



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

February 2, 1990

Ralph T. Giordano, Esq.  
Department of Justice  
Antitrust Division - Room 3630  
26 Federal Plaza  
New York, New York 10278

Re: Proposed Acquisition of Combustion Engineering, Inc.  
by Asea Brown Boveri Ltd.

Dear Mr. Giordano:

In its capacity as a nuclear licensee, Combustion Engineering, Inc. (CE) has notified the Nuclear Regulatory Commission (Commission) that a tender offer has been made by Asea Brown Boveri Ltd. (ABB) to purchase all of CE's common stock. The Commission staff believes the Department of Justice should consider the competitive effects of this acquisition on the market associated with the design and construction of future nuclear power production facilities.

The Commission's antitrust licensing review responsibilities are confined primarily to Section 105 of the Atomic Energy Act of 1954, as amended (Act). Section 105 of the Act addresses the domestic licensing of production and utilization facilities, i.e., those facilities falling under the auspices of 10 CFR 50 (Part 50). Neither CE nor ABB has a Part 50 license application pending before the Commission for review and consequently, the Commission is not obligated to review the competitive effects resulting from the proposed acquisition of CE by ABB. The staff is however concerned with the competitive implications that may be associated with the proposed acquisition in terms of what effect, if any, the combined CE/ABB will have on the market for design and construction of the next generation of nuclear power plants.

CE has before the Commission a proposed standard reactor design concept (CESSAR) which will be the subject of rulemaking to clarify the design(s) that will ultimately be approved by the Commission for future standardized nuclear power production facilities. ABB has an application currently under review by the Commission for an advanced reactor design concept (PIUS) that may ultimately directly compete with any standardized design(s) approved by the Commission. The combination of CE and ABB may eliminate one of these future designs for the next generation of nuclear production facilities.

Section 105b of the Act requires the Commission to report to the Attorney General any information it may have with respect to any utilization of special nuclear material or atomic energy which appears to violate any of the antitrust laws or restrict free competition in private enterprise. We suggest that the Department of Justice in its review of this proposed acquisition consider what impact, if any, this acquisition may have in this particular market.

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Ralph T. Giordano, Esq.

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Thank you for your assistance in this matter.

Sincerely,

Original Signed By:

Eileen M. McKenna, Acting Chief  
Policy Development and Technical Support Branch  
Program Management, Policy Development  
and Analysis Staff  
Office of Nuclear Reactor Regulation

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*Concur that  
this not involve  
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