

§ 2.31

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modified, together with proposed modifications, or a concise explanation why the recipient believes it has substantially complied with the request for additional information or documentary material.

(vi) The authorized representative's memorandum shall include a concise statement of reasons why the petitioner's proposed modifications are inappropriate or a concise statement of the reasons why the representative believes that the petitioner has not substantially complied with the request for additional information and documentary material.

(vii) The General Counsel shall advise the petitioner and the authorized representative of his or her decision within 3 business days following the conference.

[66 FR 8721, Feb. 1, 2001]

Subpart C—Consent Order Procedure

§ 2.31 Opportunity to submit a proposed consent order.

(a) Where time, the nature of the proceeding, and the public interest permit, any individual, partnership, or corporation being investigated shall be afforded the opportunity to submit through the operating Bureau or Regional Office having responsibility in the matter a proposal for disposition of the matter in the form of a consent order agreement executed by the party being investigated and complying with the requirements of § 2.32, for consideration by the Commission in connection with a proposed complaint submitted by the Commission's staff.

(b) After a complaint has been issued, the consent order procedure described in this part will not be available except as provided in § 3.25(b).

[40 FR 15235, Apr. 4, 1975]

§ 2.32 Agreement.

Every agreement in settlement of a Commission complaint shall contain, in addition to an appropriate proposed order, either an admission of the proposed findings of fact and conclusions of law submitted simultaneously by the Commission's staff or an admission of all jurisdictional facts and an ex-

press waiver of the requirement that the Commission's decision contain a statement of findings of fact and conclusions of law. Every agreement also shall waive further procedural steps and all rights to seek judicial review or otherwise to challenge or contest the validity of the order. In addition, where appropriate, every agreement in settlement of a Commission complaint challenging the lawfulness of a proposed merger or acquisition shall also contain a hold-separate or asset-maintenance order. The agreement may state that the signing thereof is for settlement purposes only and does not constitute an admission by any party that the law has been violated as alleged in the complaint. Every agreement shall provide that:

(a) The complaint may be used in construing the terms of the order;

(b) No agreement, understanding, representation, or interpretation not contained in the order or the aforementioned agreement may be used to vary or to contradict the terms of the order;

(c) The order will have the same force and effect and may be altered, modified or set aside in the same manner provided by statute for Commission orders issued on a litigated or stipulated record;

(d) Except as provided by order of the Commission, any order issued pursuant to the agreement will become final upon service;

(e) The agreement will not become a part of the public record unless and until it is accepted by the Commission; and

(f) If the Commission accepts the agreement, further proceedings will be governed by § 2.34.

[64 FR 46268, Aug. 25, 1999]

§ 2.33 Compliance procedure.

The Commission may in its discretion require that a proposed agreement containing an order to cease and desist be accompanied by an initial report signed by the respondent setting forth in precise detail the manner in which the respondent will comply with the order when and if entered. Such report will not become part of the public record unless and until the accompanying agreement and order are accepted by the Commission. At the time