

July 20, 2000

Mr. John H. Mueller
Chief Nuclear Officer
Niagara Mohawk Power Corporation
Nine Mile Point Nuclear Station
Operations Building, Second Floor
P.O. Box 63
Lycoming, NY 13093

SUBJECT: NINE MILE POINT NUCLEAR STATION, UNIT NO. 2 - NOTICE OF
CONSIDERATION OF ISSUANCE OF AMENDMENT TO FACILITY
OPERATING LICENSE, PROPOSED NO SIGNIFICANT HAZARDS
CONSIDERATION DETERMINATION, AND OPPORTUNITY FOR A HEARING
(TAC NO. MA9482)

Dear Mr. Mueller:

Enclosed is a copy of a "Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing" for your information. This notice relates to your application for amendment dated July 14, 2000. You proposed to revise License Condition 2.C.(10), "Additional Condition 1," which was imposed by Amendment No. 91 dated February 15, 2000. License Condition 2.C.(10) defines the meaning of implementation of Improved Technical Specifications (i.e., Amendment No. 91), and specifies that implementation be completed by August 31, 2000. You proposed to revise the implementation date from August 31, 2000, to December 31, 2000.

This notice has been forwarded to the Office of the Federal Register for publication.

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. 50-410

Enclosure: As stated

cc w/encl: See next page

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M. Gamberoni	S. Little	P. Tam
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UNITED STATES NUCLEAR REGULATORY COMMISSION

NIAGARA MOHAWK POWER CORPORATION

DOCKET NO. 50-410

NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT TO
FACILITY OPERATING LICENSE, PROPOSED NO SIGNIFICANT HAZARDS
CONSIDERATION DETERMINATION, AND OPPORTUNITY FOR A HEARING

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-69 issued to Niagara Mohawk Power Corporation (the licensee) for operation of the Nine Mile Point Nuclear Station, Unit No. 2 (NMP2) located in Scriba, Oswego County, New York.

The proposed amendment would allow a delay in implementation of the Improved Technical Specifications (ITS) from the current August 31, 2000, to December 31, 2000. The current implementation date was imposed by Amendment No. 91, dated February 15, 2000. Specifically, License Condition 2.C.(10), "Additional Condition 1," of the operating license would be revised to show the new date of December 31, 2000.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no

significant hazards consideration, which is presented below:

The operation of Nine Mile Point Unit 2, in accordance with the proposed amendment, will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendment delays implementation of the Improved Technical Specifications (ITS) from August 31, 2000 to December 31, 2000. The proposed deferral of the ITS implementation date is necessary in order to allow Operations shift crews a transition period of operating the plant using the CTS [current TS, referring to the pre-Amendment-No. 91 TS] and ITS in parallel to familiarize themselves with the differences. This transition period is considered essential to proper ITS implementation.

The proposed change is administrative in nature in that it simply defers implementation of the ITS for four months. Until the ITS are implemented, the CTS will remain in effect and the unit will continue to be operated in accordance with the NRC approved CTS requirements. Since the change is administrative, previously evaluated accident precursors or initiators are not affected and, as a result, the probability of accident initiation will remain as previously evaluated. Furthermore, the change will not affect the design, function, or operation of any structures, systems, or components, nor will it affect any maintenance, modification, or testing activities. Thus, there will be no impact on the capability of any structures, systems, or components to perform their credited safety functions to prevent an accident or mitigate the consequences of an accident previously evaluated. It is, therefore, concluded that operation in accordance with the proposed change will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The operation of Nine Mile Point Unit 2, in accordance with the proposed amendment, will not create the possibility of a new or different kind of accident from any accident previously evaluated.

Deferral of the ITS implementation date is an administrative change. As such, the proposed change will not affect the design, function, or operation of any plant structures, systems, or components, nor will it affect any maintenance, modification, or testing activities. Since the change is administrative, there will be no impact on the process variables, characteristics, or functional performance of any structures, systems, or components in a manner that could create a new failure mode. Furthermore, the change will not introduce any new modes of plant operation or eliminate any actions required to prevent or mitigate accidents. It is, therefore, concluded that operation in accordance with the proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

The operation of Nine Mile Point Unit 2, in accordance with the proposed amendment, will not involve a significant reduction in a margin of safety.

Deferral of the ITS implementation date is an administrative change. As such, the proposed change does not involve any hardware changes or physical alteration of the plant and the change will have no impact on the design or function of any structures, systems, or components. Furthermore, the change will not eliminate any requirements, impose any new requirements, or alter any physical parameters which could reduce the margin to an acceptance limit. It is, therefore, concluded that operation in accordance with the proposed change will not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the requested amendment involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the FEDERAL REGISTER a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and should cite the publication date and page number of this FEDERAL REGISTER notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By August 28, 2000, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose

interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (<http://www.nrc.gov>). If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a

list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and to Mark J. Wetterhahn, Esquire, Winston & Strawn, 1400 L Street, NW., Washington, DC 20005-3502, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated July 14, 2000, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (<http://www.nrc.gov>).

Dated at Rockville, Maryland, this 20th day of July 2000.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

Peter S. Tam, Senior Project Manager, Section 1
Project Directorate I
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Nine Mile Point Nuclear Station
Unit No. 2

Regional Administrator, Region I
U. S. Nuclear Regulatory Commission
475 Allendale Road
King of Prussia, PA 19406

Resident Inspector
Nine Mile Point Nuclear Station
P.O. Box 126
Lycoming, NY 13093

Mr. Jim Rettberg
NY State Electric & Gas Corporation
Corporate Drive
Kirkwood Industrial Park
P.O. Box 5224
Binghamton, NY 13902-5224

Mr. John V. Vinquist, MATS Inc.
P.O. Box 63
Lycoming, NY 13093

Supervisor
Town of Scriba
Route 8, Box 382
Oswego, NY 13126

Mr. Richard Goldsmith
Syracuse University
College of Law
E.I. White Hall Campus
Syracuse, NY 12223

Charles Donaldson, Esquire
Assistant Attorney General
New York Department of Law
120 Broadway
New York, NY 10271

Mr. Timothy S. Carey
Chair and Executive Director
State Consumer Protection Board
5 Empire State Plaza, Suite 2101
Albany, NY 12223

Mark J. Wetterhahn, Esquire
Winston & Strawn
1400 L Street, NW.
Washington, DC 20005-3502

Gary D. Wilson, Esquire
Niagara Mohawk Power Corporation
300 Erie Boulevard West
Syracuse, NY 13202

Mr. F. William Valentino, President
New York State Energy, Research,
and Development Authority
Corporate Plaza West
286 Washington Avenue Extension
Albany, NY 12203-6399

Mr. Paul D. Eddy
Electric Division
NYS Department of Public Service
Agency Building 3
Empire State Plaza
Albany, NY 12223