

Amended 04/07/89

Non-reportable,  
because this is  
formation of a partner-  
ship J/V

(JK)

THIS NOTICE IS SUBJECT TO  
THE CONFIDENTIALITY PROVISIONS OF  
SECTION 552(b)(7) OF THE FREEDOM ACT  
WHICH RESTRICTS RELEASE UNDER THE  
FREEDOM OF INFORMATION ACT.  
March 28, 1989

RECEIVED  
MAR 29 11 19 AM '89  
FEDERAL TRADE COMMISSION  
NOTIFICATION OFFICE

Pre-Merger Notification Office  
Bureau of Competition  
Room 303  
Federal Trade Commission  
6th and Pennsylvania Avenue, N.W.  
Washington, DC 20580  
ATTN: Jeffrey Kaplan, Esq.

Dear Jeffrey:

Pursuant to §803.30 of the Federal Regulations, I am writing to request an opinion as to whether the following transaction is subject to the Pre-Merger Notification Rule of the Hart-Scott-Rodino Act.

[REDACTED] a wholly-owned subsidiary of [REDACTED] a corporation with assets in excess of \$100,000,000, is negotiating a joint venture agreement with [REDACTED] a subchapter S corporation whose sole assets are the license issued by the Federal Energy Regulatory Commission, the work in process and the leases, permits and rights necessary to develop a hydroelectric facility with a capacity of 20 megawatts in the State of [REDACTED]. [REDACTED] has a \$35 million development loan from its bank and various contracts with contractors and equipment suppliers. The project is 50% completed. The estimated cost of the project is \$40 million. According to the agreement being negotiated, [REDACTED] would initially contribute up to \$5 million to the project to become a 51% partner in a new partnership which would own the project and its development rights. [REDACTED] would also be responsible for cost overruns on the project, which could

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cause its ultimate investment to increase to \$10 million and its equity share to 66%. [REDACTED] would contribute all its assets and would be a 49% partner.

The fact that the project is in the process of being built makes it difficult to value; however, if we were forced to value the assets today, I estimate them, based on dollars expended, to be approximately \$11 million. This will then be the value of the assets of the new joint venture entity.

In reading \$801.40 regarding formulation of joint ventures it is unclear whether the assets of [REDACTED] can be counted twice, i.e. as an acquiring entity and as the joint venture (acquired) entity. It is also unclear to me whether the level of acquisition passes the threshold since 51% of \$11 million is less than \$10 million.

As we are very close to finalizing the deal, we would greatly appreciate hearing from you at your earliest opportunity.

Thank you.

Sincerely,