
FEDERAL ENERGY REGULATORY COMMISSION



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NEWS RELEASE

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FOR IMMEDIATE RELEASE

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Docket Nos. EC05-103, EC05-110 and
EC05-43-001

COMMISSION APPROVES DUKE-CINERGY MERGER, MIDAMERICAN-PACIFICORP TRANSACTION; COMMISSION AFFIRMS EXELON-PSEG MERGER APPROVAL

The Federal Energy Regulatory Commission today approved the proposed merger of Duke Energy Corp. and Cinergy Corp., and separately approved MidAmerican Energy Holdings Co.'s acquisition of PacifiCorp. The Commission also affirmed a prior decision authorizing Exelon Corp.'s proposed merger with Public Service Enterprise Group Inc.

Under the transaction approved by the Commission today, Charlotte-based Duke Energy and Cinergy, headquartered in Cincinnati, will combine to create a company with more than \$70 billion in assets and operations in two-thirds of the United States and parts of Canada. The merged companies will have retail electric and gas customers in Kentucky, Indiana, North Carolina, Ohio, South Carolina and Canada, and own more than 45,000 megawatts of electric generation and 17,500 miles of natural gas transmission pipeline.

Separately, the Commission approved MidAmerican Energy Holdings Co.'s \$5.1 billion acquisition of Portland, Oregon-based PacifiCorp, a subsidiary of Scottish Power. MidAmerican, headquartered in Des Moines, Iowa, is an exempt public utility holding company providing electric service to over 698,000 customers in Illinois, Iowa and South Dakota. PacifiCorp, operating through two regulated subsidiaries, serves electric customers in parts of California, Idaho, Oregon, Utah, Washington, and Wyoming.

“These transactions are significant in size, but our merger analysis was very straightforward, indicating no harm to competition,” noted Commission Chairman Joseph T. Kelliher. “There is very little overlap between the Duke and Cinergy markets, and the Duke market, while highly concentrated, is not made more concentrated by the merger. MidAmerican and PacifiCorp are remote from each other, and the two companies control very little generating capacity outside their home markets,” Chairman Kelliher said.

Under the Federal Power Act and the standards set under the Commission's 1996 merger policy guidelines (Order No. 592), the Commission reviews public utility mergers to evaluate the transaction's effect on competition, rates and regulation. The Commission must approve a merger if it finds that it is consistent with the public interest.

The Duke-Cinergy merger and MidAmerican acquisition of PacifiCorp were reviewed under the Federal Power Act's section 203 provisions in place prior to enactment of the Energy Policy Act of 2005, which changed the statutory merger test. The Energy Policy Act provided that the changes to the merger test do not apply to merger cases pending when the law was enacted, as were these transactions.

In both the Duke-Cinergy and MidAmerican-PacifiCorp transactions, the Commission found that the proposed mergers and dispositions of jurisdictional facilities satisfy the FERC criteria and are consistent with the public interest.

In another merger-related order today, the Commission affirmed its June 30 decision approving the merger of Exelon Corp. and Public Service Enterprise Group Inc. (EC05-43-001). In addressing the arguments raised on rehearing, the Commission emphasized that the proposed merger included mitigation measures to curb any competitive harm that might arise from the utilities' merger through "substantial divestiture of generation and several compliance filings."