Board of Governors of the Federal Reserve System, April 5, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

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FEDERAL TRADE COMMISSION

[File No. 001 0080]

Duke Energy Corporation, 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 May 1, 2000.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Ave., NW, Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Kristin Malmberg or Gary Kennedy, Federal Trade Commission, Southwest Region, 1999 Bryan St., Suite 2150, Dallas, TX 75201. (214) 979–9381 or 979–9379.

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 the accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) 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 March 31, 2000), on the World Wide Web, at ''http://www.ftc.gov/ftc/formal.htm.'' A paper copy can be obtained from the FTC Public Reference Room, Room H–130, 600 Pennsylvania Avenue, NW, Washington, D.C. 20580, either in person or by calling (202) 326–3627.

Public comment is invited. Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Ave., NW, Washington, D.C. 20580. Two paper copies of each comment should be filed, and should be accompanied, if possible, by a 3½ inch diskette containing an electronic copy of the comment. 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 To Aid Public Comment on the Provisionally Accepted Consent Order

The Federal Trade Commission (''Commission'') has accepted for public comment from Duke Energy Corporation (''Duke''), Phillips Petroleum Company (''Phillips''), and Duke Energy Field Services L.L.C. (''DEFS'' an agreement containing Consent Order designed to remedy the anticompetitive effects resulting from: (1) Duke and Phillips' proposed merger of all of their natural gas gathering and processing businesses into DEFS; and (2) Duke's proposed acquisition of certain gas gathering and processing assets in central Oklahoma currently jointly owned by Conoco Inc. (''Conoco'') and Mitchell Energy & Development Corporation (''Mitchell''). The Consent Order requires Duke to divest approximately 2780 miles of gas gathering pipeline in Kansas, Oklahoma, and Texas.

This agreement has been placed on the public record for thirty (30) days for the receipt of comments from interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make final the agreement's Order.

On December 16, 1999, Duke and Phillips signed a letter agreement to transfer their natural gas gathering and processing businesses to DEFS. Duke will be the majority owner of DEFS. The value of this transaction is approximately $6 billion. On December 21, 1999, Duke agreed to acquire Conoco and Mitchell's jointly held central Oklahoma gas gathering and processing assets. Gas gathering is the pipeline transportation of natural gas from a wellhead or central delivery point to a gas transmission pipeline or gas processing plant. The Commission found that the merger and acquisition may create competitive problems in counties in Kansas, Oklahoma, and Texas. The Commission's complaint alleges that Duke, Phillips, and DEFS' merger agreement and Duke's acquisition agreement with Conoco and Mitchell violate Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45, and the merger and acquisition, if consummated, would violate Section 5 of the Federal Trade Commission Act and Section 7 of the Clayton Act, as amended, 15 U.S.C. 18.

Seven relevant markets were identified where gas producers could only turn to the parties or, at most, to one other gas gatherer, for gas gathering services. In these areas, the proposed merger and acquisition would reduce competition in the provision of gas gathering services and would likely lead to anticompetitive increases in gathering rates and an overall reduction in gas drilling and production. It is unlikely that the competition eliminated by the proposed merger and acquisition would be replaced by new entry into the gas gathering market in these areas.

The proposed Consent Order requires Duke to divest pipeline systems in these markets areas, eliminating any overlap between Duke's current holdings and what it will acquire from Phillips and the Conoco/Mitchell joint venture. The gas gathering assets to be divested are listed in Schedules A–J, with maps depicting the assets listed in Schedules C–J. Of the 2,780 miles to be divested under this Consent Order, 2,250 miles will be divested to Duke's joint venture partners for these assets. On February 28, 2000, Duke divested its interest in the Schedule A assets, 800 miles of pipe in the Westana area of Oklahoma, to Western, co-owner of the Westana Gathering Company. Duke has agreed to divest its interest in the Schedule B assets, 1,450 miles of pipe in the Austin Chalk area of Texas, to Mitchell, co-owner of Ferguson-Burleson County Gas Gathering System. The remaining 530 miles will be sold to Commission-approved buyers. The purposes of the divestitures are to ensure the continued use of the assets as gas gathering assets and to remedy the lessening of competition resulting from the acquisition.

Duke must divest the assets within 120 days of final acceptance of the Consent Order by the Commission. The Consent Order provides that if Duke fails to sell the 530 miles of pipe that currently does not have an identified buyer, it must offer additional assets for sale (''crown jewels''). If Duke fails to divest these assets, or if the sale of Mitchell is not completed, by the deadline, the Commission may appoint a trustee to sell the assets. Duke has entered into an Asset Maintenance Agreement, in which it has agreed to

maintain the assets that are being divested (as well as the ''crown jewel'' assets) in their current condition and provide gas gathering services on the same terms and conditions available to customers on March 1, 2000, until the assets are sold.

The purpose of this analysis is to invite public comment concerning the consent order. This analysis is not intended to constitute an official interpretation of the agreement and order or to modify their terms in any way.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 00–8771 Filed 4–7–00; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Notice of Meeting

In accordance with section 10(d) of the Federal Advisory Committee Act (5 U.S.C., Appendix 2), announcement is made of a Special Emphasis Panel meeting.

A Special Emphasis panel (SEP) is a committee of a few experts selected to conduct scientific reviews of applications related to their areas of expertise. The committee members are drawn from a list of experts and designated to serve for particular individual meetings rather than for extended fixed terms of services.

Substantial segments of the upcoming SEP meeting listed below will be closed to the public in accordance with the Federal Advisory Committee Act, section 10(d) of 5 U.S.C., Appendix 2 and 5 U.S.C., 552b (c)(6). Grant applications are to be reviewed and discussed at this meeting. These discussions are likely to include personal information concerning individuals associated with the applications. This information is exempt from mandatory disclosure under the above-cited statutes.

Name of SEP: Understanding the Eliminating Minority Health Disparities.

Date: May 1–2, 2000 (Open from 8 a.m. to 8:15 a.m. and closed for remainder of the meeting).

Place: Doubletree Hotel, 1750 Rockville Pike, Conference TBD, Rockville, Maryland 20852.

Contact Person: Anyone wishing to obtain a roster of members or minutes of the meeting should contact Ms. Jenny Griffith, Committee management Officer, Office of Research Review, Education and Policy, AHRQ, 2101 East Jefferson Street, Suite 400, Rockville, Maryland 20852, Telephone (301) 594–1847.

Agenda items for this meeting are subject to change as priorities dictate.

Dated: March 29, 2000.

John M. Eisenberg,

Director.

[FR Doc. 00–8842 Filed 4–7–00; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99P–4848]

Determination That Carbinoxamine Maleate 4 Milligrams per 5 Cubic Centimeters Elixir Was Not Withdrawn From Sale for Reasons of Safety or Effectiveness

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined that carbinoxamine maleate (Clistin) 4 milligrams (mg) per 5 cubic centimeters (cc) elixir was not withdrawn from sale for reasons of safety or effectiveness. This determination will allow FDA to approve abbreviated new drug applications (ANDA's) for carbinoxamine maleate 4 mg per 5 cc elixir.

FOR FURTHER INFORMATION CONTACT: Mary E. Catchings, Center for Drug Evaluation and Research (HFD–7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20855, 301–594–2041.

SUPPLEMENTARY INFORMATION: In 1984, Congress enacted the Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98–417) (the 1984 amendments), which authorized the approval of duplicate versions of drug products approved under an ANDA procedure. ANDA sponsors must, with certain exceptions, show that the drug for which they are seeking approval contains the same active ingredient in the same strength and dosage form as the ''listed drug,'' which is a version of the drug that was previously approved. Sponsors of ANDA's do not have to repeat the extensive clinical testing otherwise necessary to gain approval of a new drug application (NDA). The only clinical data required in an ANDA are data to show that the drug that is the subject of the ANDA is bioequivalent to the listed drug.

The 1984 amendments included what is now section 505(j)(6) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(6)), which requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the ''Approved Drug Products with Therapeutic Equivalence Evaluations,'' generally known as the ''Orange Book.'' Under FDA regulations, drugs are withdrawn from the list if the agency withdraws or suspends approval of the drug's NDA or ANDA for reasons of safety or effectiveness, or if FDA determines that the listed drug was withdrawn from sale for reasons of safety or effectiveness (21 CFR 314.162). Under § 314.161(a)(1) (21 CFR 314.161(a)(1)) the agency must make a determination as to whether a listed drug was withdrawn from sale for reasons of safety or effectiveness before an ANDA that refers to that listed drug may be approved. FDA may not approve an ANDA that does not refer to a listed drug.

In a citizen petition dated October 8, 1999 (Docket No. 99P–4848/CP1), submitted under 21 CFR 314.122, Mikart, Inc., requested that the agency determine whether carbinoxamine maleate (Clistin) 4 mg per 5 cc elixir was withdrawn from sale for reasons of safety or effectiveness. Carbinoxamine maleate (Clistin) 4 mg per 5 cc elixir was the subject of approved NDA 8–955. In the **Federal Register** of April 5, 1985 (50 FR 13661), FDA withdrew approval of NDA 8–955 for Clistin Elixir after McNeil Pharmaceutical notified the agency that Clistin Elixir was no longer being marketed under NDA 8–955 and requested the withdrawal of that application.

FDA has reviewed its records and, under § 314.161, has determined that carbinoxamine maleate 4 mg per 5 cc elixir was not withdrawn from sale for reasons of safety or effectiveness. Accordingly, the agency will list carbinoxamine maleate 4 mg per 5 cc elixir in the ''Discontinued Drug Product List'' section of the Orange Book. The ''Discontinued Drug Product List'' identifies, among other items, drug products that have been discontinued from marketing for reasons other than safety or effectiveness. ANDA's that refer to carbinoxamine maleate 4 mg per 5 cc elixir as the listed drug may be approved by the agency.

Dated: April 3, 2000.

Margaret M. Dotzel,

Acting Associate Commissioner for Policy.

[FR Doc. 00–8715 Filed 4–7–00; 8:45 am]

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