.

⁴ Id. at 8.

Mohawk's confidence in the NRC Staff's ability to carry out this mandated review, Niagara Mohawk believes that the requested license condition is unnecessary.

In summary, the requests of the commenters that the NRC predicate its approval regarding financial and technical qualifications is not required by NRC regulations and unnecessary to assure the public health and safety.

Respectfully submitted,



Mark J. Wetterhahn
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ATTORNEYS FOR NIAGARA MOHAWK
POWER CORPORATION

Dated in Washington, D.C.
this 15 day of November 1999

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NUCLEAR REGULATORY COMMISSION

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CERTIFICATE OF SERVICE

I hereby certify that copies of the following documents in the captioned proceeding, have been served on the following by electronic mail, this 15th day of November 1999:

1. Niagara Mohawk Power Corporation's Response to the Comments Submitted by the Public Service Commission of the State of New York,
2. Niagara Mohawk Power Corporation's Response to the Comments of Oswego County and the Oswego City School District,
3. Niagara Mohawk Power Corporation's Response to Comments Submitted by Multiple Intervenors, and
4. Notice of Appearance for Gary D. Wilson.

In addition, courtesy copies have been provided to the following this same date by deposit in the United States mail, first class.

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A handwritten signature in black ink, appearing to read "Mark J. Wetterhahn", written over a horizontal line.

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Counsel for Niagara Mohawk Power Corporation

November 15, 1999