

802.1



May 7, 2002

FEDERAL EXPRESS

James Ferkingstad, Esq.
Federal Trade Commission
Premerger Notification Office
Bureau of Competition
Room 303
600 Pennsylvania Avenue, NW
Washington, D.C. 20580

FEDERAL TRADE
COMMISSION
PREMERGER NOTIFICATION
OFFICE
2002 MAY -9 P 12:23

Dear Mr. Ferkingstad:

I am writing to confirm my understanding that the following transaction would be exempt from HSR filing based on the Premerger Notification Office's informal interpretations of §802.1.

These are the material facts. It was within the ordinary course of business of [redacted] [redacted] enter into wholesale supply contracts for the supply of energy to counterparties. [redacted] then held and did not trade these contracts, but rather purchased power and performed under them as each customer required.

[redacted] is now in bankruptcy under Chapter 11. It currently plans to attempt to settle or dispose of its entire remaining portfolio of retail and wholesale power contracts. It has announced its intention to develop a plan of reorganization, but such a plan has not yet been finalized. Accordingly, it is unable to assess whether, when, or in what manner, it might ever continue or re-enter any power market.

In the proposed transaction, [redacted] seeks to sell a bundle of wholesale power contracts from its post-petition portfolio of remaining contracts. The proposed sale does not constitute substantially all of the remaining contracts by number or value, nor does it include any

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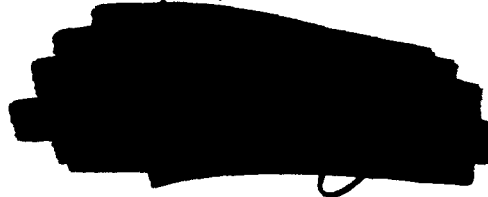
part of any operating unit or division, personnel contracts, back-office operations, or any part of any infrastructure. The contracts are being sold at auction to bidders who are in the business of supplying power, either through their own generation or as a power marketer.

Based on these facts, I understand that the Premerger Notification Office interprets §802.1 to cover a sale of this type, where the transaction constitutes neither the sale of an operating unit nor effectively the entire value of the seller's inventory.

If this letter correctly summarizes the interpretation of the Premerger Notification Office, so that this transaction would be exempt from HSR filing requirements, I would appreciate it if you would please notate this letter accordingly.

Best wishes,

Sincerely,

A large black rectangular redaction covers the signature area of the letter.

5/7/02 Agree -
Discussed with NO & MV - they agree