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USNRC
January 3, 2000

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

OFFICE OF SECRETARY
RULING AND ADJUDICATION
ADJUDICATION

In the Matter of)

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
NOTIFICATION OF EXERCISE OF RIGHT OF FIRST REFUSAL
BY ROCHESTER GAS AND ELECTRIC CORPORATION**

On December 23, 1999, Rochester Gas and Electric Corporation ("RG&E") filed with the Nuclear Regulatory Commission ("NRC" or "Commission") notice that on December 21, 1999, it had exercised its right of first refusal to purchase the collective 59% ownership interest of Niagara Mohawk Power Corporation ("Niagara Mohawk") and New York State Electric and Gas Corporation ("NYSEG") in Nine Mile Point Unit 2 and Niagara Mohawk's 100% ownership interest in Nine Mile Point Unit 1. In accordance with the Commission's Memorandum and Order dated December 22, 1999 (CLI-99-30), RG&E identified January 4, 2000, as the last day that it had to exercise its right of first refusal. RG&E also stated that its timely exercise of its right of first refusal "has mooted the present license transfer proceeding since AmerGen no longer has any right to acquire the NMP facility."¹ Niagara Mohawk Power Corporation respectfully disagrees.

¹ Notification of Exercise of Right of First Refusal dated December 23, 1999 at 2.

PDR ADOCK

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Niagara Mohawk has not yet completed its examination and evaluation of the RG&E offer to determine, among other things, whether the terms of the RG&E offer are as favorable as those contained in the AmerGen offer. Moreover, even if agreement were to be reached with RG&E, completion of the transaction would require regulatory approvals similar to those being sought for the AmerGen transaction, e.g., from the New York State Public Service Commission and the NRC. Until such approvals are received, Niagara Mohawk's agreement with AmerGen for the sale of its nuclear units will remain in full force and effect.

While Niagara Mohawk is committed to the prompt resolution of this matter and to fulfilling all of its contractual obligations, pending completion of the transaction, including the receipt of all necessary regulatory approvals, it does not believe that the present proceeding is moot. Pending further clarification of the direction of the sale of the units, Niagara Mohawk believes the Commission should not presently entertain motions to dismiss the proceeding as moot.

Respectfully submitted,



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ATTORNEYS FOR NIAGARA MOHAWK
POWER CORPORATION

Dated in Washington, D.C.
this 3rd day of January 2000

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OFFICE OF SECURITY,
RULEMAKING AND
ADJUDICATIONS STAFF

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

CERTIFICATE OF SERVICE

I hereby certify that copies of "Niagara Mohawk Power Corporation's Response to Notification of Exercise of Right of First Refusal by Rochester Gas and Electric Corporation" in the captioned proceeding, have been served on the following by electronic mail, this 3rd day of January, 2000, and that, 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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