13 08/24/78

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DOCDATE: 08/21/78
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SUBJECT:
FORWARDING SIGNED COPY OF AMEND NO 12 TO INDEMNITY AGREEMENT NO B-36, AS REQUESTED BY NRC LTR OF 08/14/78.

PLANT NAME: NINE MILE PT - UNIT 1

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NIAGARA MOHAWK

NIAGARA MOHAWK POWER CORPORATION/300 ERIE BOULEVARD WEST, SYRACUSE, N.Y. 13202/TELEPHONE (315) 474-1511

August 21, 1978

Mr. Jerome Saltzman, Chief
Antitrust and Indemnity Group
Office of Nuclear Reactor Regulation
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555

Re: Docket No. 50-220

Dear Mr. Saltzman:

We are returning herewith a signed copy of Amendment No. 12 to Indemnity Agreement No. B-36, as requested in your letter of August 14, 1978.

Please mark your file to address any future correspondence in connection with Niagara Mohawk Power Corporation to the undersigned.

Very truly yours,

John W. Rushmore

J. W. Rushmore,
Supervisor-Insurance
System Risk Management

JWR/cnw

Enclosure

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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

Docket No. 50-220

AMENDMENT TO INDEMNITY AGREEMENT NO. B-36

AMENDMENT NO. 12

Effective August 1, 1977, Indemnity Agreement No. B-36, between Niagara Mohawk Power Corporation, and the Atomic Energy Commission, dated August 16, 1967, as amended, is hereby further amended by adding a new Article VIII to read as follows:

"ARTICLE VIII

"1. If the licensee fails to pay assessed deferred premiums, the Commission reserves the right to pay those premiums on behalf of the licensee and to recover the amount of such premiums from the licensee.

"2. The Commission shall require the immediate submission of financial statements by those licensees who indicate, after an assessment of the retrospective premium by the insurance pools, that they will not pay the assessment. Such financial statements shall include, as a minimum, exhibits indicating internally generated funds from operations and accumulated retained earnings. Subsequent submission of financial statements by such licensees may be requested by the Commission, as required.

"3. If premiums are paid by the Commission as provided in paragraph 1, payment by the Commission shall create a lien in the amount paid in favor of the United States upon all property and rights to property, whether real or personal, belonging to such licensee. The lien shall arise at the time payment is made by the Commission and shall continue until the liability for the amount (or a judgment against the licensee arising out of such liability) is satisfied or becomes unenforceable. The Commission will issue a certificate of release of any such lien if it finds that the liability for the amount has been fully satisfied or has become legally unenforceable.

"4. If the Commission determines that the licensee is financially able to reimburse the Commission for a deferred premium payment made in its behalf, and the licensee, after notice of such determination by the Commission fails to make such reimbursement within 120 days, the Commission will take appropriate steps to suspend the license for 30 days. The Commission may take any further action as necessary if reimbursement is not made within the 30-day suspension period including, but not limited to, termination of the operating license."

FOR THE UNITED STATES NUCLEAR REGULATORY COMMISSION

Jerome Saltzman, Chief
Antitrust and Indemnity Group
Office of Nuclear Reactor Regulation

Accepted August 18, 1978

By Eugene J. Morel
NIAGARA MOHAWK POWER CORPORATION

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

AUG 14 1978

Docket No. 50-220

Niagara Mohawk Power Corporation
ATTN: Mr. E. R. Inderbitzin
Supervisor, System Insurance
Department
300 Erie Boulevard West
Syracuse, NY 13202

Gentlemen:

We are enclosing herewith an amendment to your indemnity agreement reflecting a change in 10 CFR Part 140, "Financial Protection Requirements and Indemnity Agreements." The amendment to Part 140, which was effective on August 1, 1977, adds a new "Article VIII" to § 140.92. This article establishes procedures that the Commission would utilize to recover retrospective premiums paid by the Government on behalf of defaulting licensees.

We would appreciate your indicating your acceptance of the amendment to your indemnity agreement in the space provided and returning one signed copy to the undersigned.

Sincerely,

Jerome Saltzman, Chief
Antitrust & Indemnity Group
Office of Nuclear Reactor Regulation

Enclosure:
Amendment to Indemnity Agreement

1/12

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Docket No. 50-220

AMENDMENT TO INDEMNITY AGREEMENT NO. B-36

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OFFICE➤						
SURNAME➤						
DATE➤						

[illegible]

"4. If the Commission determines that the licensee is financially able to reimburse the Commission for a deferred premium payment made in its behalf, and the licensee, after notice of such determination by the Commission fails to make such reimbursement within 120 days, the Commission will take appropriate steps to suspend the license for 30 days. The Commission may take any further action as necessary if reimbursement is not made within the 30-day suspension period including, but not limited to, termination of the operating license."

FOR THE UNITED STATES NUCLEAR REGULATORY COMMISSION

/s/ JEROME SALTZMAN

Jerome Saltzman, Chief
Antitrust and Indemnity Group
Office of Nuclear Reactor Regulation

Accepted_____, 1978

By_____
NIAGARA MOHAWK POWER CORPORATION

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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

June 15, 1977

Docket No. 50-220

Niagara Mohawk Power Corporation
ATTN: Mr. E. R. Inderbitzin, Supervisor
System Insurance Department
300 Erie Boulevard West
Syracuse, New York 13202

Gentlemen:

The Commission is completing the implementation of certain provisions of the 1975 amendments to the Price-Anderson Act (Public Law 94-197), so that the new retrospective premium system can become effective on August 1, 1977.

The Commission published in the Federal Register on January 3, 1977 (42 F.R. 46) its intention to establish certain requirements relating to guaranteeing retrospective premiums to assure that following a nuclear incident deferred retrospective premiums will be paid by licensees and that government funds will not have to be used to cover defaults in such payments. These guarantee requirements may be met by providing any one or a combination of alternative methods in the amount of $10 million for each large power reactor a licensee operates. These alternatives would be:

1. Surety bonds;
2. Letters of credit;
3. Revolving credit/term loan arrangements;
4. Maintenance of escrow deposits of government securities;
5. Annual certified financial statements and cash flow projections showing either that a cash flow (i.e., cash available to a company after all operating expenses, taxes, interest charges and dividends have been paid) can be generated and would be available for payment of retrospective premiums within three (3) months after submission of the statement, or a cash reserve or a combination of cash flow and cash reserve, and
6. Such other type of guarantee approved by the Commission.

The purpose of this letter is to learn from you the type of guarantee that you intend to provide as well as to provide some guidance concerning Alternative 5 of the guarantees (a showing of adequate cash flow). In

order to allow us to analyze the adequacy of the showing of cash flow, we should be provided with the following:

(1) An annual certified financial statement for the most recent reported year preceding the submission date;

(2) a quarterly financial statement for the last quarter preceding the submission date;

(3) a one year internal cash flow projection accompanied by underlying assumptions showing that cash flow (i.e., cash available to a company after all operating expenses, taxes, interest charges, and dividends have been paid) for $10 million can be generated and would be available for payment of retrospective premiums within three months after submission of the statement;

(4) a narrative statement indicating which capital expenditures (if any) would be curtailed to ensure that retrospective premiums up to $10 million would be available for payment.

The cash flow projection should be for a one year period preferably beginning either at the anniversary date or if unduly burdensome at the calendar year starting closest to the anniversary date. This projection should include a detailed breakdown of expected cash sources, e.g., retained earnings, depreciation, deferred taxes, etc., and should be certified by an official of the company.

All utilities will be required to provide their first submission of guarantees by August 1, 1977. Annual submissions thereafter should be on the anniversary date of any of the utility's indemnity agreements. Utilities may request another date for their annual submittals. If more than one statement is provided in those cases where there are multiple licensees, all such statements should utilize the same submittal date.

As provided for in the regulations, the Commission will impose a single $1,000 minimum indemnity fee per year upon any licensee submitting in that year a certified financial statement as the guarantee of payment of deferred premiums for its operating reactors. If more than one statement is provided in those cases where there are multiple licensees, then a $1,000 minimum annual indemnity fee will be imposed on each licensee submitting a statement. We would expect, however, that in cases where there are numerous licensees, some with small percentages of ownership, that only the principal owner(s) will submit this information for the entire $10 million guarantee.

We would appreciate your indicating to us by July 1, 1977 the type of guarantee that you intend to provide us with on August 1, 1977 and what your preferred anniversary date for future submittals would be. Please provide the contents of this letter to your co-licensees (if any). If you have any questions concerning this letter or any other matter, you may contact Ira Dinitz, Indemnity Specialist on 301-443-6961.

Sincerely,

Signed, Jerome D. Saltzman

Jerome Saltzman. Chief
Antitrust & Indemnity Group
Nuclear Reactor Regulation