

(2) The total amount of economic capacity in the downstream market served by each upstream supplier;

(3) The market share of economic capacity served by each upstream supplier; and

(4) The HHI statistic for the downstream market.

(B) A similar table must be provided for available economic capacity and for any other measure used by the applicant.

(ii) *Upstream geographic market.* The applicant must provide a summary table with the following information for each upstream relevant product in each relevant upstream geographic market:

(A) The amount of relevant product provided by each upstream supplier;

(B) The total amount of relevant product in the market;

(C) The market share of each upstream supplier; and

(D) The HHI statistic for the upstream market.

(d) *Mitigation.* Any mitigation measures proposed by the applicant (including, for example, divestiture or participation in an Regional Transmission Organization) which are intended to mitigate the adverse effect of the proposed transaction must, to the extent possible, be factored into the vertical competitive analysis as an additional post-transaction analysis. Any mitigation measures that involve facilities must identify the facilities affected by the commitment.

(e) *Additional factors.* (1) If the applicant does not propose mitigation measures, the applicant must address:

(i) The potential adverse competitive effects of the transaction.

(ii) The potential for entry in the market and the role that entry could play in mitigating adverse competitive effects of the transaction;

(iii) The efficiency gains that reasonably could not be achieved by other means; and

(iv) Whether, but for the proposed transaction, one or more of the parties to the transaction would be likely to fail, causing its assets to exit the market.

(2) The applicant must address each of the additional factors in the context of whether the proposed transaction is

likely to present concerns about raising rivals' costs or anticompetitive coordination.

### § 33.5 Proposed accounting entries.

If the applicant is required to maintain its books of account in accordance with the Commission's Uniform System of Accounts in part 101 of this chapter, the applicant must present proposed accounting entries showing the effect of the transaction with sufficient detail to indicate the effects on all account balances (including amounts transferred on an interim basis), the effect on the income statement, and the effects on other relevant financial statements. The applicant must also explain how the amount of each entry was determined.

### § 33.7 Verification.

The original application must be signed by a person or persons having authority with respect thereto and having knowledge of the matters therein set forth, and must be verified under oath.

### § 33.8 Number of copies.

The applicant must submit the application or petition to the Secretary of the Commission in accordance with filing procedures posted on the Commission's Web site at <http://www.ferc.gov>. If the applicant submits a public and a non-public version (containing information filed under a request for privileged treatment), the original and at least three of the eight copies must be of the non-public version of the filing, pursuant to § 388.112(b)(ii). If the applicant must submit information specified in paragraphs (b), (c), (d), (e) and (f) of § 33.3 or paragraphs (b), (c), (d) and (e) of § 33.4, the applicant must submit all such information in electronic format (*e.g.*, on computer diskette or on CD) along with a printed description and summary. The electronic version must be submitted in accordance with § 385.2011 of the Commission's regulations. The printed portion of the applicant's submission must include documentation for the electronic submission, including all file names and a summary of the data contained in each file. Each column (or data item) in each separate data table or chart must