Box 94
Oswego, New York 13126
August 25, 1979
ECOLOGY ACTION

50-485
50-410

Office of Antitrust and Indemnity
Directorate of Licensing
Nuclear Regulatory Commission
Washington, DC

Gentlemen:

This is a request to reopen the antitrust investigation performed by your office in connection with the application by Rochester Gas and Electric Corp. and three other utilities to build a nuclear plant at Sterling, N.Y. Specifically, we ask that a new inquiry be held, focussing on the activities of Niagara Mohawk Power Corp., one of the other three utilities.

Since your investigation in 1975 and 1976, a significant change in the facts has occurred. The village of Massena has condemned Niagara Mohawk's distribution system and has contracted with the Power Authority of New York State for power from PASNY's St. Lawrence River hydro station. Despite the fact that the condemnation has survived every legal effort by Niagara Mohawk to reverse it, the utility is now trying to starve out Massena by refusing to transmit power from PASNY to the town.

This refusal to wheel power, at least on its face, seems an obvious attempt to restrain free trade. On Feb. 26, 1976, your office asked the Sterling applicants about Niagara Mohawk's reported refusal to transmit power to Massena. This inquiry was part of your original antitrust investigation. By letter of March 31, 1976, the applicants replied that any conclusion about Niagara Mohawk's position was premature; that Massena was in the "preliminary stages" of a condemnation proceeding. The letter cited a legal brief by the company submitted to the Federal Power Commission, which said:

"...it would be imprudent and impracticable for Niagara to either 'refuse' or 'agree' to what at present must necessarily be a purely hypothetical 'wheeling agreement' with Massena."

The situation is no longer "hypothetical." Niagara Mohawk now refuses to transmit power to the Massena municipal system and has been granted an injunction in Federal district court preventing the system from starting up while this question is decided.

We think this matter bears directly on the Commission's duty to determine whether the activities under a license will create or maintain a situation "inconsistent with the antitrust laws (42 USC 2135 (5)). It is obvious that your office agrees, or you would not have inquired about it in 1976. Therefore, we ask that the antitrust inquiry be reopened to determine if Niagara Mohawk's actions in regard to Massena violate the antitrust provision of the Atomic Energy Act.

The Massena situation is also relevant to Niagara Mohawk's construction permit to build Nine Mile Unit 2. If the conclusions of your investigation warrant it, that construction permit should also be reconsidered.

Sincerely,
Suzanne Weber
Suzanne Weber
Chairperson, Ecology Action of Oswego

7908310387

ANTI-TRUST

Docket No. 50-410A

AUG 07 1978

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The Honorable Morris K. Udall, Chairman
Subcommittee on Energy and the Environment
Committee on Interior and Insular Affairs
United States House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

This is to inform the Subcommittee on Energy and the Environment that the Commission has received additional antitrust advice from the Attorney General in connection with Niagara Mohawk Power Corporation, Long Island Lighting Company, New York State Electric & Gas Corporation, Rochester Gas & Electric Corporation, and Central Hudson Gas & Electric Corporation's construction permit application for Nine Mile Point Nuclear Station, Unit No. 2. This advice is rendered pursuant to section 105c of the Atomic Energy Act of 1954, as amended.

A copy of the Attorney General's letter dated July 26, 1978, is enclosed. In his letter he concludes:

> "... from the information available to us at the present time we conclude that no antitrust hearing by the Nuclear Regulatory Commission will be required with respect to this application."

Sincerely,

/s/ A. L. Toalston

Argil Toalston, Acting Chief
Antitrust & Indemnity Group
Nuclear Reactor Regulation

Enclosure:
Attorney General's Letter

cc: Rep. Robert Bauman

A/T 1

OFFICE	NRR:AIG	OCA				
SURNAME	AToalston/cd					
DATE	8/2/78	8/4/78				

AUG 07 1978

ANTI-TRUST

AUG 07 1978

Distribution:
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JSaltzman

Docket No. 50-410A

The Honorable Gary Hart, Chairman
Subcommittee on Nuclear Regulation
Committee on Environment and Public Works
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

This is to inform the Subcommittee on Nuclear Regulation that the Commission has received additional antitrust advice from the Attorney General in connection with Niagara Mohawk Power Corporation, Long Island Lighting Company, New York State Electric & Gas Corporation, Rochester Gas & Electric Corporation, and Central Hudson Gas & Electric Corporation's construction permit application for Nine Mile Point Nuclear Station, Unit No. 2. This advice is rendered pursuant to section 105c of the Atomic Energy Act of 1954, as amended.

A copy of the Attorney General's letter dated July 26, 1978, is enclosed. In his letter he concludes:

> "... from the information available to us at the present time we conclude that no antitrust hearing by the Nuclear Regulatory Commission will be required with respect to this application."

Sincerely,

/s/ A. L. Toalston

Argil Toalston, Acting Chief
Antitrust & Indemnity Group
Nuclear Reactor Regulation

Enclosure:
Attorney General's Letter

cc: Sen. James McClure

A/T 1

OFFICE	NRR:AIG	OCA				
SURNAME	AToalston/cc					
DATE	8/2/78	8/4/78				

AUG 07 1978

Distribution:
OCA (3)
Docket Files
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JSaltzman

ANTI-TRUST

AUG 07 1978

Docket No. 50-410A

The Honorable John D. Dingell, Chairman
Subcommittee on Energy and Power
Committee on Interstate and Foreign Commerce
United States House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

This is to inform the Subcommittee on Energy and Power that the Commission has received additional antitrust advice from the Attorney General in connection with Niagara Mohawk Power Corporation, Long Island Lighting Company, New York State Electric & Gas Corporation, Rochester Gas & Electric Corporation, and Central Hudson Gas & Electric Corporation's construction permit application for Nine Mile Point Nuclear Station, Unit No. 2. This advice is rendered pursuant to section 105c of the Atomic Energy Act of 1954, as amended.

A copy of the Attorney General's letter dated July 26, 1978, is enclosed. In his letter he concludes:

> "... from the information available to us at the present time we conclude that no antitrust hearing by the Nuclear Regulatory Commission will be required with respect to this application."

Sincerely,

/s/ A. L. Toalston

Argil Toalston, Acting Chief
Antitrust & Indemnity Group
Nuclear Reactor Regulation

Enclosure:
Attorney General's Letter

cc: Rep. Clarence J. Brown

A/T

OFFICE	NRR:AIG	OCA				
SURNAME	AToalston/cd					
DATE	8/1/78	8/4/78				

AUG 07 1985

ANTI-TRUST

July 31, 1978

Docker No. 50-410A

Niagara Mohawk Power Corporation
ATTN: Mr. Gerald K. Rhode
Vice President - Engineering
300 Erie Boulevard West
Syracuse, New York 13202

Gentlemen:

With reference to the construction permit application for Nine Mile Point Nuclear Station, Unit No. 2, the Attorney General has furnished the Commission additional antitrust advice pursuant to section 105c of the Atomic Energy Act of 1954, as amended. A copy of the Attorney General's letter dated July 26, 1978, is enclosed for your information.

We are also transmitting to the Office of the Federal Register a copy of the Attorney General's advice for publication. It should be noted that pursuant to section 2.714 of the Commission's Rules of Practice, 10 CFR Part 2, a petition for leave to intervene and request for hearing on the antitrust aspects of the application may be filed by any person whose interest may be affected within thirty (30) days after publication of the notice in the Federal Register.

Sincerely,

/s/ A. L. Toalston

Argil Toalston, Acting Chief
Antitrust & Indemnity Group
Nuclear Reactor Regulation

Enclosure:
Attorney General's Letter

cc: Alvin E. Upton, Esq.

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Docket Files
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NRR Reading
AIG Files
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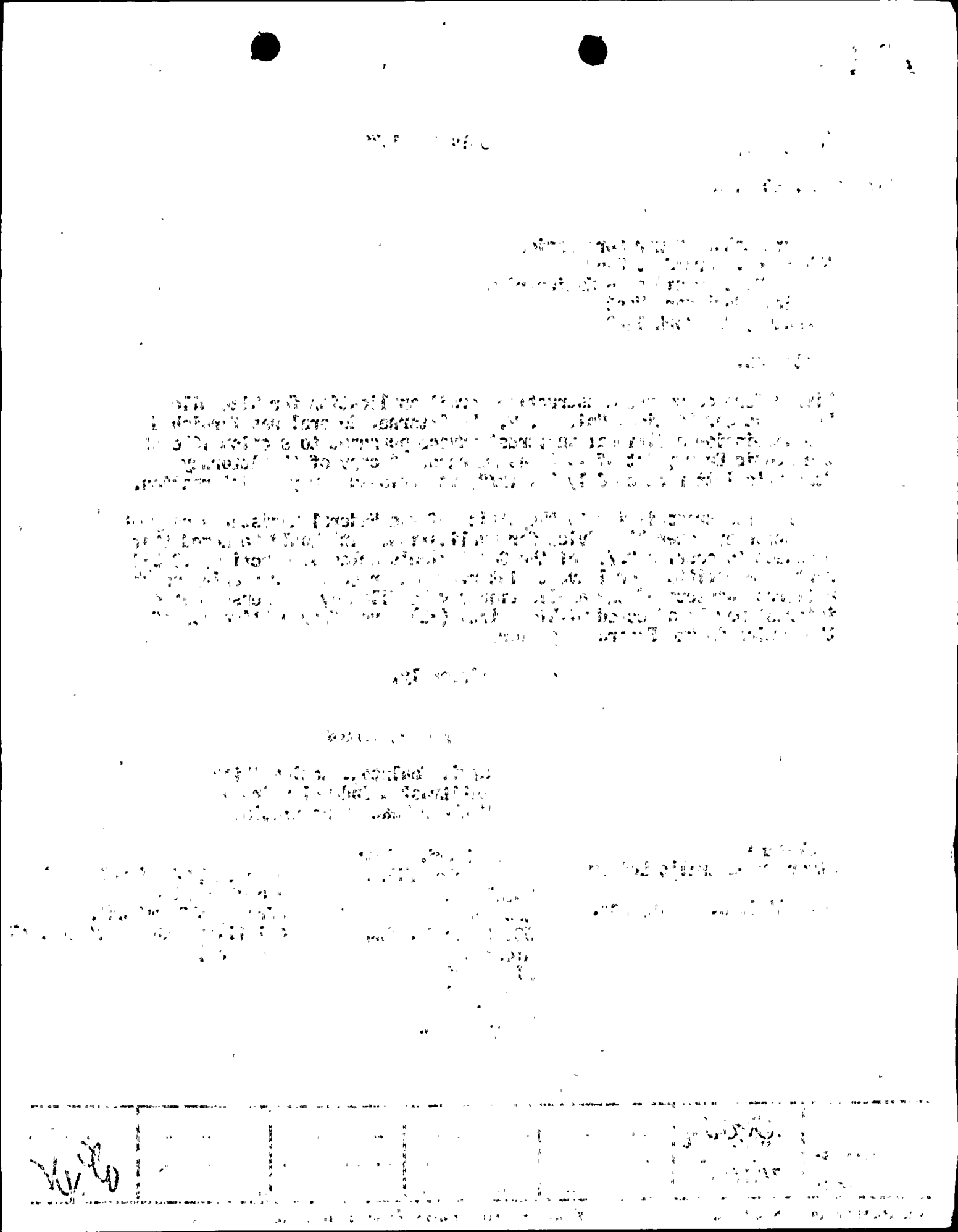
JFrye, ASLB, w/encl.
CWilliams, ASLAP, w/encl. (5 copies)

OFFICE	NRR:AIG					
SURNAME	AToalston/cd					
DATE	7/31/78					



United States Department of Justice
WASHINGTON, D.C. 20530

ASSISTANT ATTORNEY GENERAL
ANTITRUST DIVISION

JUL 26 1978

Howard K. Shapar, Esquire
Executive Legal Director
Nuclear Regulatory Commission
Washington, D.C. 20555

Re: Nine Mile Point Nuclear Station, Unit 2
NRC Docket No. 50-410A

Dear Mr. Shapar:

You have requested our advice pursuant to Section 105 of the Atomic Energy Act, as amended, in regard to the revised application by Niagara Mowhawk Power Corporation, Long Island Lighting Company, New York State Electric & Gas Corporation, Rochester Gas & Electric Corporation and Central Hudson Gas & Electric Corporation to construct the Nine Mile Point Nuclear Station, Unit No. 2.

In 1972 the Department of Justice reviewed the original application for the Nine Mile Point Nuclear Station, Unit 2 submitted by Niagara Mowhawk Power Corporation (Niagara Mowhawk). On December 19, 1972, we informed your predecessor Commission that the activities proposed under that application would not create or maintain a situation inconsistent with the antitrust laws. On September 22, 1975, Niagara Mowhawk entered into a Basic Agreement with Long Island Lighting Company (LILCO), New York State Electric & Gas Corporation (New York State), Rochester Gas & Electric Corporation (RG&E) and Central Hudson Gas & Electric Corporation (Central Hudson), to build, own and operate the Nine Mile Point Nuclear Station, Unit 2 on a joint basis. Each participant's share of the expenses and energy output is as follows:

Niagara Mowhawk	41%
LILCO	18%
New York State	18%
RG&E	14%
Central Hudson	9%

Nine Mile Point Nuclear Station, Unit 2 is proposed to be built on a site on the southeast shore of Lake Ontario, in Oswego County, New York. This location is presently the site of Niagara Mowhawk's existing nuclear generating facility, Nine Mile Point Nuclear Station, Unit 1. The latest cost estimates (not including allowances for funds used during construction) for the completion of the facility are as follows:

Total nuclear production plant costs	$1,018,335,000
Transmission, distribution and general plant costs	7,559,000
Nuclear fuel inventory costs for first core	71,474,000
TOTAL ESTIMATED COSTS	$1,097,368,000

This facility will be capable of generating 1100MW of power and is scheduled to be in service in November, 1982.

Each of the new applicants has been the subject of prior antitrust advice letters written by the Department. On April 22, 1976, we rendered antitrust advice on an application by Central Hudson to participate in the Sterling Power Project, Nuclear Unit No. 1. On January 7, 1975, we rendered antitrust advice on an application by LILCO to construct the Jamesport Nuclear Power Station, Units 1 and 2. RG&E was the subject of antitrust advice letters of December 27, 1974, and April 22, 1976 on an application to construct the Sterling Power Project, Nuclear Unit No. 1. Most recently, on January 26, 1978, we rendered antitrust advice concerning New York State with respect to its applications to participate in the Jamesport Nuclear Power Station, Units 1 and 2. We also rendered antitrust advice on December 27, 1974, on New York State's application to construct the Somerset Nuclear Station, Units 1 and 2.

In each of the above-referenced antitrust advice letters we advised of our conclusion that the activities under the licenses applied for would not create or maintain a situation inconsistent with the antitrust laws.

Since the last antitrust advice letters were written for each of the new applicants only LILCO has had a change in its operations which merit notation.

In April, 1978, the Greenport New York Municipal Electric System, which until that time had been isolated, interconnected with LILCO. The Greenport system has a peak of about 3MW. In addition, Greenport, as well as Freeport and Rockville Centre, the only two other comparatively small municipal utilities in LILCO's service area, have obtained commitments from the Power Authority of the State of New York (PASNY) to supply their bulk power needs. LILCO, as well as other investor-owned utilities in the State of New York, have agreed to transmit that power from the PASNY transmission system to the three municipal systems.

After examination of the current applications and review of the relevant data, we have concluded that no intervening circumstances have appeared to warrant a reversal of the advice given with respect to each of the new applicants in the above-cited antitrust letters.

We express no opinion, however, concerning the legality under the antitrust laws of the manner in which, or any arrangements pursuant to which, the plants will be operated, should they differ from or extend beyond those matters specifically disclosed in the application.

Accordingly, from the information available to us at the present time we conclude that no antitrust hearing by the Nuclear Regulatory Commission will be required with respect to this application.

Sincerely yours,

Joe Sims
Deputy Assistant Attorney General
Antitrust Division

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

OFFICE OF THE
SECRETARY

M arch 21, 1978

Director
Office of the Federal Register
National Archives and Records Service
Washington, D.C. 20403

Dear Sir:

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

NIAGARA MOHAWK POWER CORPORATION, ET AL.

Docket No. 50-410A

NOTICE OF RECEIPT OF ADDITIONAL ANTITRUST INFORMATION; TIME FOR SUBMISSION OF VIEWS ON ANTITRUST MATTERS

Please publish on Monday, March 27, 1978.

This material is to be charged to requisition number D-149.

Sincerely,

Samuel J. Chilk
Secretary of the Commission

Enclosures:
Original and 2 certified copies

bcc: Records Facility Branch
Public Affairs
Executive Legal Director
Office of Congressional Affairs
Office of the General Counsel
SECY - C&R Branch

ok

UNITED STATES NUCLEAR REGULATORY COMMISSION

DOCKET NO. 50-410-A

NIAGARA MOHAWK POWER CORPORATION
CENTRAL HUDSON GAS & ELECTRIC COMPANY
LONG ISLAND LIGHTING COMPANY
NEW YORK STATE ELECTRIC & GAS CORPORATION
ROCHESTER GAS & ELECTRIC CORPORATION

NOTICE OF RECEIPT OF ADDITIONAL ANTITRUST INFORMATION; TIME FOR SUBMISSION OF VIEWS ON ANTITRUST MATTERS

Niagara Mohawk Power Corporation, pursuant to Section 103 of the Atomic Energy Act of 1954, as amended, filed on June 15, 1972, information requested by the Attorney General for Antitrust Review as required by 10 CFR Part 50, Appendix L. This information adds Central Hudson Gas & Electric Company, Long Island Lighting Company, New York State Electric & Gas Corporation, and Rochester Gas & Electric Corporation as owners of the Nine Mile Point Nuclear Plant, Unit 2.

The information was filed by Niagara Mohawk Power Corporation, Central Hudson Gas & Electric Company, Long Island Lighting Company, New York State Electric & Gas Corporation, and Rochester Gas & Electric Corporation in connection with their application for a construction permit and operating license for the Nine Mile Point Nuclear Plant, Unit 2, a boiling water reactor. The site for this plant is located on the shore of Lake Ontario in Oswego County, New York.

The original antitrust portion of the application was submitted on June 15, 1972, and notice of Receipt of Application for Construction Permits and Facility Licenses and Availability of Applicants' Environmental

Report: Time for Submission of Views on Antitrust Matters was published in the FEDERAL REGISTER on July 14, 1972 (37 F.R. 13816). The Notice of Hearing was also published in the FEDERAL REGISTER on September 23, 1972 (37 F.R. 20089).

Copies of the above stated documents are available for public inspection at the Commission's Public Document Room, 1717 H Street, N. W., Washington, D. C. 20555, and at the Oswego County Office Building, 46 E. Bridge Street, Oswego, New York 13126.

Information in connection with the antitrust review of this application can be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, D. C. 20555, Attention: Antitrust and Indemnity Group, Office of Nuclear Reactor Regulation.

Any person who wishes to have his views on the antitrust matters with respect to the Central Hudson Gas & Electric Company, Long Island Lighting Company, New York State Electric & Gas Corporation, and Rochester Gas & Electric Corporation presented to the Attorney General for consideration should submit such views to the U.S. Nuclear Regulatory Commission on or before May 26, 1978.

Dated at Bethesda, Maryland, this 13th day of March 1978.

FOR THE NUCLEAR REGULATORY COMMISSION

Carl Stahle

Carl Stahle, Acting Chief
Light Water Reactors Branch 4
Division of Project Management

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

OFFICE OF THE
SECRETARY

August 2, 1978

Director
Office of the Federal Register
National Archives and Records Service
Washington, D. C.. 20403

Dear Sir:

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

NIAGARA MOHAWK POWER CORPORATION, ET AL.

Docket No. 50-410A

NOTICE OF RECEIPT OF ATTORNEY GENERAL'S ADVICE AND TIME FOR FILING PETITIONS TO INTERVENE ON ANTITRUST MATTERS

Please publish on Friday, August 4, 1978.

This material is to be charged to requisition number D-149.

Sincerely,

Samuel J. Chilk
Secretary of the Commission

Enclosures:
Original and 2 certified copies

bcc: Records Facility Branch
Office of Public Affairs
Executive Legal Director
Office of Congressional Affairs
Office of the General Counsel
SECY - C&R Branch

[redacted] A/T

NUCLEAR REGULATORY COMMISSION

DOCKET NO. 50-410A

NIAGARA MOWHAWK POWER CORPORATION

LONG ISLAND LIGHTING COMPANY

NEW YORK STATE ELECTRIC & GAS CORPORATION

ROCHESTER GAS & ELECTRIC CORPORATION

CENTRAL HUSDON GAS & ELECTRIC CORPORATION

NOTICE OF RECEIPT OF ATTORNEY GENERAL'S ADVICE AND TIME FOR FILING OF PETITIONS TO INTERVENE ON ANTITRUST MATTERS

The Commission has received, pursuant to section 105c of the Atomic Energy Act of 1954, as amended, the following additional advice from the Attorney General of the United States, dated July 26, 1978, with respect to a construction permit application for Nine Mile Point Nuclear Station, Unit No. 2:

> "You have requested our advice pursuant to Section 105 of the Atomic Energy Act, as amended, in regard to the revised application by Niagara Mowhawk Power Corporation, Long Island Lighting Company, New York State Electric & Gas Corporation, Rochester Gas & Electric Corporation and Central Hudson Gas & Electric Corporation to construct the Nine Mile Point Nuclear Station, Unit No. 2.
>
> "In 1972 the Department of Justice reviewed the original application for the Nine Mile Point Nuclear Station, Unit 2 submitted by Niagara Mowhawk Power Corporation (Niagara Mowhawk). On December 19, 1972,

we informed your predecessor Commission that the activities proposed under that application would not create or maintain a situation inconsistent with the antitrust laws. On September 22, 1975, Niagara Mowhawk entered into a Basic Agreement with Long Island Lighting Company (LILCO), New York State Electric & Gas Corporation (New York State), Rochester Gas & Electric Corporation (RG&E) and Central Hudson Gas & Electric Corporation (Central Hudson), to build, own and operate the Nine Mile Point Nuclear Station, Unit 2 on a joint basis. Each participant's share of the expenses and energy output is as follows:

Niagara Mowhawk	41%
LILCO	18%
New York State	18%
RG&E	14%
Central Hudson	9%

"Nine Mile Point Nuclear Station, Unit 2 is proposed to be built on a site on the southeast shore of Lake Ontario, in Oswego County, New York. This location is presently the site of Niagara Mowhawk's existing nuclear generating facility, Nine Mile Point Nuclear Station, Unit 1. The latest cost estimates (not including allowances for funds used during construction) for the completion of the facility are as follows:

Total nuclear production plant costs	$1,018,335,000
Transmission, distribution and general plant costs	7,559,000
Nuclear fuel inventory costs for first core	71,474,000
TOTAL ESTIMATED COSTS	$1,097,368,000

"This facility will be capable of generating 1100 MW of power and is scheduled to be in service in November, 1982.

"Each of the new applicants has been the subject of prior antitrust advice letters written by the Department. On April 22, 1976, we rendered antitrust advice on an application by Central Hudson to participate in the Sterling Power Project, Nuclear Unit No. 1. On January 7, 1975, we rendered antitrust advice on an application by LILCO to construct the Jamesport Nuclear Power Station, Units 1 and 2. RG&E was the subject of antitrust advice letters of December 27, 1974, and April 22, 1976 on an application to construct the Sterling Power Project, Nuclear Unit No. 1. Most recently, on January 26, 1978, we rendered antitrust advice concerning New York State with respect to its applications to participate in the Jamesport Nuclear Power Station, Units 1 and 2. We also rendered antitrust advice on December 27, 1974, on New York State's application to construct the Somerset Nuclear Station, Units 1 and 2.

"In each of the above-referenced antitrust advice letters we advised of our conclusion that the activities under the licenses applied for would not create or maintain a situation inconsistent with the antitrust laws.

"Since the last antitrust advice letters were written for each of the new applicants only LILCO has had a change in its operations which merit notation.

"In April, 1978, the Greenport New York Municipal Electric System, which until that time had been isolated, interconnected with LILCO. The Greenport system has a peak of about 3 MW. In addition, Greenport, as well as Freeport and Rockville Centre, the only two other comparatively small municipal utilities in LILCO's service area, have obtained commitments from the Power Authority of the State of New York (PASNY) to supply their bulk power needs. LILCO, as well as other investor-owned utilities in the State of New York, have agreed to transmit that power from the PASNY transmission system to the three municipal systems.

"After examination of the current applications and review of the relevant data, we have concluded that no intervening circumstances have appeared to warrant a reversal of the advice given with respect to each of the new applicants in the above-cited antitrust letters.

"We express no opinion, however, concerning the legality under the antitrust laws of the manner in which, or any arrangements pursuant to which, the plants will be operated, should they differ from or extend beyond those matters specifically disclosed in the application.

"Accordingly, from the information available to us at the present time we conclude that no antitrust hearing by the Nuclear Regulatory Commission will be required with respect to this application."

Any person whose interest may be affected by this proceeding may, pursuant to section 2.714 of the Commission's "Rules of Practice," 10 CFR Part 2, file a petition for leave to intervene and request a hearing on the antitrust aspects of the application. Petitions for leave to intervene and requests for hearing shall be filed by September 3, 1978, either (1) by delivery to the NRC Docketing and Service Section at 1717 H Street, NW, Washington, DC or (2) by mail or telegram addressed to the Secretary , U.S. Nuclear Regulatory Commission, Washington, DC 20555, ATTN: Docketing and Service Section.

FOR THE NUCLEAR REGULATORY COMMISSION

Argil Toalston

Argil Toalston, Acting Chief
Antitrust and Indemnity Group
Office of Nuclear Reactor Regulation

1245.405(e), the National Aeronautics and Space Administration announces its intention to grant to the Japan Engineering Development Co., Tokyo, Japan, a limited, exclusive patent license in Japan for the three NASA-owned inventions covered by the Japanese counterparts of: (1) U.S. Application Serial No. 779,893 for "Oxygen Post-Treatment of Plastic Surfaces," filed by NASA on March 21, 1977; (2) U.S. Application Serial No. 797,217 for "Abrasion Resistant Coatings for Plastic Surfaces," filed by NASA on May 16, 1977; and (3) U.S. Application Serial No. 820,499 for "Production of Crystals From Molten Solutions," filed by NASA on July 29, 1977. Copies of the above U.S. Patent Applications can be purchased from the National Technical Information Services, Springfield, Va., 22161, at a cost of $3.75 a copy. Interested parties should submit written inquiries or comments within 60 days to the Assistant General Counsel for Patent Matters, Code GP-4, National Aeronautics and Space Administration, Washington, D.C. 20546.

Dated: March 21, 1978.

GERALD J. MOSSINGHOFF,
Acting General Counsel.

[FR Doc. 78-7912 Filed 3-24-78; 8:45 am]

[7537-01]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

ARTISTS-IN-SCHOOLS ADVISORY PANEL

Notice of Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Artists-in-Schools Advisory Panel to the National Council on the Arts will take place April 10, 1978, from 9:30 a.m.-5 p.m.; April 11, 1978, from 9:30 a.m.-5 p.m.; and April 12, 1978, from 9:30 a.m.-12:30 p.m. in Room 1422 of the Columbia Plaza Office Building, 2401 E Street, NW., Washington, D.C. 20506.

A portion of this meeting will be open to the public on April 10, 1978, from 9:30 a.m.-5 p.m. and April 11, 1978, from 9:30 a.m.-5 p.m. The topics of discussion will be policy and guidelines.

The remaining sessions of this meeting on April 12, 1978, from 9:30 a.m.-12:30 p.m., are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER March 17, 1977, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call 202-634-6070.

JOHN H. CLARK,
Director, Office of Council and Panel Operations, National Endowment for the Arts.

MARCH 20, 1978.

[FR Doc. 78-7935 Filed 3-24-78; 8:45 am]

[7555-01]

NATIONAL SCIENCE FOUNDATION

ADVISORY COMMITTEE FOR PHYSICS SUBCOMMITTEE ON JOB-RELATED ISSUES

Open Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Physics—Subcommittee on Job-Related Issues.
Date and Time: April 14 and 15, 1978; 9 a.m. to 5 p.m. each day.
Place: Room 114, East Bridge, California Institute of Technology, Pasadena, Calif. 91125.
Type of Meeting: Open.
Contact Person: Dr. Laura P. Bautz, Executive Secretary, Advisory Committee for Physics, Division of Physics, Room 341, National Science Foundation, Washington, D.C. 20550, telephone 202-632-4175.
Purpose of Subcommittee: To analyze issues related to employment opportunities in Physics, with special reference to those for young physicists.
Agenda: Continued discussion of issues and options regarding job opportunities for young physicists.
Summary Minutes: May be obtained from the Committee Management Coordinator, Division of Financial and Administrative Management, Room 248, National Science Foundation, Washington, D.C. 20550.

M. REBECCA WINKLER,
Committee Management Coordinator.

MARCH 22, 1978.

[FR Doc. 78-7965 Filed 3-24-78; 8:45 am]

[7555-01]

COLLEGE PROGRAMS SUBCOMMITTEE OF THE ADVISORY COMMITTEE FOR SCIENCE EDUCATION

Notice of Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: College Programs Subcommittee of the Advisory Committee for Science Education.
Date and Time: April 23, 1978—10 a.m.
Place: Room 608, University of Colorado, 100 14th Street, Denver, Colo.
Type of Meeting: Open.
Contact Person: Dr. Terence Porter, Deputy Division Director, Division of Science Education Resources Improvement, National Science Foundation, Washington, D.C. 20550, telephone 202-282-7786.
Purpose of Subcommittee: To assist the Assistant Director for Science Education regarding the Office of Audit and Oversight's requirement to assess system performance.
Agenda: Development of a work plan for the subcommittee in addressing a review and assessment of the purpose, composition, functions and accomplishments of certain science education programs.
Summary Minutes: May be obtained from the Committee Management Coordinator, Division of Financial and Administrative Management, Room 248, National Science Foundation, Washington, D.C. 20550.

M. REBECCA WINKLER,
Committee Management Coordinator.

MARCH 22, 1978.

[FR Doc. 78-7964 Filed 3-24-78; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-410-A]

NIAGARA MOHAWK POWER CO., ET AL.

Receipt of Additional Antitrust Information; Time for Submission of Views on Antitrust Matters

Niagara Mohawk Power Corp., pursuant to Section 103 of the Atomic Energy Act of 1954, as amended, filed on June 15, 1972, information requested by the Attorney General for Antitrust Review as required by 10 CFR Part 50, Appendix L. This information adds Central Hudson Gas & Electric Co., Long Island Lighting Co., New York State Electric & Gas Corp., and Rochester Gas & Electric Corp. as owners of the Nine Mile Point Nuclear Plant, Unit 2.

The information was filed by Niagara Mohawk Power Corp., Central Hudson Gas & Electric Co., Long Island Lighting Co., New York State Electric & Gas Corp., and Rochester Gas & Electric Corp. in connection with their application for a construction permit and operating license for the Nine Mile Point Nuclear Plant, Unit 2, a boiling water reactor. The site for this plant is located on the shore of Lake Ontario in Oswego County, N.Y.

The original antitrust portion of the application was submitted on June 15,

1972, and notice of Receipt of Application for Construction Permits and Facility Licenses and Availability of Applicants' Environmental Report: Time for Submission of Views on Antitrust Matters was published in the FEDERAL REGISTER on July 14, 1972 (37 FR 13816). The Notice of Hearing was also published in the FEDERAL REGISTER on September 23, 1972 (37 FR 20089).

Copies of the above stated documents are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555, and at the Oswego County Office Building, 46 E. Bridge Street, Oswego, N.Y. 13126.

Information in connection with the antitrust review of this application can be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Antitrust and Indemnity Group, Office of Nuclear Reactor Regulation.

Any person who wishes to have his views on the antitrust matters with respect to the Central Hudson Gas & Electric Co., Long Island Lighting Co., New York State Electric & Gas Corp., and Rochester Gas & Electric Corp. presented to the Attorney General for consideration should submit such views to the U.S. Nuclear Regulatory Commission on or before May 26, 1978.

Dated at Bethesda, Md., this 13th day of March 1978.

For the Nuclear Regulatory Commission.

CARL STAHLE,
Acting Chief, Light Water Reactors Branch 4, Division of Project Management.

[FR Doc. 78-7730 Filed 3-24-78; 8:45 am]

[7590-01]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS, SUBCOMMITTEE ON REGULATORY ACTIVITIES

Addition to Agenda

The agenda for the April 5, 1978 meeting of the ACRS Subcommittee on Regulatory Activities, announced in the FEDERAL REGISTER on March 21, has been changed to add the following item:

A. (3) Regulatory Guide 1.68, Revision 2, "Initial Test Programs for Water Cooled Nuclear Power Plants."

All other matters pertaining to this meeting remain the same as stated in above cited announcement.

Dated: March 22, 1978.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc. 78-8043 Filed 3-24-78; 8:45 am]

[3190-01]

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

NON-RUBBER FOOTWEAR

The following letter, concerning administration of the orderly marketing agreement with the Republic of China on non-rubber footwear, has been sent to the Commissioner of Customs:

Hon. ROBERT CHASEN,
Commissioner, U.S. Customs Service, Department of the Treasury, Washington, D.C. 20229.

MARCH 20, 1978.

DEAR MR. COMMISSIONER: The Government of the Republic of China has requested that the restraint levels applicable during the first restraint year to categories T1, T2, and T3 of the United States-Republic of China orderly marketing agreement on non-rubber footwear (corresponding to category nos. 923.90, 923.91, and 923.92 of the Tariff Schedules of the United States) be increased by six percent. For each category, the quantity by which the restraint level is increased for the first restraint year is to be subtracted from the restraint level for the second restraint year. Such a request, and U.S. compliance with it, is in accordance with the terms of the orderly marketing agreement.

Accordingly, pursuant to operative paragraph (6) of Proclamation No. 4510, of June 22, 1977, you are hereby requested to increase the first-year restraint level applicable to non-rubber footwear imports entering under TSUS item nos. 923.90, 923.91, and 923.92 by six percent, and to decrease the restraint levels applicable to each of those TSUS categories in the second restraint year by the same amount by which the category was increased for the first restraint year.

This letter will be published in the FEDERAL REGISTER and the action will become effective on the first working day after publication.

Sincerely,

ROBERT S. STRAUSS.

RICHARD R. RIVERS,
General Counsel.

[FR Doc. 78-7901 Filed 3-24-78; 8:45 am]

[3190-01]

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

ADVISORY COMMITTEE FOR TRADE NEGOTIATIONS

Request for Comments on Annual Review

In accordance with Section 7(b) of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. V, 1975), the Office of the Special Representative for Trade Negotiations (STR) will conduct an annual review of the Advisory Committee for Trade Negotiations (the Committee). By order of the President, a zero-based review of every executive advisory committee is to be undertaken, with the presumption that all committees should be abolished except those (1) for which there is a compelling need; (2) which have a truly balanced membership; and (3) which conduct their business as openly as possible, consistent with the law and their mandate. Based on this review, a determination is to be made whether to continue, merge, terminate, or revise responsibilities of each advisory committee. The STR is required to submit a report on the results of this review to the Office of Management and Budget by April 1, 1978.

The Trade Act of 1974 required establishment of an Advisory Committee for Trade Negotiations to provide overall advice on certain trade agreements referred to in the Trade Act (19 U.S.C. 2255.) The Committee is composed of 45 individuals drawn from government, labor, industry, agriculture, small business, service industries, retailers, consumer interests, and the general public. Members of the Committee are appointed by the President for a period of 2 years and may be reappointed for additional periods.

The Committee is chaired by the Special Representative for Trade Negotiations and meets at his request. The STR is authorized to make available to the Committee such staff, information, personnel, and administrative services and assistance as it may reasonably require to carry out its activities.

The Committee provides advice to the President, the Congress, and to U.S. negotiators on the Multilateral Trade Negotiations presently underway in Geneva. Public access to meetings of the Committee has been restricted pursuant to 5 U.S.C. 552b(c)(1), since disclosure of information discussed in such meetings could seriously harm U.S. foreign policy interests.

The Committee shall terminate as soon as practical after January 3, 1980, upon submission of reports required under Section 135(e)(2) of the Trade Act of 1974.

Comments, or requests for further information, should be directed to Phyllis O. Bonanno, Executive Director for the Advisory Committee for Trade Negotiations, 1800 G Street, NW., Washington, D.C. 20506 no later than March 31, 1978.

PHYLLIS O. BONANNO,
Executive Secretary, Advisory Committee for Trade Negotiations.

[FR Doc. 78-7914 Filed 3-24-78; 8:45 am]

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J.R. Buchanan, NSIC
T.B. Abernathy, TIC
J.Yore, ASLBP

Docket No. 50-410-A

MAR 13 1978

Niagara Mohawk Power Corporation
Attn: Mr. Gerald K. Rhode
Vice President - Engineering
300 Erie Boulevard West
Syracuse, New York 13202

Gentlemen:

SUBJECT: NINE MILE POINT 2 - ANTITRUST NOTICE

By letter dated February 6, 1978, you transmitted an application for amendment to Construction Permit No. CPPR-112 for the Nine Mile Point Nuclear Station, Unit 2. This application contained general and financial information submitted in accordance with 10 CFR §50.33 and "Information Requested by the Attorney General for Antitrust Review" submitted in accordance with 10 CFR Part 50, Appendix L, to include Central Hudson Gas & Electric Corporation, Long Island Lighting Company, New York State Electric & Gas Corporation and Rochester Gas and Electric Corporation as co-owners.

Enclosed is a related antitrust notice concerning this matter which has been forwarded to the Office of the Federal Register for publication. A similar notice has also been prepared and forwarded to the following trade journals and newspapers for publication as soon as possible: Public Power, Electric Light and Power, Rural Electrification, Public Utilities Fortnightly, New York Times, and Buffalo News.

Sincerely,

Original signed by:
C. Stahle

Steven A. Varga, Chief
Light Water Reactors Branch 4
Division of Project Management

Enclosures:
1. F.R. Notice

ccs w/encl:
See next page

OFFICE	LWR-4	LWR-4	AIG	OELD	OELD	LWR-4
SURNAME	MSERVICE	BKane	JSaltzman	BBordenick	JRutberg	SVarga
DATE	3/6/78	3/7/78	3/ /78	3/10/78	3/9/78	3/ /78

Niagara Mohawk Power Corporation - -

ccs:
Arvin E. Upton, Esq.
LeBoeuf, Lamb, Leiby & MacRae
1757 N Street, N. W.
Washington, D. C. 20036

Anthony Z. Roisman, Esq.
Natural Resources Defense Council
917 15th Street, N. W.
Washington, D. C. 20005

Mr. Richard Goldsmith
Syracuse University
College of Law
E. I. White Hall Campus
Syracuse, New York 13210

T. K. DeBoer, Director
Technological Development Programs
New York State Energy Office
Swan Street Building
Core 1 - 2nd Floor
Empire State Plaza
Albany, New York 12223

U.S. Environmental Protection Agency
Region II Office
ATTN: EIS Coordinator
26 Federal Plaza
New York, New York 10007

Staff Coordinator
New York State Atomic Energy Council
New York State Depatment of Commerce
99 Washington Street
Albany, New York 12210

Mr. Alvin L. Krakau
Chairman, County Legislature
County Office Building
46 East Bridge Street
Oswego, New York 13126

Mr. Robert P. Jones
Supervisor
Town of Scriba
R.D. #4
Oswego, New York 13126

UNITED STATES NUCLEAR REGULATORY COMMISSION

DOCKET NO. 50-410-A

NIAGARA MOHAWK POWER CORPORATION
CENTRAL HUDSON GAS & ELECTRIC COMPANY
LONG ISLAND LIGHTING COMPANY
NEW YORK STATE ELECTRIC & GAS CORPORATION
ROCHESTER GAS & ELECTRIC CORPORATION

NOTICE OF RECEIPT OF ADDITIONAL ANTITRUST INFORMATION; TIME FOR SUBMISSION OF VIEWS ON ANTITRUST MATTERS

Niagara Mohawk Power Corporation, pursuant to Section 103 of the Atomic Energy Act of 1954, as amended, filed on June 15, 1972, information requested by the Attorney General for Antitrust Review as required by 10 CFR Part 50, Appendix L. This information adds Central Hudson Gas & Electric Company, Long Island Lighting Company, New York State Electric & Gas Corporation, and Rochester Gas & Electric Corporation as owners of the Nine Mile Point Nuclear Plant, Unit 2.

The information was filed by Niagara Mohawk Power Corporation, Central Hudson Gas & Electric Company, Long Island Lighting Company, New York State Electric & Gas Corporation, and Rochester Gas & Electric Corporation in connection with their application for a construction permit and operating license for the Nine Mile Point Nuclear Plant, Unit 2, a boiling water reactor. The site for this plant is located on the shore of Lake Ontario in Oswego County, New York.

The original antitrust portion of the application was submitted on June 15, 1972, and notice of Receipt of Application for Construction Permits and Facility Licenses and Availability of Applicants' Environmental

Report: Time for Submission of Views on Antitrust Matters was published in the FEDERAL REGISTER on July 14, 1972 (37 F.R. 13816). The Notice of Hearing was also published in the FEDERAL REGISTER on September 23, 1972 (37 F.R. 20089).

Copies of the above stated documents are available for public inspection at the Commission's Public Document Room, 1717 H Street, N. W., Washington, D. C. 20555, and at the Oswego County Office Building, 46 E. Bridge Street, Oswego, New York 13126.

Information in connection with the antitrust review of this application can be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, D. C. 20555, Attention: Antitrust and Indemnity Group, Office of Nuclear Reactor Regulation.

Any person who wishes to have his views on the antitrust matters with respect to the Central Hudson Gas & Electric Company, Long Island Lighting Company, New York State Electric & Gas Corporation, and Rochester Gas & Electric Corporation presented to the Attorney General for consideration should submit such views to the U.S. Nuclear Regulatory Commission on or before May 26, 1978.

Dated at Bethesda, Maryland, this 13th day of March 1978.

FOR THE NUCLEAR REGULATORY COMMISSION

Carl Stahle

Carl Stahle, Acting Chief
Light Water Reactors Branch 4
Division of Project Management

UNITED STATES NUCLEAR REGULATORY COMMISSION

DOCKET NO. 50-410-A

NIAGARA MOHAWK POWER CORPORATION
CENTRAL HUDSON GAS & ELECTRIC COMPANY
LONG ISLAND LIGHTING COMPANY
NEW YORK STATE ELECTRIC & GAS CORPORATION
ROCHESTER GAS & ELECTRIC CORPORATION

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OFFICE➤	LWR-4	LWR-4	AIG	OELD	OELD	LWR-4
SURNAME➤	MSERVICE	EKeme	JSaltzman	BBordenick	JRutberg	SVarga
DATE➤	3/6/78	3/6 /78	3/10/78	3/9/78	3/9/78	3/ /78

Report: Time for Submission of Views on Antitrust Matters was published in the FEDERAL REGISTER on July 14, 1972 (37 F.R. 13816). The Notice of Hearing was also published in the FEDERAL REGISTER on September 23, 1972 (37 F.R. 20089).

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Information in connection with the antitrust review of this application can be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, D. C. 20555, Attention: Antitrust and Indemnity Group, Office of Nuclear Reactor Regulation.

Any person who wishes to have his views on the antitrust matters with respect to the Central Hudson Gas & Electric Company, Long Island Lighting Company, New York State Electric & Gas Corporation, and Rochester Gas & Electric Corporation presented to the Attorney General for consideration should submit such views to the U.S. Nuclear Regulatory Commission on or before May 26, 1978.

Dated at Bethesda, Maryland, this 13th day of March 1978.

FOR THE NUCLEAR REGULATORY COMMISSION

Carl Stahle, Acting Chief
Light Water Reactors Branch 4
Division of Project Management

OFFICE➤						
SURNAME➤						
DATE➤						

UNITED STATES NUCLEAR REGULATORY COMMISSION

DOCKET NO. 50-410-A

NIAGARA MOHAWK POWER CORPORATION
CENTRAL HUDSON GAS & ELECTRIC COMPANY
LONG ISLAND LIGHTING COMPANY
NEW YORK STATE ELECTRIC & GAS CORPORATION
ROCHESTER GAS & ELECTRIC CORPORATION

NOTICE OF RECEIPT OF ADDITIONAL ANTITRUST INFORMATION; TIME FOR SUBMISSION OF VIEWS ON ANTITRUST MATTERS

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The information was filed by Niagara Mohawk Power Corporation, Central Hudson Gas & Electric Company, Long Island Lighting Company, New York State Electric & Gas Corporation, and Rochester Gas & Electric Corporation in connection with their application for a construction permit and operating license for the Nine Mile Point Nuclear Plant, Unit 2, a boiling water reactor. The site for this plant is located on the shore of Lake Ontario in Oswego County, New York.

The original antitrust portion of the application was submitted on June 15, 1972, and notice of Receipt of Application for Construction Permits and Facility Licenses and Availability of Applicants' Environmental

OFFICE➤						
SURNAME➤						
DATE➤						

Report: Time for Submission of Views on Antitrust Matters was published in the FEDERAL REGISTER on July 14, 1972 (37 F.R. 13816). The Notice of Hearing was also published in the FEDERAL REGISTER on September 23, 1972 (37 F.R. 20089).

Copies of the above stated documents are available for public inspection at the Commission's Public Document Room, 1717 H Street, N. W., Washington, D. C. 20555, and at the Oswego County Office Building, 46 E. Bridge Street, Oswego, New York 13126.

Information in connection with the antitrust review of this application can be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, D. C. 20555, Attention: Antitrust and Indemnity Group, Office of Nuclear Reactor Regulation.

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Docket No. 50-410A

Mr. Gerald K. Rhode
Vice President, System Project Management
Niagara Mohawk Power Corporation
300 Erie Boulevard West
Syracuse, N.Y. 13202

Dear Mr. Rhode:

NINE MILE POINT NUCLEAR STATION, UNIT NO. 2

We have reviewed the antitrust information submitted by Niagara Mohawk Power Corporation on behalf of the Central Hudson Gas & Electric Co., Long Island Lighting Co., New York State Electric & Gas Corp., and Rochester Gas & Electric Corp. for the captioned nuclear plant, and have found it to be satisfactory for acceptance. The antitrust information was forwarded to the Department of Justice on February 24, 1978.

Sincerely,

/s/ A. L. Toalston

Argil Toalston, Chief
Power Supply Analysis Section
Antitrust & Indemnity Group
Nuclear Reactor Regulation

cc: Mr. Eugene B. Thomas, Jr.

OFFICE	NRR:AIG RHM	NRR:AIG	NRR:AIG	OELD		
SURNAME	RMcClymonds:n	AToalston	JSaltzman	JRutberg		
DATE	2/28/78	2/28/78	2/28	3/1/78		

[illegible]

February 24, 1978

Distribution:
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JRutberg
A/T formal file
JSaltzman

The Honorable Griffin B. Bell
Attorney General

Attention: Donald L. Flexner, Chief
Energy Section
Antitrust Division
Department of Justice

Re: Niagara Mohawk Power Corporation
Nine Mile Point Nuclear Station,
Unit No. 2
NRC Docket No. 50-410A

Dear Mr. Bell:

On February 6, 1978, LeBoeuf, Lamb, Leiby & MacRae submitted on behalf of Niagara Mohawk an amendment to include new participants Central Hudson Gas & Electric Corporation, Long Island Lighting Company, New York State Electric & Gas Corporation, and Rochester Gas & Electric Corporation as co-owners of the Nine Mile Point Unit 2 facility of Niagara Mohawk Power Corporation. This information has been accepted for the purpose of initiating the antitrust review pursuant to Section 105(c) of the Atomic Energy Act of 1954, as amended.

We are transmitting herewith two copies of information requested by the Attorney General for the Antitrust review.

The material is being transmitted to afford you an opportunity to render such advice to the Commission as you determine to be appropriate in regard to the finding to be made by the Commission pursuant to Section 105(c)(5) of the Act.

Sincerely,

Howard K. Shapar
Executive Legal Director

Enclosure:
Information for Antitrust
Review (2)

OFFICE	ELD	ELD				
SURNAME	JRutberg:bd	HKShapar				
DATE	2-23-78	2/24/78				

410

Docket No. 50-~~405~~

OCT 2 4 1975

Mr. Gerald K. Rhode
Vice President Engineering
Rochester Gas & Electric
Corporation
300 Erie Boulevard
West Syracuse, New York 13202

Dear Mr. Rhode:

NINE MILE POINT NO. 2 NUCLEAR STATION

This is a follow-up of our June 23, 1975 letter to you advising of our requirements for antitrust information from other entities participating with you in the ownership of the captioned nuclear unit.

Please advise us of the status of the required Appendix L information for each participant who has not already supplied such information.

Sincerely,

/s/ A. L. Toalston

Argil Toalston, Chief
Power Supply Analysis Branch
Office of Antitrust & Indemnity
Nuclear Reactor Regulation

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SURNAME	AToalston/cd	JSaltzman	JRutberg			
DATE	10/21/75	10/21/75	10/23/75			

JUN 2 3 1975

50-416

Gerald K. Rhode
Vice President Engineering
300 Erie Boulevard
West Syracuse, New York 13202

Dear Mr. Rhode:

RE: NINE MILE POINT NO.2 NUCLEAR STATION

It has come to our attention that utilities located in New York State plan to participate with you in the captioned nuclear facility. Pursuant to §50.80 and/or §50.90 of the Commission's Rules of Practice, as appropriate, any amendment of a license or construction permit or any transfer of a license must fully discuss the changes proposed and follow as far as applicable the form perscribed for original applications. Included with the material that must be submitted to effectuate either an amendment or a transfer when new participants are being added to a license or construction permit is the information required in §50.33a of the Rules of Practice.

In order to expedite the processing of either an amendment or a transfer, it is suggested that the antitrust information for each new participant should be submitted to the Commission through you as the lead applicant.

To assist us in our scheduling, please advise when you expect such antitrust information will be submitted.

/s/ A. L. Toalston

Argil L. Toalston, Chief
Power Supply Analysis Branch
Office of Antitrust & Indemnity
Nuclear Reactor Regulation

bcc: JSaltzman
JRutberg

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SURNAME	AToalston:jag	JSaltzman	JRutberg			
DATE	6/20/75	6/20/75	6/23/75			

50-410 A

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

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

December 21, 1972

Dear Sir:

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

NIAGARA MOHAWK POWER CORPORATION

NOTICE OF RECEIPT OF ATTORNEY GENERAL'S ADVICE AND TIME FOR FILING OF PETITIONS TO INTERVENE ON ANTITRUST MATTERS

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
Joseph Rutberg (OGC)
Office of Congressional Relations
Joseph J. Saunders,
Dept. of Justice
Public Proceedings Staff (SECY)
GT Files (SECY)

ATOMIC ENERGY COMMISSION

DOCKET NO. 50-410A

NIAGARA MOHAWK POWER CORPORATION

NOTICE OF RECEIPT OF ATTORNEY GENERAL'S ADVICE AND TIME FOR FILING OF PETITIONS TO INTERVENE ON ANTITRUST MATTERS

The Commission has received, pursuant to section 105c of the Atomic Energy Act of 1954, as amended, a letter of advice from the Attorney General of the United States, dated December 19, 1972, a copy of which is attached as Appendix A.

Any person whose interest may be affected by this proceeding may, pursuant to section 2.714 of the Commission's "Rules of Practice," 10 CFR Part 2, file a petition for leave to intervene and request a hearing on the antitrust aspects of the application. Petitions for leave to intervene and requests for hearing shall be filed within thirty (30) days after publication of this notice in the FEDERAL REGISTER, either (1) by delivery to the AEC Public Document Room at 1717 H Street, N. W., Washington, D. C., or (2) by mail or telegram addressed to the Secretary, U. S. Atomic Energy Commission, Washington, D. C., 20545, Attn: Chief, Public Proceedings Branch.

FOR THE ATOMIC ENERGY COMMISSION

/s/ Abraham Braitman

Abraham Braitman, Chief
Office of Antitrust & Indemnity
Directorate of Licensing

December 19, 1972

APPENDIX "A"

Niagara Mohawk Power Corporation
Nine Mile Point Nuclear Station Unit 2
AEC Docket No. 50-410A
Department of Justice File No. 60-415-53

You have requested our advice pursuant to the provisions of Section 105 of the Atomic Energy Act of 1954, as amended by P.L. 91-560 (December 19, 1970), in regard to the above cited application.

Introduction

Niagara Mohawk Power Corporation proposes to construct a nuclear generating facility with a capacity of 1,100 megawatts on a 900 acre site on the southeast shore of Lake Ontario, in the town of Scriba, Oswego County, New York. This location is presently the site of Niagara Mohawk's existing nuclear generating facility, the Nine Mile Point Nuclear Station, Unit 1. The total cost of the unit is estimated to be approximately $420,000,000 including first core nuclear fuel inventory costs and transmission, distribution and general plant costs. Construction of the Nine Mile Point Nuclear Station Unit 2 is expected to be completed between January and June 1978 with commercial operation following shortly thereafter.

The Applicant

Niagara Mohawk Power Corporation is a privately owned utility which supplies electric power to more than 1,250,000 customers in 37 counties of upstate New York. Its system

covers more than 24,000 square miles and includes 31 cities and 639 towns and villages. The utility also markets natural gas to more than 410,000 customers. In 1971 total system revenues were $571,382,000 of which $440,327,000 (77%) was derived from electric revenues.

The Applicant's most recent peak load was 4,551,000 kilowatts. Total dependable capacity at the time of this peak was 5,674,000 kilowatts comprised of 574,000 kilowatts from owned and leased hydro-electric facilities, 3,376,000 kilowatts of owned thermal capacity and 1,724,000 kilowatts of purchased capacity. The internally generated capacity is produced at five steam stations (including the Nine Mile Point Nuclear Station Unit 1), 82 hydro stations and 20 combustion turbine and diesel units. Over the ten-year period from 1971-1981 Niagara Mohawk estimates that its load will increase 2,949,000 kilowatts yielding a total load of approximately 7,500,000 kilowatts. The capacity of the Nine Mile Point Nuclear Unit Number 2 is part of the Company's construction program intended to meet this additional load. 1/

Applicant's Coordination and Interconnections with Other Utilities

Niagara Mohawk plans its generation and transmission facilities as part of the New York Power Pool (NYPP) which encompasses virtually the entire State of New York. At present seven large investor-owned utilities and the Power Authority of the State of New York (PASNY) comprise the

---

1/ In 1972 Applicant will add 240 megawatts of generation from its share of the jointly-owned (with Consolidated Edison Company and Central Hudson Gas and Electric) Roseton No. 1 oil-fired unit. In 1973, the jointly-owned Roseton No. 2 Unit will provide an additional 240 megawatts. Applicant will add 875 megawatts when its Oswego No. 5 oil-fired plant comes on line in 1974. Nine Mile Point Unit 2 with its 1,100 megawatt capacity is planned for 1978 and an as yet undesignated nuclear-fired unit of similar size is expected in 1981. During 1977 Niagara Mohawk will lose 120 megawatts of capacity from the Roseton facility, as its share in that joint venture decreases. Throughout the period the Applicant will purchase power in varying amounts to meet its load requirements at any given point in time.

membership of the New York Power Pool. 2/ These eight pool members generated approximately 99.5% of the total electric energy generated in the state in 1967. The investor-owned members of the pool supply the majority of the bulk power requirements of the five small investor-owned systems, one federal, and eleven municipal systems in the state. PASNY sells its power at wholesale to Niagara Mohawk and two other upstate members of the Pool, to 41 municipal and cooperatively-owned electric systems in New York, to one in Pennsylvania, to three industrial plants in Massena, to the Plattsburgh Air Force Base and the State of Vermont. The Power Authority presently generates power at two sources, the St. Lawrence hydroelectric project and the Niagara Falls hydroelectric project. Substantial amounts of the power produced at these facilities are sold to Niagara Mohawk 3/ and the generating and transmission facilities of PASNY are closely integrated, on a day-to-day basis, with those of three upstate utilities, including Niagara Mohawk.

In addition to these existing facilities, PASNY is presently constructing a nuclear plant with an expected output of approximately 820,000 kilowatts on property acquired from the Company adjacent to its Nine Mile Point site. For purposes of off-site transmission, the plant is to be tied in with the Company's nearby switchyard, and the Applicant will reconstruct, at PASNY expense, a section of one of its existing 115 kilowatt lines so as to provide a backup source of station service power between the plants of PASNY and the Applicant. When the plant goes into operation in 1973 Niagara Mohawk has contracted to provide operating and

---

2/ In addition to Niagara Mohawk and PASNY, the members of the New York Power Pool are Central Hudson Gas and Electric Corporation, Consolidated Edison Company of New York, Inc., Long Island Lighting Company, New York State Electric and Gas Corporation, Orange and Rockland Utilities Incorporated, and Rochester Gas and Electric Corporation.

3/ The St. Lawrence hydroelectric project has 912,000 kilowatts of installed capacity on the U.S. side of which PASNY is selling 115,000 kilowatts of firm capacity to the Company under a contract terminating in 1985. The Niagara Falls hydroelectric project has 2,190,000 kilowatts of installed capacity of which Niagara Mohawk purchases up to 1,294,400 kilowatts of firm and peaking power and associated energy (of which 387,000 kilowatts is firm power with 137,000 kilowatts of that withdrawable) under a contract terminating in 1990.

maintenance personnel for the facility at cost. PASNY is also constructing the 1,000,000 kilowatt Blenheim-Gilboa pump storage hydroelectric generating station in Schoharie County. This facility is also scheduled for completion in 1973. Niagara Mohawk expects to contract on a long term basis for some of the capacity of both of these plants.

Although PASNY presently supplies power to only three members of the Pool, benefits of its peaking capacity are passed on to all of the state's utilities through the coordinated operations of the Pool. The purpose of the New York Power Pool is to coordinate the development and operation of the generation and transmission facilities of its members to obtain optimum reliability and efficiency of operation of their interconnected systems. To carry out these objectives the Pool's Planning Committee coordinates the planning of additional generating capacity, the interconnecting of transmission facilities, and the forecasting of future load requirements. The Operating Committee establishes the rules and procedures to coordinate the operation of the pool, determines cost standards, establishes coordinated maintenance schedules, and determines the reserve requirements and load relief of the Pool members. 4/

Niagara Mohawk, as well as other members of NYPP, is also a member of the Northeast Power Coordinating Council. This agency, which includes in its membership the major utilities of New York and New England, as well as two Canadian utilities, was established for the purpose of promoting maximum reliability and efficiency of electric service by furthering inter-pool operations through coordination of system planning and operating procedures in the northeast. The Applicant is also a party to various agreements with other electric utilities which provide for thr receipt or delivery of emergency power, deficiency power or unit power or other coordinating arrangements.

Applicant's Competitors

1. Privately-Owned Utilities

Niagara Mohawk is interconnected with the various large privately-owned utilities that have service areas adjoining

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4/ For a more detailed survey of the New York Power Pool, see the FPC's 1970 National Power Survey, Part II, pages II-1-75-77.

its territory, and to some limited extent may compete with them for load growth. Except to the extent that the Applicant exchanges limited amounts of energy with these utilities, it does not presently supply power on a firm basis to any investor-owned utility. It has wheeled power to several large utilities to meet their peak load requirements and may be expected to do so in the future.

As noted above, the Applicant is a party to a joint venture with Consolidated Edison Company and Central Hudson Gas and Electric to construct and operate the two Roseton 600 megawatt oil-fired generating units. Furthermore, the Applicant, Rochester Gas and Electric Corporation and New York State Electric and Gas Corporation are undertaking a study to determine the feasibility of jointly creating and operating a separate corporation to build and operate major generating plant installations. The study will determine whether a separate company for power production will best accommodate their total new generating facility requirements by improving efficiency and economy and allowing lower cost financing. It is proposed that if this joint venture generating company is created, it will take over construction and operation of the Nine Mile Point Nuclear Station's Unit 2 as well as the new fossil-fuel units under construction. With this single exception, no privately-owned electric utility has expressed an interest in participating in the Nine Mile Point unit.

2. Municipal Electric Systems

There are 27 municipal electric systems that distribute electric power within or adjacent to Niagara Mohawk's service area who compete with it for retail loads and load growth. Of these 27, the Applicant sells, at wholesale, all the bulk power requirements of the Villages of Brocton, Green Island, Holley and Richmondville. Niagara Mohawk does not sell bulk power to any of the other systems. The City of Jamestown receives part of its bulk power supply from PASNY and generates the remainder. The City of Salamanca and 21 villages purchase all their bulk power requirements from PASNY. The Applicant, pursuant to contracts with PASNY, provides most of the transmission necessary to receive, transmit and deliver the bulk power from PASNY to the two cities and the villages.

None of the municipal systems own or operate any high voltage transmission capable of moving electric power in

bulk. Consequently, for the most part, these systems have no reasonable economic alternative but to rely on Niagara Mohawk, which controls the high voltage transmission needed to wheel their power, for the delivery of bulk power.

Our investigation reveals that none of the municipal systems have advised the Applicant of a desire to obtain ownership participation in the Nine Mile Point Nuclear Station.

Our investigation further reveals at least one situation which warrants further comment. As noted above, the City of Jamestown, New York, is the only municipal system in Niagara Mohawk's service area with appreciable generation facilities of its own. At present Jamestown is generating 45 megawatts at its Samuel A. Carlson Electric Generating Station, a coal burning facility. To supplement this generation, Jamestown purchases an additional 15 megawatts of power from PASNY, and the City has requested that this total be increased to 21 megawatts in 1973. The PASNY power is delivered to Jamestown over two 115 kv transmission lines owned by Niagara Mohawk that extend from Dunkirk, New York, to an interconnection point at Falconer, New York, where Jamestown's transformers step down the voltage to 13.8 kv, the system voltage for Jamestown.

The City's generating facility currently does not comply with the New York State particulate emission standards which must be met in 1974 if the plant is to remain in operation. One of the alternatives being considered by the City is the phasing out of its own generating equipment and procuring all of its power requirements by purchases at wholesale. The two most logical sellers would be PASNY and Niagara Mohawk. Of the two, PASNY would probably be the lower cost supplier, and the City has informally approached PASNY about the possibility of supplying the additional power. It has also made a preliminary approach to the Applicant. Niagara Mohawk has indicated that it does not have any power available until 1976. It also indicated that, if Jamestown could purchase all its bulk power needs from PASNY, the capacity of its existing transmission facilities may not allow wheeling of more than the 20 megawatts that Niagara Mohawk is currently obligated to deliver from PASNY to Jamestown. 5/ The Company apparently is not interested in entering into a joint venture with Jamestown

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5/ The wheeling contract between Niagara Mohawk and PASNY provides that the Authority shall inform the Company at least annually of the estimated future load requirements
(footnote continued)

for construction of a new high voltage transmission line between Dunkirk and Jamestown and is similarly disinclined to construct such a line on its own at this time.

As the situation currently stands, discussions between representatives of the City and of the Applicant are continuing and the Applicant has not foreclosed prospects of providing Jamestown with the necessary wheeling of PASNY power when and if the City determines to buy all its bulk power requirements. Accordingly, it is not possible to conclude that a situation inconsistent with the antitrust laws may presently exist. If the Applicant files any new application for a license under Section 103 of the Atomic Energy Act of 1954, as amended, careful further consideration would have to be given to Niagara Mohawk's future conduct vis-a-vis the City of Jamestown in order to determine if a situation inconsistent with the antitrust laws will then be likely to exist.

Recommendation

As heretofore noted, no other electric utility systems formally have requested participation in the proposed Nine Mile Point Nuclear Station Unit No. 2. Furthermore, we have found no concrete evidence that Applicant has exercised or is exercising its control of high voltage transmission to

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5/ footnote continued
of the Authority and its customers for the ensuing five-year period, and within ninety days thereafter the Company will inform PASNY whether or not it will be able to deliver the power and energy to meet each load included in the estimate. This provision seems to be the basis for Applicant's assertion that it is obligated to deliver only 20 megawatts to Jamestown. It seems doubtful, however, that this contract can foreclose or prevent the delivery of PASNY power to Jamestown. The Niagara Power Project Act, 16 U.S.C. 836, which authorized the construction and operation of the Niagara Falls hydroelectric project by PASNY, provides that public bodies and cooperatives will be given preference and priority to 50% of the power produced at the project. (§836(b)(1)). The Act also imposes an absolute obligation on the Power Authority to deliver that power either by wheeling agreement or by the purchase or construction of the necessary transmission facilities. (§836(b)(4)).

the detriment of other utility systems in the area. Nevertheless, in the instances outlined above questionable activities seem to exist and may warrant further attention in the event of future license applications. At this time, however, there is no substantial reason to believe that the Commission's licensing of the requested nuclear unit would create or maintain a situation inconsistent with the antitrust laws. Accordingly, we conclude that the Commission need not conduct an antitrust hearing with respect to the application.

December 21, 1972

Docket No. 50-410A

Niagara Mohawk Power Corp.
Attn: Mr. Thomas J. Brosnan
Vice Pres. & Ch. Engr.
300 Erie Boulevard West
Syracuse, New York 13202

Gentlemen:

With reference to the construction permit application for Nine Mile Point Unit 2, the Attorney General has furnished the Commission antitrust advice pursuant to section 105c of the Atomic Energy Act of 1954, as amended. A copy of the Attorney General's letter dated December 19, 1972 is enclosed for your information.

We are also transmitting to the Office of the Federal Register a copy of the Attorney General's advice for publication. It should be noted that pursuant to section 2.714 of the Commission's Rules of Practice, 10 CFR Part 2, a petition for leave to intervene and request for hearing on the antitrust aspects of the application may be filed by any person whose interest may be affected within thirty (30) days after publication of the notice in the Federal Register.

Sincerely,

/s/ Abraham Braitman

Abraham Braitman, Chief
Office of Antitrust & Indemnity
Directorate of Licensing

Enclosure:
Attorney General's Advice

cc: Arvin E. Upton, Esq.
LeBoeuf, Lamb, Leiby & MacRae

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Docket No. 50-410A

DEC 21 1972

Mr. Edward J. Bauser,
Executive Director
Joint Committee on Atomic Energy
Congress of the United States

Dear Mr. Bauser:

This is to inform the Joint Committee that the Commission has received antitrust advice from the Attorney General in connection with Niagara Mohawk Power Corporation's construction permit application for Nine Mile Point Nuclear Station Unit 2. This advice is rendered pursuant to section 105c of the Atomic Energy Act of 1954, as amended.

A copy of the Attorney General's letter dated December 19, 1972 is enclosed. In his letter he concludes:

> "... Furthermore, we have found no concrete evidence that Applicant has exercised or is exercising its control of high voltage transmission to the detriment of other utility systems in the area. Nevertheless, in the instances outlined above questionable activities seem to exist and may warrant further attention in the event of future license applications. At this time, however, there is no substantial reason to believe that the Commission's licensing of the requested nuclear unit would create or maintain a situation inconsistent with the antitrust laws. Accordingly, we conclude that the Commission need not conduct an antitrust hearing with respect to the application."

Sincerely,

/s/ Abraham Braitman

Abraham Braitman, Chief
Office of Antitrust & Indemnity
Directorate of Licensing

Enclosure:
Attorney General's Advice

OFFICE ►			L:OAI	CONG. REL.		
SURNAME ►			ABraitman/hh			
DATE ►			12/19/72	12/21/72		

Form AEC-318 (Rev. 9-53) AECM 0240

December 19, 1972

Docket No. 50-410A

ANTI-TRUST

Dr. William E. Seymour
Staff Coordinator
N. Y. State Atomic Energy Council
N. Y. Department of Commerce
112 State Street
Albany, New York 12207

Dear Dr. Seymour:

With reference to the construction permit application filed by Niagara Mohawk Power Corporation to construct and operate the Nine Mile Point Unit 2 plant, the Attorney General has furnished the Commission antitrust advice pursuant to section 105c of the Atomic Energy Act of 1954, as amended.

Pursuant to Memo of Understanding with the State of New York dated June 7, 1965, enclosed herewith for your information is a copy of the Attorney General's letter dated December 18, 1972.

Sincerely,

/s/

Jerome Saltzman, Assistant Chief
Office of Antitrust & Indemnity
Directorate of Licensing

Enclosure:
Attorney General's Advice

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DATE ►	12/19/72	12/19/72				

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Docket

ANTI-TRUST

July 7, 1972

Docket No. 50-410A

Dr. William E. Seymour
Staff Coordinator
N. Y. State Atomic Energy Council
N. Y. Department of Commerce
112 State Street
Albany, New York 12207

Dear Dr. Seymour:

Pursuant to Memo of Understanding with the State of New York dated June 7, 1965, enclosed herewith are copies of correspondence with Niagara Mohawk Power Corporation on antitrust matters in connection with its application for construction permit for Nine Mile Point, Unit 2.

Sincerely,

Signed Jerome Saltzman

Jerome Saltzman, Assistant Chief
Office of Antitrust & Indemnity
Directorate of Licensing

Enclosures:
As stated

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SURNAME ▷	H. Hershey	JSaltzman	ABraitman			
DATE ▷	7/7/72	7/7/72	7/7/72			

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ANTI-TRUST

Docket No. 50-410A

JUL 6 1972

Federal Power Commission
441 G Street, N. W.
Washington, D. C. 20426

Gentlemen:

Pursuant to section 182c of the Atomic Energy Act of 1954, as amended, and 10 CFR 50.43(a) published in the Federal Register on December 29, 1970, this is to notify you that Niagara Mohawk Power Corporation has filed an application to construct and operate Nine Mile Point Unit 2.

Details concerning this application are contained in the enclosed notice, which is being forwarded to the Office of the Federal Register for publication. If I can be of further assistance in this matter, please let me know.

Sincerely,

Original signed by:
Roger S. Boyd

Roger S. Boyd, Assistant Director
for Boiling Water Reactors
Directorate of Licensing

Enclosure:
Federal Register Notice

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DATE ▶	6/29/72	6/29/72	6/ /72	7/7/72		

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				CERTIFICATE
				URGENCY
				DATE

JUN 21 1972

(Antitrust)

~~[illegible]~~

ANTI-TRUST

The Honorable Richard G. Kleindienst
Attorney General

Attention: Joseph J. Saunders, Esq.
Chief, Public Counsel and
Legislative Section
Antitrust Division

In the Matter of Niagara Mohawk Power Corporation
Nine Mile Point Nuclear Station Unit 2
AEC Docket No. 50-410A

Dear Mr. Kleindienst:

In accordance with Section 105 c. of the Atomic Energy Act of 1954, as amended (the Act), we are transmitting a copy of the application filed by the Niagara Mohawk Power Corporation for a permit to construct the Nine Mile Point Nuclear Station Unit No. 2. Also transmitted are five (5) copies of Exhibit F.

The application, dated June 7, 1972, and the attached exhibits were received by the Commission on June 15, 1972. They are being transmitted to afford you an opportunity to render such advice to the Commission as you determine to be appropriate in regard to the finding to be made by the Commission pursuant to Section 105 c.(5) of the Act. Upon your request, we shall furnish or cause to be furnished such information as you determine to be appropriate for this advice.

Sincerely,

Marcus A. Rowden
Associate General Counsel

Enclosures:
As stated above

cc: Thomas J. Brosnan, VP & Ch Engr
Niagara Mohawk Power Corp
Arvin E. Upton, Esq.,
Messrs. LeBoeuf, Lamb, Leiby & MacRae

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ANTI-TRUST

Docket No. 50-410A

JUN 19 1972

Niagara Mohawk Power Corporation
Attn: Mr. Thomas J. Brosnan
Vice President & Chief Engineer
300 Erie Boulevard West
Syracuse, New York 13202

Gentlemen:

This is in reference to the letter dated June 15, 1972 from counsel for Niagara Mohawk submitting with the application for licenses for Nine Mile Point Unit 2, 20 copies of information requested on antitrust matters by the Attorney General of the United States.

The letter of June 15, 1972 states that in the material submitted on antitrust matters there was no mention of Niagara Mohawk's recently announced plans for a sixth oil-fired generating unit at its Oswego station.

Please inform us as to the year this unit is scheduled for commercial operation, the capacity of the unit in thousands of kilowatts, and the adjustments to Table 2, page 2 of your submittal of antitrust information, to be made in view of the addition of this unit. The information requested should be submitted to the undersigned in three signed originals and seventeen copies.

In a recent reorganization of the Commission's regulatory organization the antitrust review function has been reassigned from the Division of State and Licensee Relations to the Office of Antitrust & Indemnity, Directorate of Licensing. All future correspondence dealing with antitrust matters should be addressed to this Office.

Sincerely,

/s/ Abraham Braitman

Abraham Braitman, Chief
Office of Antitrust & Indemnity
Directorate of Licensing

cc: LeBoeuf, Lamb, Leiby & MacRae, Esqs.

OFFICE ▷	L:OAI	L:OAI				
SURNAME ▷	JSaltzman/hh for JS	ABraitman				
DATE ▷	6/19/72	6/19/72				