



UNITED STATES
ATOMIC ENERGY COMMISSION
WASHINGTON, D.C. 20545

50-410

September 21, 1972

Director
Office of the Federal Register
National Archives and Records Service
Washington, D. C. 20408

Dear Sir:

Attached for publication in the Federal Register are an original and two certified copies of a document entitled:

THE NIAGARA MOHAWK POWER CORPORATION

Notice of Hearing on Application
for Construction Permit

Please handle as Schedule I for publication on Saturday, September 23, 1972.

Publication of the above document at the earliest possible date would be appreciated.

Sincerely,

Paul C. Bender
Secretary of the Commission

Enclosures;
Original and 2
certified copies

bcc; Docket Clerk (Dir. of Reg.)
Information Services
Legal Files (OGC)
Office of Congressional Relations
GT Files (SECY)
Public Proceedings Branch (SECY)
~~Contracts~~

State

UNITED STATES OF AMERICA
ATOMIC ENERGY COMMISSION

In the Matter of)

THE NIAGARA MOHAWK POWER)
CORPORATION)

(NINE MILE POINT, UNIT NO. 2)

Docket No. 50-410

NOTICE OF HEARING ON APPLICATION
FOR CONSTRUCTION PERMIT

Pursuant to the Atomic Energy Act of 1954, as amended (the Act), and the regulations in Title 10, Code of Federal Regulations, Part 50, "Licensing of Production and Utilization Facilities," and Part 2, "Rules of Practice," notice is hereby given that a hearing will be held, at a time and place to be set in the future by an Atomic Safety and Licensing Board (Board), to consider the application filed under the Act by the Niagara Mohawk Power Corporation (the applicant), for a construction permit for a boiling water nuclear reactor designated as the Nine Mile Point, Unit No. 2 (the facility), which is designed for initial operation at approximately 3323 thermal megawatts with a net electrical output of approximately 1100 megawatts. The proposed facility is to be located at the applicant's site on the southeast shore of Lake Ontario, in the town of Scriba, Oswego County, New York. The hearing will be scheduled to begin in the vicinity of the site of the proposed facility.

The Board will be designated by the Atomic Energy Commission (Commission). Notice as to its membership will be published in the FEDERAL REGISTER.

Upon receipt of a report by the Advisory Committee on Reactor Safeguards and upon completion by the Commission's regulatory staff of a favorable safety evaluation of the application and an environmental review, the Director of Regulation will consider making affirmative findings on Items 1-3, a negative finding on Item 4, and an affirmative finding on Item 5 specified below as a basis for the issuance of a construction permit to the applicant:

Issues Pursuant to the Atomic Energy Act of 1954, as Amended

1. Whether in accordance with the provisions of 10 CFR § 50.35(a):
 - (a) The applicant has described the proposed design of the facility including, but not limited to, the principal architectural and engineering criteria for the design, and has identified the major features or components incorporated therein for the protection of the health and safety of the public;
 - (b) Such further technical or design information as may be required to complete the safety analysis and which can reasonably be left for later consideration, will be supplied in the final safety analysis report;
 - (c) Safety features or components, if any, which require research and development have been described by the applicant and the applicant has identified, and there will be conducted a research and development program reasonably designed to resolve any safety questions associated with such features or components; and

(d) On the basis of the foregoing, there is reasonable assurance that

(i) such safety questions will be satisfactorily resolved at or before the latest date stated in the application for completion of construction of the proposed facility, and (ii) taking into consideration the site criteria contained in 10 CFR Part 100, the proposed facility can be constructed and operated at the proposed location without undue risk to the health and safety of the public.

2. Whether the applicant is technically qualified to design and construct the proposed facility;
3. Whether the applicant is financially qualified to design and construct the proposed facility; and
4. Whether the issuance of a permit for construction of the facility will be inimical to the common defense and security or to the health and safety of the public.

Issue Pursuant to National Environmental Policy Act of 1969 (NEPA)

5. Whether, in accordance with the requirements of Appendix D of 10 CFR Part 50, the construction permit should be issued as proposed.

In the event that this proceeding is not a contested proceeding, as defined by 10 CFR § 2.4(n), the Board will determine (1) without conducting a de novo evaluation of the application, whether the application and the record of the proceeding contain sufficient information, and the review of the application by the Commission's regulatory staff has been adequate, to support the findings proposed to be made by the Director of Regulation on

Items 1-4 above, and to support, insofar as the Commission's licensing requirements under the Act are concerned, the issuance of the construction permit proposed by the Director of Regulation; and (2) determine whether the review conducted by the Commission pursuant to NEPA has been adequate. In the event that this proceeding is not contested the Board will convene a prehearing conference of the parties within sixty (60) days after this Notice of Hearing or such other time as may be appropriate, at a time and place to be set by the Board. It will also set the schedule for the evidentiary hearing. Notice of the prehearing conference and the hearing will be published in the FEDERAL REGISTER.

In the event that this proceeding becomes a contested proceeding, the Board will consider and initially decide, as issues in this proceeding, Items 1-5 above as a basis for determining whether the construction permit should be issued to the applicant.

The Board will convene a special prehearing conference of the parties to the proceeding and persons who have filed petitions for leave to intervene, or their counsel, to be held within sixty (60) days from the date of publication of this notice in the FEDERAL REGISTER, or within such other time as may be appropriate, at a place to be set by the Board for the purpose of dealing with the matters specified in 10 CFR § 2.751a.

The Board will convene a prehearing conference of the parties, or their counsel, to be held subsequent to any special prehearing conference and within sixty (60) days after discovery has been completed, or within

such other time as may be appropriate, at a place to be set by the Board for the purpose of dealing with the matters specified in 10 CFR § 2.752.

Notices of the dates and places of the special prehearing conference, the prehearing conference and the hearing will be published in the FEDERAL REGISTER.

With respect to the Commission's responsibilities under NEPA, and regardless of whether the proceeding is contested or uncontested, the Board will, in accordance with section A.11 of Appendix D of 10 CFR Part 50, (1) determine whether the requirements of section 102(2)(C) and (D) of NEPA and Appendix D of 10 CFR Part 50 have been complied with in this proceeding; (2) independently consider the final balance among conflicting factors contained in the record of the proceeding with a view to determining the appropriate action to be taken; and (3) determine whether the construction permit should be issued, denied, or appropriately conditioned to protect environmental values.

For further details, see the application for a construction permit dated 6-7-72, and amendments thereto, and the applicant's Environmental Report dated 6-7-72, which are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., between the hours of 8:30 a.m. and 5:00 p.m. on weekdays. Copies of those documents will also be made available at the Oswego City Library, 120 East Second Street, Oswego, New York 13126, for inspection by members of the public between the hours of 10:00 a.m. and 9:00 p.m. Monday through Friday and 10:00 a.m. and 6:00 p.m. on Saturday. As they become available, a

copy of the report of the Advisory Committee on Reactor Safeguards (ACRS), the safety evaluation by the Commission's Directorate of Licensing, the Commission's draft and final detailed statements on environmental considerations, the proposed construction permit, other relevant documents, and the transcripts of the prehearing conferences and of the hearing will also be available at the above locations. Copies of the proposed construction permit, the ACRS report, the Directorate of Licensing's safety evaluation and the Commission's draft and final detailed statements on environmental considerations may be obtained, when available, by request to the Deputy Director for Reactor Projects, Directorate of Licensing, United States Atomic Energy Commission, Washington, D.C. 20545.

Any person who does not wish to, or is not qualified to become a party to this proceeding may request permission to make a limited appearance pursuant to the provisions of 10 CFR § 2.715. A person making a limited appearance may only make an oral or written statement on the record, and may not participate in the proceeding in any other way. Limited appearances will be permitted at the time of the hearing in the discretion of the Board, within such limits and on such conditions as may be fixed by the Board. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission, United States Atomic Energy Commission, Washington, D.C. 20545, not later than thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER.

A person permitted to make a limited appearance does not become a party, but may state his position and raise questions which he would like

to have answered to the extent that the questions are within the scope of the hearing as specified in the issues set out above.

Any person whose interest may be affected by the proceeding, who does not wish to make a limited appearance but who wishes to participate as a party in the proceeding must file a written petition under oath or affirmation for leave to intervene in accordance with the provisions of 10 CFR § 2.714.

A petition for leave to intervene shall set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and any other contentions of the petitioner including the facts and reasons why he should be permitted to intervene, with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a 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. Any such petition shall be accompanied by a supporting affidavit identifying the specific aspect or aspects of the subject matter of the proceeding as to which the petitioner wishes to intervene and setting forth with particularity both the facts pertaining to his interest and the basis for his contentions with regard to each aspect on which he desires to intervene. A petition that sets forth contentions relating only to matters outside the jurisdiction of the Commission will be denied.

A petition for leave to intervene must be filed with the Office of the Secretary of the Commission, United States Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Staff, or the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., not later than thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER. A petition for leave to intervene which is not timely will not be granted unless the Board determines that the petitioner has made a substantial showing of good cause for failure to file on time and after the Board has considered those factors specified in 10 CFR § 2.714(a).

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have all the rights of the applicant to participate fully in the conduct of the hearing, such as the examination and cross-examination of witnesses, with respect to their contentions related to the matters at issue in the proceeding.

An answer to this notice, pursuant to the provisions of 10 CFR § 2.705, must be filed by the applicant not later than twenty (20) days from the date of publication of this notice in the FEDERAL REGISTER.

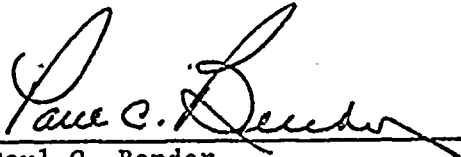
Papers required to be filed in this proceeding may be filed by mail or telegram addressed to the Secretary of the Commission, United States Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Staff, or may be filed by delivery to the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C.

Pending further order of the Board, parties are required to file, pursuant to the provisions of 10 CFR § 2.708, an original and twenty (20) conformed copies of each such paper with the Commission.

With respect to this proceeding, the Commission will delegate to the Atomic Safety and Licensing Appeal Board the authority and the review function which would otherwise be exercised and performed by the Commission. The Commission will establish the Appeal Board pursuant to 10 CFR § 2.785 and will make the delegation pursuant to subparagraph (a)(1) of that section. The Appeal Board will be composed of a Chairman, and two other members to be designated by the Commission. Notice as to the membership of the Appeal Board will be published in the FEDERAL REGISTER.

UNITED STATES ATOMIC ENERGY COMMISSION

By



Paul C. Bender
Secretary of the Commission

Dated at Germantown, Maryland,
this 21st day of September, 1972.

