any ''qualified clinically integrated joint arrangement.'' The proviso addresses the arrangements that the IPA may enter into, rather than the overall nature of the group, because of physician group may enter into legitimate arrangements with some third-party payers but engage in illegal conduct with respect to others. For the purposes of the order, a ''qualified risk-sharing joint arrangement'' must satisfy two conditions. First, it must be one in which participating physicians share substantial financial risk. The order lists ways in which physicians might share financial risk. These track the four types of financial risk sharing set forth in the *Statements of Antitrust Enforcement Policy in Health Care,* issued jointly by the FTC and the Department of Justice.[1]

Second, to be a ''qualified'' risk-sharing arrangement, the arrangement must also be non-exclusive, both in name and in fact. An arrangement that either restricts the ability of participating physicians to contract outside the arrangement (individually or through other networks) with third-party payers, or facilitates refusals to deal outside the arrangement by participating physicians, does not fall within the proviso. Although exclusive physician joint arrangements are not necessarily anticompetitive, they can impair competition, particularly when they include a large portion of the physicians in a market. In light of Mesa IPA's large share of the physician market, this definition does not permit the IPA to form exclusive arrangements.

A ''qualified clinically integrated joint arrangement'' includes arrangements in which the physicians undertake cooperative activities to achieve efficiencies in the delivery of clinical services, without necessarily sharing substantial financial risk. For purposes of the order, such arrangements are ones in which the participating physicians have a high degree of interdependence and cooperation through their use of programs to evaluate and modify their clinical practice patterns, in order to control costs and assure the quality of physician services provided through the arrangement. As with risk-sharing arrangements, the definition of clinically integrated arrangements reflects the analysis contained in the 1996 FTC/DOJ Statements of Antitrust Enforcement Policy in Health Care. In addition, as with risk-sharing arrangements, the clinically integrated arrangements must be non-exclusive.

[1] Statements of Antitrust Enforcement Policy in Health Care, issued August 28, 1996, 4 Trade Reg. Rep. (CCH) ¶ 13,153 (also available at http://www.ftc.gov).

The definition of a clinically integrated arrangement is by necessity less premise than that of a risk-sharing arrangement. Therefore, in order for a qualified clinically integrated joint arrangement to fall within the proviso, Mesa IPA must comply with the order's requirements for prior notification. The prior notification mechanism will allow the Commission to evaluate a specific proposed arrangement and assess its likely competitive impact, in order to help guard against the recurrence of acts and practices that have restrained competition and consumer choice.

Paragraph III requires that Mesa IPA (1) notify its members and certain third parties about the order; (2) amend its ''Physician Manual'' to bring the manual in compliance with the order; and (3) abolish its Contract Review Committee, which the complaint charges was one of the instruments through which the IPA orchestrated its anticompetitive activities. This paragraph also will require termination of any existing contracts with third-party payers that do not comply with Paragraph II of the order, at the earlier of the termination or renewal date of the contract, or receipt of a written request from the payer to terminate the contract. Automatic termination of such contracts is not required, to order to avoid disruption that might result from applying the order's prohibitions to existing contractual arrangements between Mesa IPA and third-party payers. In addition, Mesa IPA must, for the next five years, distribute copies of the complaint and order to new members; annually publish to members a copy of the complaint and order; and annually brief members on the meaning and requirements of the order and the antitrust laws. These provisions are aimed at monitoring, and hence preventing, possible anticompetitive conduct.

Paragraphs IV, V, and VI consist of various reporting procedures, consistent with those found in other Commission consent orders, that are designed to assist the Commission in monitoring compliance with the order. Finally, Paragraph VII terminates the order twenty years after the date it is issued, in accordance with Commission policy.

The consent order does not require Mesa IPA to reduce its share of primary care physicians in Mesa County. Although the ''Notice of Contemplated Relief'' issued along with the complaint in this case included such a structural change as a possible form of relief, the Commission has determined that structural relief is not necessary given changes in the market since the Commission issued its complaint. In particular, evidence suggests that significant numbers of IPA members are now contracting with third-party payers outside Mesa IPA on competitive terms, alternatives to Mesa IPA are developing, and a number of third-party payers have been able to enter the market or expand their presence in the market. Accordingly, the Commission has concluded that a consent order governing Mesa IPA's conduct will provide the necessary relief.

Donald S. Clark,

Secretary.

[FR Doc. 98–4754 Filed 2–24–98; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

[File No. 971–0091]

PacifiCorp, et al.; Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before April 27, 1998.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Joseph Krauss, FTC/S–3627, Washington, D.C. 20580. (202) 326–2713.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and Section 2.34 of the Commission's rules of Practice (16 CFR 2.34), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for February 18, 1998), on the World Wide Web, at ''http://

www.ftc.gov/os/actions/htm.'' A paper copy can be obtained from the FTC Public Reference Room, Room H–130, Sixth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580, either in person or by calling (202) 326–3627. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Analysis of Proposed Consent Order to Aid Public Comment

I. Introduction

The Federal Trade Commission has accepted from PacifiCorp and The Energy Group PLC (TEG), for public comment, an Agreement Containing Consent Order (Proposed Consent Order). The Commission has also entered into a Hold Separate Agreement that requires Proposed Respondents to hold separate and maintain certain assets until they are divested. The purpose of the Proposed Consent Order is to remedy the likely anticompetitive effects of PacifiCorp's acquisition of TEG.

II. Description of the Parties and the Transaction

PacifiCorp, which is headquartered in Portland, Oregon, provides retail electric utility service in seven western states: Oregon, Washington, California, Utah, Idaho, Wyoming, and Montana. PacifiCorp's 1996 retail electricity sales totaled 2.1 billion dollars. PacifiCorp also makes wholesale electricity sales to other utilities in the western United States. PacifiCorp's 1996 wholesale electricity sales totaled 739 million dollars. Finally, PacifiCorp also operates five coal mines in the northwestern United States and owns a power marketer that trades electric power throughout the United States.

TEG is a diversified energy company headquartered in London, England. TEG owns Peabody Coal Company (Peabody), which produces roughly 15 percent of the coal mined in the United States. TEG also owns a power marketer, which trades electric power throughout the United States and owns both electric power plants and an electric power transmission system in England. TEG's total revenue for the fiscal year ending September 30, 1996 was roughly 6 billion dollars.

PacifiCorp seeks to acquire 100 percent of the voting securities of TEG.

III. Industry Background

The generation and marketing of electricity is moving from a regulated environment to a competitive environment.[1] Currently, utilities in most states own both generating facilities and transmission facilities. State public utility commissions regulate rates charged by these utilities. In this regulated environment, utilities trade electricity to some extent in a wholesale market. To meet its electricity needs, a utility can purchase electricity from another utility or from an independent producer. The Federal Energy Regulatory Commission (''FERC'') regulates interstate wholesale electricity sales and transmission. FERC permits wholesale electricity sales to be made at market rates if a power generator can show that it does not possess market power in the region in which it operates. Consequently, wholesale electricity rates are determined by the balance of supply and demand.

Many states are in the process of deregulating their electric utility industries. As this process progresses, the vertical integration that has historically characterized the industry is likely to diminish, and transmission and generation functions will be separated. In the deregulatd environment, electricity transmission would remain a regulated monopoly in which the operator of the transmission system is prohibited by FERC Orders 888 and 889 from discriminating against particular users. Electric power generator, however, would become competitive, allowing customers to choose their supplier of electricity. The end result of this deregulation process will be a market in which retail rates are no longer regulated by state utility commissions, but are determined by the balancing of supply and demand in a competitive market. The differences between wholesale and retail electricity rates, which are largely a product of their different regulatory environments, will disappear or will be significantly reduced.

In the current wholesale electricity market, short periods of time (e.g., hour or one-half hour periods) often represent distinct product markets because electricity demand cannot easily be shifted from one time period to another and because electricity cannot easily be stored in large quantities. As retail electricity sales are deregulated, retail rates will also likely be priced on an hour-by-hour basis.

Constraints on transmission capacity typically delimit geographic markets as regional areas comprised of several states. One such geographic market is the area included within the Western Systems Coordinating Council (''WSCC''). The WSCC coordinates interchange of electricity among power plants and transmission systems located within the eleven western states of Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming, and parts of southwestern Canada and northwestern Mexico.

While transmission constraints limit the geographic area within which electricity is generated and consumed, trading among buyers and sellers in the wholesale electricity market links electricity markets into larger trading areas, one of the largest being the United States as a whole.

Electricity demand in a particular region at a particular time is met by utilizing or ''dispatching'' power plants in an order that is likely to be based substantially on plants' variable cost of generating electricity. Given current technology and fuel prices, nuclear power plants have low variable costs and are dispatched first. Hydroelectric plants operating on a run-of-stream basis also have very low variable costs and are usually dispatched as long as they are operating on that basis.[2] Coal-fired power plants have higher variable costs, and natural gas plants generally have even higher variable costs.

As a consequence of the dispatch order discredited above, competition between a small number of plants can be critical in setting price. In the WSCC, during periods of lower or off-peak demand, gas-fired plants generally are not utilized because of their high variable costs.[3] Consequently, for off-peak periods in the WSCC, coal-fired power plants frequently are the price-setting, marginal plants.

California is one of the first states that has started to deregulate its retail electricity sales. California is currently in the process of establishing a power exchange (''PX''), modeled on the

[1] See Timothy Brennan, *A shock to the System: Restructuring America's Electricity Industry* (1996); Joskow, *Restructuring, Competition and Regulatory Reform in the U.S. Electricity Sector, 11(3) Journal of Economic Perspectives 119–138 (1997); and Comment of the Staff of the Bureau of Economics of the Federal Trade Commission before the Federal Energy Regulatory Commission* (August 7, 1995).

[2] Although hydroelectric power plants have low variable costs, river flow is often insufficient to dispatch these plants at full capacity 24 hours a day. When river flow is low, some hydroelectric capacity is held back during off-peak periods and dispatched at periods of peak electricity demand.

[3] Off-peak hours in the western U.S. are generally recognized by the industry to consist of the eight hours between 11:00 PM and 7:00 AM Monday through Saturday, and all day Sunday. Peak hours are recognized by the industry to consist of consist of the sixteen hours between 7:00 AM and 11:00 PM Monday through Saturday.

system used in the United Kingdom, which will run a centralized auction for the purchase of electricity. Under the California reforms, each generating plant will bid to supply power to the state's PX. The PX will then rank generators' bids from lowest to highest prices, and choose the lowest-cost bids necessary to meet projected demand. All suppliers will receive the price of the last increment of supply necessary to fulfill demand, even if they bid a lower price. Consequently, in the system anticipated to be used in California, the marginal supplier will set the price for the entire system.

Entry into an electricity market can occur through the construction of a new power plant or the construction of new transmission capacity, which would enable distant electricity producers to compete more effectively. However, the time required for obtaining regulatory approval and for construction prevents either type of entry from quickly correcting anticompetitive behavior.

IV. Threat to Competition

A. Raising Rivals' Costs

Navajo Generating Station (Navajo) is a 2,250-megawatt coal-fired power plant located in the north-central section of Arizona. Navajo is supplied exclusively from Peabody's Kayenta mine via an 80-mile dedicated rail line. Mohave Generating Station (Mohave) is a 1,580-megawatt coal-fired power plant located in southern Nevada. Mohave is supplied exclusively from Peabody's Black Mesa Mine through a 275-mile coal slurry pipeline. Long-term contracts govern the terms on which Peabody supplies Navajo and Mohave.

Navajo and Mohave are absolutely dependent upon the Kayenta and Black Mesa coal mines for their fuel supply because of their extreme isolation relative to rail lines and other coal mines. There are no other economic sources of fuel, coal or otherwise, for these two large power plants.

PacifiCorp owns roughly 9,000 megawatts capacity in the Western Systems Coordinating Council (WSCC), an organization of electric utilities and power marketers organized to improve the reliability of power transmission and delivery in the western United States and parts of southwestern Canada and northwestern Mexico. The WSCC represents a geographic market since transmission constraints severely limit imports. The WSCC represents a geographic market since transmission constraints severely limit imports. Sub-regions within the WSCC may also represent geographic markets, at certain times, given that the transmission capacity connecting subregions is limited and may be inadequate to balance supply and demand across the subregions.

A firm can sell its product at a higher price if its rivals charge higher prices. Thus, a firm can profitably increase its own price if it can take actions at low cost to itself that raise the costs, and subsequently the price, of its rivals. By vertically integrating with suppliers of a large share of some key input, a firm may be able to increase its rivals' costs. Given this, PacifiCorp's acquisition of Peabody, which is the exclusive supplier of coal to certain power plants that compete with PacifiCorp's own power plants, raises antitrust concern. Specifically, PacifiCorp would have an incentive to increase fuel costs at Navajo and Mohave in order to drive up the market price of electricity in the western United States. In the near term, PacifiCorp would be able to realize this higher price on its net wholesale electricity sales. In the long-term, assuming deregulation, PacifiCorp might also be able to realize this higher price on some of its retail electricity sales.

The extent of the anticompetitive harm caused by PacifiCorp's acquisition of Peabody depends on two factors: First, how much discretion does the mine owner have to affect the fuel costs at Navajo and Mohave given the long-term contracts between Peabody and the plan owners? Second, over what periods, if any, and to what extent will changing the costs of Navajo and Mohave affect the market price of electricity?

The long-term contracts that govern the supply of coal to Navajo and Mohave have a modified cost-plus format that makes them vulnerable to cost manipulation. A long history of cost disputes between the parties underlines the supplier's discretion to determine cost levels at the power plants. Consequently, post-merger, PacifiCorp could increase Navajo and Mohave's costs. Alternatively, an independent, profit-maximizing Peabody might find it in its interests to grant the power plants a discount on coal pricing. A merged PacifiCorp/Peabody, however, might decline to grant such discounts because increased output at Navajo and Mohave might decrease wholesale electricity prices in the WSCC and cause PacifiCorp/Peabody to earn less on its electricity sales. In this context, failure to grant a price concession amounts to a price increase.

Peabody documents reveal that price concessions in the near future for both Navajo and Mohave are a real possibility. Peabody documents show that the company has considered granting Navajo price discounts, because the plant has been underutilized during off-peak hours in the recent past. Moreover, Peabody documents also reveal that it expects the coming deregulation of the electricity industry will intensify competitive pressures on both coal-fired power plants and their coal suppliers. Peabody documents also reveal that Mohave will face a costly decision in the next several years on whether to install scrubbers to comply with environmental regulations and will implicitly be looking to its coal supplier for cost relief.

PacifiCorp's roughly 9,000 megawatts of generating capacity, Navajo's 2,250 megawatts of generating capacity, and Mohave's 1,580 megawatts of generating capacity represent a comparatively small share of the 138,000 megawatts of generating capacity in the WSCC. In a market with numerous competitors such as electricity generation in the WSCC, one might assume if coal costs at two plants such as Navajo and Mohave were to increase and their generation consequently declined, other plants would simply increase output and there would be no effect on the market-clearing price. However, there is substantial evidence that manipulating fuel cost at Navajo could have a significant effect on the market price for wholesale electricity.[4] A Peabody document recognizes that if Navajo were to go to full capacity utilization during off-peak hours, it would produce 1,200 megawatts of additional power, depressing electricity prices. Also, computer modeling using programs well-accepted in the industry shows that manipulating prices at Navajo would have an effect on wholesale electricity prices in the WSCC.

How can participation of suppliers comprising only a small fraction of capacity affect the market price for electric power? The answer lies in the way in which power plants are dispatched. Power plants tend to have very flat cost functions until they reach their capacity.

Thus, power plants tend to operate at maximum capacity if they can economically do so at the prevailing price. Otherwise, they tend to be idled.[5]

[4] At current electricity prices, Mohave operates at full capacity. Hence Mohave is currently an infra-marginal producer and unlikely to be a price setter. However, as California deregulates its electricity market, prices are likely to fall and Mohave could then be in a position to be a marginal, price-setting plant.

[5] Because coal-fired plants require a start-up period of several days, their output would be cut

Continued

Consequently, most of the power plants generating electricity, at any particular time period, have almost no ability to expand output and offset anticompetitive behavior. Given these circumstances, the power plants that could defeat anticompetitive behavior here would be those power plants with excess capacity that could produce and deliver to the areas served by Navajo and Mohave electricity at the same cost (or slightly above) Navajo's or Mohave's. The evidence indicates that there are no such power plants here.

During periods of low electricity demand in the WSCC (e.g., nighttime hours during the spring), electricity demand is met using some hydroelectric capacity, nuclear power plants, and some coal-fired power plants. Gas-fired power plants tend to be idled during these periods. Since coal-fired power plants are the last plants to be dispatched during these time periods, the market price of electricity during these periods is determined by the price at which the last-dispatched coal-fired power plant supplies electricity. Since periods of low electricity demand represent a substantial portion of the year and since fuel costs at Navajo and Mohave affect market price during these times, higher fuel prices at Navajo and Mohave can cause significant harm to consumers. Indeed, to give a rough sense of how this acquisition could increase concentration in markets for wholesale electricity during off-peak hours, a hypothetical merger of PacifiCorp's electric plants with Mohave and Navajo would make the market for coal-fired electricity in the WSCC highly concentrated and give PacifiCorp a 35% share, a level at which, under the *Merger Guidelines*, could lead to unilateral anticompetitive effect.

Cost manipulation at Navajo and Mohave could affect electricity prices in the WSCC not only during those off-peak hours when Navajo and Mohave are the marginal, price-setting plants, but also during a broader period of time. As noted above, power plants are dispatched in large part based on their variable cost, which in turn is largely determined by their fuel costs. This dispatch order can be thought of as a supply curve for electricity. Given this supply curve, if the fuel price at one power plant increases, then this power plant is removed from its current position in the supply curve and placed in a position further along the supply curve. This reorders the supply curve as higher priced plants are dispatched earlier along the affected section of the supply curve. This leads to higher prices every time electricity demand in a particular period intersects the affected section of the supply curve. Higher fuel prices at Navajo and Mohave could have a significant effect on price along a significant portion of the supply curve. If either plant were forced to close down, its removal would affect prices at all points above the plant on the supply curve.

back to some minimal level (e.g., 40 percent of capacity) when they are uneconomic for short periods of time (e.g., nighttime).

B. Abuse of Proprietary Information

Power plant operators currently compete to supply electricity in informal wholesale markets characterized by bilateral contracts. In some states (e.g., California), power plant operators will soon compete in formal auctions to supply electricity. In all of these situations, power plant operators buy and sell both directly and through "power marketing" affiliates that have been expressly created to compete in the deregulating wholesale market for electric power.

Competition in the wholesale electricity market could be adversely affected by this acquisition throughout the United Stats because PacifiCorp may gain access, through Peabody's coal contracts and coal supply relationships, to highly sensitive data on competitors' costs and to real-time information relating to operating conditions of competing generators of electrical power.

A coal supplier is able to obtain competitively-sensitive information about the day-to-day operation of the power plant it supplies, including when the plant is experiencing downtime and when it is facing transmission bottlenecks. In addition, because coal costs comprise 90% of a coal-fired power plant's variable cost of generating electricity, a coal supplier will know cost information sufficient to predict the price the power plant will likely bid.

Peabody is a significant supplier of coal to coal-fired plants, supplying 27% of the coal that goes to such plants in the WSCC and 15% of the coal going to such plants in the United States. Many of Peabody's coal supply contracts have no protection against the transfer of such competitively-sensitive information, since they were executed prior to regulatory reform and before purchasers under these contracts had reason to be concerned about the competitive sensitivity of the information that could be revealed to competitors through such contracts or through the day-to-day relationship between the coal supplier and customer. Consequently, by acquiring Peabody, PacifiCorp will gain an invaluable window on real-time information relating to operating conditions and production plans at many of the approximately 150 power plants supplied by Peabody. By enabling PacifiCorp to predict supply shifts and consequent price movements in the market, this information gives PacifiCorp a significant competitive advantage in power marketing.

PacifiCorp will be able to trade on that information at the expense of other traders of wholesale electricity. Expected profits for both incumbents and prospective entrants will be lower if PacifiCorp possesses inside information regarding competitors' costs, supply conditions, and future operating plans. Consequently, as a result of PacifiCorp's perceived information advantage regarding electricity supply and costs, competitive entry in power marketing will be discouraged, and existing power marketing companies may defer greater investments in such enterprises and perhaps even exit, making the market for wholesale electricity operate less efficiently.

V. The Proposed Complaint and Consent Order

The Federal Trade Commission has accepted for public comment an Agreement Containing Consent Order with PacifiCorp and TEG in settlement of the charges in the proposed complaint. The proposed complaint alleges that PacifiCorp's acquisition of TEG violates Section 5 of the Federal Trade Commission Act, 15 U.S.C. 45, and Section 7 of the Clayton Act, as amended, 15 U.S.C. 18. The proposed complaint alleges that the Acquisition will lessen competition in the supply of electricity in the WSCC and in various geographic markets in the United States as a whole.

To remedy the alleged harm to competition from raising rivals costs, the proposed Consent Order would require PacifiCorp to divest Peabody Western Coal Company (PWCC), the Peabody subsidiary that owns the Black Mesa and Kayenta mines, to an acquirer approved by the Commission. The required divestiture solves the competitive concerns raised in this acquisition in the WSCC by assuring the PacifiCorp would not have an anticompetitive incentive to raise fuel prices at Navajo and Mohave in order to raise the price of electricity in the WSCC.[6] The divestiture remedy is

[6] Divestiture is unnecessary elsewhere because there is no evidence that other captive coal-fired power plants are marginal price-setters in their geographic market as Navajo and Mohave are.

consistent with longstanding Commission policy which favors the structural approach to remedies, rather than the behavioral approach which seeks to govern conduct through the use of rules.[7]

The fuel supply contracts between PWCC and Navajo and Mohave give the Navajo owners a right of first refusal to buy the Kayenta mine and Mohave owners a right of first refusal to buy the Black Mesa mine. Because these rights of first refusal could delay the divestiture process, the proposed Consent Order affords PacifiCorp a period of nine months following the Acquisition to complete the required divesture, and under certain circumstances, extends the time for divestiture to as late as March 1, 2000. Under the circumstances of this case, the Commission believes that the unusually long time afforded Respondents to complete the divestiture and possible extension of that time under the terms of the proposed Consent Order are likely to lead to substantial economic harm. PacifiCorp's incentive to increase the fuel price at Navajo and Mohave depends on PacifiCorp's sales of electricity at the market price. In the near-term, most of PacifiCorps electricity sales are at regulated rates or a prices specified by long-term contracts. Thus, in the near-term, PacifiCorp will not have a strong incentive the increase fuel prices at Navajo and Mohave because PacifiCorp has limited net sales of electricty at the market price. However, as PacifiCorp's wholesale contracts are renegotiated and as PacifiCorp's retail sales are deregulated, PacifiCorp gains an ever greater incentive to increase electricity prices by raising the fuel price at Navajo and Mohave.

To remedy the alleged threat to competition from abuse of confidential customer information, the proposed consent order forbids Peabody from transferring PacifiCorp non-public information regarding Peabody customers who object to such disclosure and who either purchase coal from Peabody under contracts with a term of one-year or longer or who purchased in excess of one million tons of coal from Peabody during the preceding year. By preventing the transfer of this information, the Proposed Consent Order prevents PacifiCorp from trading on proprietary information in a way that is likely to retard development of a fully competitive market in the wholesaling of electric power.

[7] *See* William J. Baer, *FTC Perspectives on Competition Policy and enforcement Initiatives in Electric Power,* before the Conference on the New Rules of the Game for Electric Power: Antitrust & Anticompetitive Behavior (Washington D.C., Dec. 4, 1997) at 12–13

VI. Opportunity for Public Comment

The proposed Consent Order has been placed on the public record for sixty (60) days for receipt of comments by interested person. Comments received during this period will become part of the public record. After sixty days, the Commission will again review the proposed Consent Order and the comments received and will decide whether it should withdraw from the Agreement Containing Consent Order, make final the Consent Order, or take such other action as the Commission may determine to be in the public interest.

The Commission anticipated that the proposed Consent Order will cure the anticompetitive effects of the Acquisition as alleged in the proposed complaint. The purpose of this analysis is to invite public comment on the proposed Consent Order, including the proposed divestitures, to aid the Commission in its determination of whether to make final the proposed Consent Order. This analysis is not intend to constitute an official interpretation of the proposed Consent Order, nor is it intended to modify the term of the proposed Consent Order in any way.

Donald S. Clark,

Secretary.

[FR Doc. 98–4755 Filed 2–24–98; 8:45 am]

BILLING CODE 6750–01–M

GENERAL SERVICES ADMINISTRATION

Interagency Committee for Medical Records (ICMR); Revision of Medical Standard Form

AGENCY: General Services Administration.

ACTION: Notice.

SUMMARY: The following Standard Form is revised to add standard information fields and change the stocking to local reproduction: SF 515, Medical Record—Tissue Examination.

You can obtain the updated camera copy in three ways: From the ''U.S. Government Management Policy CD-ROM; On the internet. Address: http://www.gsa.gov/forms, or ; From CARM, Attn.: Barbara Williams, (202) 501–0581.

DATES: Effective upon publication in the **Federal Register** (February 25, 1998).

FOR FURTHER INFORMATION CONTACT: Ms. Barbara Williams, General Services Administration, (202) 501–0581.

Dated: February 18, 1998.

Barbara M. Williams,

Deputy Standard and Optional Forms Management Officer.

[FR Doc. 98–4796 Filed 2–24–98; 8:45 am]

BILLING CODE 6820–34–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration; Delegation of Authority

Notice is hereby given that I have delegated to the Commissioner of Food and Drugs the authorities vested in the Secretary of Health and Human Services under Title III, Section 354 of the Public Health Service Act (43 U.S.C. 262 *et seq*), as amended hereafter.

This delegation supersedes the delegation memorandum from the Acting Assistant Secretary for Health to the Commissioner of Food and Drugs dated, June 1, 1993, titled ''Delegation of Authority for Section 354 of the Public Health Service Act, as amended by Public Law 102–539, the Mammography Quality Standards Act of 1992.''

This delegation shall be exercised under the Department's existing delegation of authority and policy on regulations. In addition, I have affirmed and ratified any actions taken by you or your subordinates which involved the exercise of the authorities delegated herein prior to the effective date of the this delegation. This delegation is effective upon signature.

Dated: February 11, 1998.

Donna E. Shalala,

Secretary.

[FR Doc. 98–4723 Filed 2–24–98; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

HHS Management and Budget Office; Office of Facilities Services; Statement of Organization, Functions and Delegations of Authority

Part A, Office of the Secretary, Statement of Organization, Functions and Delegations of Authority for the Department of Health and Human Services is being amended at Chapter AM, HHS Management and Budget Office, Chapter AMR, Office of Facilities Services, as last amended at 61 FR 55988–90, October 30, 1996. The functional statement for the Office of Facilities Services is being amended to reflect its current responsibility for