

Statement of the Federal Trade Commission
upon Withdrawal from Consent Agreement
in the Matter of

PACIFI CORP

FILE NO. 971 0091

The Commission's acceptance of the consent agreement in this matter arose from our concern over PacifiCorp's then-proposed acquisition of The Energy Group PLC ("TEG"). The settlement aimed to alleviate the central anticompetitive effect of the transaction: that PacifiCorp's acquisition of TEG's Peabody Coal unit would give PacifiCorp the power to raise the price (or otherwise diminish the availability) of coal, a necessary input for any firm seeking to compete with PacifiCorp in electricity generation.

During the public comment period on the consent agreement, PacifiCorp withdrew its bid for TEG (and eventually sold virtually all of its TEG stock) in the face of Texas Utilities Company's competing tender offer for TEG. Absent this turn of events, the Commission would have been inclined to issue the final order against PacifiCorp without modification.⁽¹⁾

In effect, however, PacifiCorp's withdrawal of its bid for TEG and its voluntary divestiture of essentially its entire interest in TEG accomplished the consent order's divestiture requirement. Issuance of a final order would serve no purpose, and, in any event, the order would have expired almost immediately. Accordingly, the Commission has decided to withdraw from the consent agreement and close this investigation.

We anticipate additional mergers and acquisitions in an electric utility industry undergoing significant deregulation and restructuring. Our review of the PacifiCorp/TEG acquisition yielded valuable insights and learning⁽²⁾ that we will apply to these future transactions.

1. Public comments on the consent agreement recommended that we substitute conduct provisions for the order's divestiture requirement, but we were not persuaded that the suggested course of action would be preferable. (The consent agreement, proposed complaint, and related documents may be found on the Commission's World Wide Web site at <http://www.ftc.gov/os/9802/index.htm> under the date February 18, 1998.)

2. Of course, the Commission will examine any renewed effort by PacifiCorp to acquire TEG or any portion of that company.