

February 10, 2000

Mr. Gerald R. Rainey
Chief Executive Officer & Chief
Nuclear Officer
AmerGen Energy Company, LLC
965 Chesterbrook Blvd.
Wayne, PA 19087

SUBJECT: REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC
DISCLOSURE, NINE MILE POINT NUCLEAR STATION,
UNIT NOS. 1 AND 2 (TAC NOS. MA6426 AND MA6427)

Dear Mr. Rainey:

By your application dated September 10, 1999, and affidavit dated September 9, 1999, you submitted "Application for Order and Conforming Administrative Amendments of License Transfers" (Application). The Application included a separately bound "Proprietary Addendum to NRC License Transfer Application," (Proprietary Addendum) dated September 10, 1999, consisting of Enclosures 3A, 4A, 6A, 8A, and 11A of the Application, but displaying confidential commercial or financial information that was redacted in the application. You requested that the Proprietary Addendum be withheld from public disclosure pursuant to 10 CFR 9.17(a)(4) and 10 CFR 2.790. Nonproprietary versions were submitted for placement in the NRC public document room.

Appendix 3A, the Asset Purchase Agreement between AmerGen and Niagara Mohawk Power Corporation, did not originally appear to contain proprietary information. On January 19, 2000, we (Mary P. Siemien and Peter Tam) held a telephone conference with Mr. John Matthews, attorney for AmerGen, for him to clarify the nature of Appendix 3A. We accepted Mr. Matthews' clarification regarding Appendix 3A.

The affidavit stated that the Proprietary Addendum should be considered exempt from mandatory public disclosure for the following reasons:

1. This information is and has been held in confidence by AmerGen.
2. This information is of a type that is held in confidence by AmerGen, and there is a rational basis for doing so because the information contains sensitive financial information concerning AmerGen's projected revenues and operating expenses.
3. This information is being transmitted to the NRC in confidence.
4. This information is not available in public sources and could not be gathered readily from other publicly available information.
5. Public disclosure of this information would create substantial harm to the

competitive position of AmerGen by disclosing AmerGen's internal financial projections and the commercial terms of a unique transaction to other parties whose commercial interests may be adverse to those of AmerGen.

We have reviewed your Application and the Proprietary Addendum material in accordance with the requirements of 10 CFR 9.17(a)(4) and 10 CFR 2.790 and, on the basis of your statements, have determined that the submitted information sought to be withheld contains proprietary commercial information and should be withheld from public disclosure.

Therefore, the Proprietary Addendum will be withheld from public disclosure pursuant to 10 CFR 2.790(b)(5) and Section 103(b) of the Atomic Energy Act of 1954, as amended.

Withholding from public inspection shall not affect the right, if any, of persons properly and directly concerned to inspect the documents. If the need arises, we may send copies of this information to our consultants working in this area. We will, of course, ensure that the consultants have signed the appropriate agreements for handling proprietary information.

If the basis for withholding this information from public inspection should change in the future such that the information could then be made available for public inspection, you should promptly notify the NRC. You also should understand that the NRC may have cause to review this determination in the future, for example, if the scope of a Freedom of Information Act request includes your information. In all review situations, if the NRC makes a determination adverse to the above, you will be notified in advance of any public disclosure.

If you have any questions regarding this matter, I may be reached at 301-415-1451.

Sincerely,

/RA/

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

Docket Nos. 50-220 and 50-410

cc: See next page

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

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Nine Mile Point Nuclear Station
Unit Nos. 1 and 2

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

Resident Inspector
U.S. Nuclear Regulatory Commission
P.O. Box 126
Lycoming, NY 13093

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

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

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

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

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

Mr. Paul D. Eddy
State of New York Department of
Public Service
Power Division, System Operations
3 Empire State Plaza
Albany, NY 12223

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