

[REDACTED]

[REDACTED]

[REDACTED]

November 12, 2001

Mr. Michael B. Verne
Premerger Notification Office
Federal Trade Commission
6th Street and Pennsylvania Avenue, N.W.
Washington, D.C. 20580

Re: Proposed Sale of Membership Interests of [REDACTED]
[REDACTED]

Dear Mr. Verne:

We are counsel for holders of interests in the above-referenced limited liability companies. Our clients propose to sell 99% of their limited liability interests to a subsidiary of Entergy Corporation.¹ Our clients are developers of wind-powered energy generation projects. We are submitting this letter to your office to confirm our understanding that the filing of Premerger Notification forms under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (the "Act"), would not be required in connection with the sale of limited liability interests under the circumstances described below.

Our view that filings under the Act are not necessary in connection with the sale of interests is premised upon 16 CFR § 802.2(a) which exempts from the Act's filing requirements acquisitions of new facilities and assets incidental to the ownership of the new facility. Although the exemption currently contains a provision requiring that the new facility not have produced income, it is our understanding that the Staff of the Premerger Office will allow both an acquired and an acquiring person to rely upon this exemption when in certain limited circumstances, a facility has produced income.

¹ For the purposes of this letter, please assume that both the "size of the persons" and "size of the transaction" criteria have been satisfied. In addition, please be advised that although our clients are selling 99% of their limited liability interests, for the purposes of this letter please assume 100% of our clients' interests will be conveyed to the buyer.

[REDACTED]

Each of the facilities described below is currently under construction and/or undergoing testing and debugging. The construction process generally consists of (1) mechanical completion of the turbines (meaning that the turbines have been installed and are ready to be commissioned), (2) commissioning (meaning that the turbines are connected to the power grid, gradually turned on and tested), (3) initial performance testing carried out on selected turbines, (4) integrated plant-wide performance testing designed to assure that the entire facility operates as a single integrated whole, and (5) Substantial Completion (meaning that all elements of the plant have achieved completion other than punch list items and power curve testing). The facilities cannot be sold until they achieve Substantial Completion and have successfully completed the Integrated Plant-Wide Performance Test.

Following the commencement of commercial operation which occurs after commissioning but before completion of testing and debugging, the wind turbine generators and related civil and electrical infrastructure undergo an elaborate and customary regimen of testing required to prepare each project for sale. Specifically, the wind turbine generators are required to perform in accordance with specified technical standards during several increasingly longer periods of time, which testing is subject to, among other things, proper wind conditions. Similarly, the electrical infrastructure, the civil infrastructure and the computer monitoring systems are all subject to rigorous testing, and each facility as a whole must operate in accordance with specified technical standards (again subject to, among other things, proper wind conditions) for a substantial period of time.

Although each of the power generation projects described below has generated a modest amount of revenue in connection with operations conducted during their testing phases, certain milestones and tests must be successfully consummated prior to each project being deemed complete. Please review the summary below in connection with the information provided above. This information clearly reveals that each project is still under construction or undergoing testing and debugging and that none of the projects will be available to sell (which means Substantially Completed and completing all Integrated Plant-Wide Performance Tests) until shortly before, if not right at, the scheduled closing date of December 15, 2001. However, the closing could be delayed for up to 60 days after all of the turbines have achieved commercial operation due to continued debugging, insufficient wind for testing or delays in obtaining the necessary approvals from the Federal Energy Regulatory Commission.

[REDACTED]
[REDACTED] owns and controls a 6-wind-turbine project located in [REDACTED] that when completed will generate approximately 26,400 megawatt hours per year of electrical energy.

- Current stage of completion:

- 1) Mechanical Completion has occurred for all turbines
 - 2) Commissioning has not occurred on any of the turbines
 - 3) Substantial Completion is expected to be achieved by November 23, 2001
- [REDACTED]

- Revenue generated as of October 31, 2001 is \$2,721.20
- Milestones and testing left to complete prior to sale:
 - 1) Commissioning
 - 2) Testing and debugging
 - 3) Integrated Plant-Wide Performance Test
 - 4) Substantial Completion

[REDACTED]
[REDACTED] owns and controls a 10-wind-turbine project in [REDACTED]
[REDACTED] that when completed will generate approximately 44,000 megawatt hours
per year of electrical energy.

- Current stage of completion:
 - 1) Mechanical Completion of all turbines has occurred
 - 2) Commissioning of the turbines has been tendered, but not yet accepted (although the turbines have been connected to the grid and turned on, testing and debugging is still occurring)
 - 3) Certificates of Substantial Completion have been tendered but not yet accepted
- Revenue generated as of October 31, 2001 is \$24,997
- Milestones and testing left to complete prior to sale:
 - 1) Testing and debugging
 - 2) Integrated Plant-Wide Performance Test

[REDACTED]
[REDACTED] owns and controls an 89-wind-turbine project
located in [REDACTED] that when completed will generate approximately 240,000
megawatt hours per year of electrical power.

- Current stage of completion:
 - 1) Mechanical Completion has occurred on 78 turbines (all but 11 have achieved Mechanical Completion)
 - 2) Commissioning has occurred for 77 turbines
 - 3) Substantial Completion is expected to be achieved November 20, 2001
- [REDACTED]

- Revenue generated as of October 2 is \$4,523.72
- Milestones and testing left to complete prior to sale:
 - 1) Mechanical Completion on 11 turbines
 - 2) Commissioning on 12 turbines
 - 3) Testing and debugging
 - 4) Initial Turbine Performance Test
 - 5) Integrated Plant-Wide Performance Test
 - 6) Substantial Completion
 - 7) Under Substation Contract: Modifications to the substation will not be completed until mid or late December

As previously noted, the facilities cannot be sold until they have achieved substantial completion and have successfully completed the Integrated Plant-Wide Performance Test.

Essentially, all projects are still under construction and/or undergoing testing and debugging. They have generated minimal revenue and have several tests and milestones to achieve.

We have been informed that the Staff of the Premerger Office has taken the position that income received by a new facility that is generated in connection with testing, debugging and sales enhancement would not negate the availability of the exemption.

We believe under the facts and circumstances as described above that the ultimate parent entities of the purchaser and seller should, in connection with the proposed sale, be able to rely upon Section 802.2(a) and not perfect the filing of Premerger Notification Forms under the Act. Should the Staff of the Premerger Notification Office have a different view or not concur in our analysis, please call me at [REDACTED] at your earliest convenience.

On behalf of our client, we thank you for the time and assistance.

Very truly yours,
[REDACTED]

[REDACTED]
AGREE WITH THE WRITER'S CONCLUSION.

N. OVUKA CONCURS.

B. Michael Verne

11/15/01
[REDACTED]