

862.5

[REDACTED]

[REDACTED]

December 10, 2009

**VIA EMAIL (mverne@ftc.gov) AND  
OVERNIGHT COURIER**

B. Michael Verne  
Federal Trade Commission  
Premerger Notification Office  
Bureau of Competition, Room 303  
6th Street and Pennsylvania Avenue, N.W.  
Washington, D.C. 20508

**Re: Exemption under 16 C.F.R. 802.5**

Dear Mr. Verne:

I write to confirm the telephone conversation that [REDACTED] and I had with you on December 8, 2009, regarding the following proposed transaction:

- Company A is the sponsor of various investment funds whose ordinary business is to buy, sell and lease assets and equipment for investment purposes.
  - Company B owns the beneficial interests of a trust (the "Trust"). The Trust, in turn, owns a 1.36% undivided interest in a nuclear power generating station (the "Property") that operates at a fixed location. Company B is a subsidiary of a bank.
  - Company C is in the business of generating and selling electric power. For twenty years, Company C has leased the Property from the Trust and operated it to generate electric power. Neither Company B nor the Trust operates, maintains or otherwise manages the Property. Through its ownership of the Trust, Company B receives a portion of the lease payments (after payment of debt service) from the leasing of the Property to Company C.
  - Company B intends to transfer its interest in the Property by selling the beneficial interests in the Trust to Company A. Company A is acquiring the beneficial interest in the Property for investment purposes. After the transaction, Company C will continue to lease and operate the Property.
  - Company A, Company B and their respective affiliates do not share any common ownership interests with Company C.
- [REDACTED]
- [REDACTED]

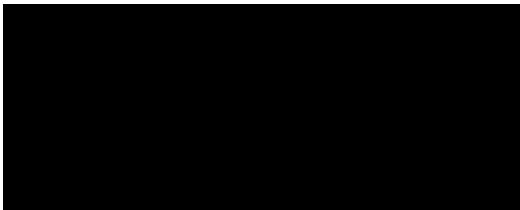
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- For purposes of this analysis, we have assumed that the "Size of the Parties" and "Size of the Transaction" tests are satisfied.

We discussed whether the Premerger Notification Office ("PNO") would consider this transaction to be an acquisition of investment rental property pursuant to 16 C.F.R. §802.5 and therefore exempt from the HSR premerger notification requirements. You informed us that due to the fact that (i) the Property is leased to Company C and (ii) Company A and Company B do not have any common ownership interests with Company C, the PNO takes the position that this transaction would qualify under the exemption set forth in 16 C.F.R. §802.5. Furthermore, the fact that the ownership interest in the Property is held through the Trust does not disqualify the availability of this exemption.

Please confirm that you agree with the analysis described above. Thank you for your time and assistance. If you have any additional questions or comments, do not hesitate to contact me.

Sincerely,



AGNES  
BN  
12/11/09

cc:

