

**UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION**

COMMISSIONERS: **Deborah Platt Majoras, Chairman**
 Pamela Jones Harbour
 Jon Leibowitz
 William E. Kovacic
 J. Thomas Rosch

In the Matter of

**TC GROUP, L.L.C.,
a limited liability company,**

**RIVERSTONE HOLDINGS LLC,
a limited liability company,**

**CARLYLE/RIVERSTONE GLOBAL
ENERGY AND POWER FUND II, L.P.,
a limited partnership,**

and

**CARLYLE/RIVERSTONE GLOBAL
ENERGY AND POWER FUND III, L.P.,
a limited liability company**

ORDER

I.

IT IS ORDERED that, as used in this Order, the following definitions shall apply:

- A. “Carlyle” means TC Group, L.L.C., doing business as The Carlyle Group, its directors, officers, partners, employees, agents, representatives, successors, and assigns; and its joint ventures, subsidiaries, partnerships, divisions, groups, affiliates, investment funds, hedge funds, and alternative investment vehicles controlled or managed by TC Group, L.L.C. (including,00050 TD(p, L.L)Tj29.le

28, 2006, pursuant to which a group of investors, including, but not limited to, CP-I

- N. “Magellan Board” means any board of directors or board of managers of Magellan, including, but not limited to, the Board of Managers of MGG Midstream Holdings GP, LLC, the Board of Directors of Magellan Midstream Holdings GP, LLC, and the Board of Directors of Magellan GP, LLC.
- O. “Magellan CR Director” means a Person who is or at any time was elected or appointed by, or who is or at any time was an agent or representative of, Carlyle, Riverstone, CR-II, or CR-III, on any Magellan Board, including, but not limited to, Pierre F. Lapeyre, Jr., David M. Leuschen, N. John Lancaster, Jr., and James Derryberry.
- P. “Magellan Investment Entities” means MGG Midstream Holdings GP, LLC and MGG Midstream Holdings, L.P.
- Q. “Magellan Operating Entities” means Magellan Midstream Holdings GP, LLC, Magellan Midstream Holdings, L.P., Magellan GP, LLC, Magellan IDR, L.P., and Magellan Midstream Partners, L.P. and the joint ventures, subsidiaries, partnerships, divisions, groups and affiliates controlled by such entities.
- R. “MDP-IV” means Madison Dearborn Capital Partners IV, L.P., a limited partnership, organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at Three First National Plaza, Suite 3800, Chicago, Illinois 60602, with an ownership interest in Magellan.
- S. “MGG GP Agreement” means the First Amended & Restated Limited Liability Company Agreement of MGG Midstream Holdings GP, LLC, dated December 21, 2005, including all amendments, attachments, exhibits, and schedules thereto.
- T. “Monitor Agreement” means the Monitor Agreement dated December 12, 2006, between Respondents and Kevin Sudy of Navigant Consulting. The Monitor Agreement is attached as Appendix C to this Order.
- U. “Non-Public Information” means all information that is not in the public domain Relating To a Person or a Person’s business, including, but not limited to, customer lists, price lists, plans, contracts, expansion projects, cost information, marketing methods, competitively sensitive data or information, and all other information not available to the public.
- V. “Person” means any natural person, partnership, corporation, association, trust, joint venture, government, government agency, or other business or legal entity.
- W. “Relating To” means in whole or in part constituting, containing, concerning, discussing, describing, analyzing, identifying, stating, or in any way pertaining to.

- X. “VCOC Exemption Rights” means any rights necessary for, or that allow, an investor to claim the Venture Capital Operating Company exemption under the plan asset regulation issued by the Department of Labor under 29 C.F.R. § 2520-3-101, including, but not limited to, the right to representation on the board of directors, the right to observe the board of directors, the right to inspect books and records, the right to interview officers or employees concerning their business and operations, and any other rights through which the investor can substantially participate in or influence the management of such entity.

II.

IT IS FURTHER ORDERED that:

- A. Respondents shall not consummate the Acquisition unless and until:
1. Respondents have removed all Magellan CR Directors from all Magellan Boards; and
 2. Respondent CR-II has agreed with MDP-IV that as of the Effective Date:
 - a. all Magellan CR Directors shall be removed from all Magellan Boards;
 - b. Respondent CR-II, Respondent Carlyle, and Respondent Riverstone shall have no

1. Respondents shall:

- a. not elect or appoint a Magellan CR Director;
- b. not have a director, officer, partner, employee, agent, or representative on any Magellan Board;
- c. not influence or attempt to influence, directly or indirectly, by voting or otherwise, the Magellan Operating Entities, or the management or operation of the Magellan Operating Entities;
- d. not influence or attempt to influence, directly or indirectly, the Magellan Investment Entities, or the management or operation of the Magellan Investment Entities, except and only to the extent as provided in the MGG GP Agreement as amended by the Amendment; and
- e. not receive or attempt to receive, directly or indirectly, any Non-Public Information of, from or Relating To the Magellan Operating Entities.

2. Respondent Carlyle, Respondent Riverstone and Respondent CR-II shall:

- a. not discuss with, or provide, disclose or otherwise make available to, KMI or any KMI CR Director, directly or indirectly, any Non-Public Information of, from or Relating To Magellan;
- b. prohibit any Magellan CR Director from discussing with, or providing, disclosing or otherwise making available to, KMI or any KMI CR Director, directly or indirectly, any Non-Public Information of, from or Relating To Magellan; *PROVIDED, HOWEVER*, that the foregoing shall not prevent either David M. Leuschen or Pierre F. Lapeyre, Jr., from serving as a KMI CR Director; and
- c. institute procedures and requirements throughout the various entities of the Respondents to ensure that Non-Public Information is protected as required by this Paragraph II.B.

C. Respondent Carlyle, Respondent Riverstone, and Respondent CR-III shall:

1. not discuss with, or provide, disclose or otherwise make available to, Magellan, directly or indirectly, any Non-Public Information of, from or Relating To KMI;
2. prohibit all KMI CR Directors from discussing with, or providing, disclosing or otherwise making available to, Magellan, directly or indirectly, any Non-Public Information of, from or Relating To KMI; and

3. institute procedures and requirements throughout the various entities of the Respondents to ensure that Non-Public Information is protected as required pursuant to this Paragraph II.C.
- D. For the time period that Respondent Carlyle or Respondent Riverstone holds, directly or indirectly, any interest in Magellan,
1. Respondent Carlyle and Respondent Riverstone shall not, without providing thirty (30) days advance written notification to the Commission in the manner described in this paragraph, directly or indirectly, acquire any stock, share capital, equity or other interest in KMI other than the interest acquired through the Acquisition.
 2. *PROVIDED, HOWEVER*, that such prior advance written notice shall not be required if:
 - a. the acquisition is by a CR Passive Investment Fund;
 - b. the acquisition does not change the acquiring Respondent's pro rata interest in KMI received as part of the Acquisition; or
 - c. as a result of the acquisition, the acquiring Respondent:
 - (1) does not, and cannot in the future, receive the right or ability to appoint or elect an additional member to any KMI Board; and
 - (2) does not, and cannot in the future, vote any of the stock, share capital, equity or other interest in KMI it receives as a result of such acquisition.

Said advance written notification shall contain: (i) a detailed term sheet for the proposed acquisition, including, among other things, the amount of the acquisition, the type of acquisition, the Person acquiring the interest, the date such acquisition will take effect, and any other information prepared by the Person making the acquisition Related To such

(30) days prior to consummating the transaction (hereinafter referred to as the “first waiting period”). If, within the first waiting period, representatives of the Commission make a written request for additional information or documentary material (within the meaning of 16 C.F.R. § 803.20), no Respondent shall consummate the transaction until thirty (30) days after submitting such additional information or documentary material. Early termination of the waiting periods in this paragraph may be requested and, where appropriate, granted by letter from the Bureau of Competition.

III.

IT IS FURTHER ORDERED that Respondents shall:

- A. Within twenty (20) days after the Effective Date, send a copy of this Order, the Complaint, and the Analysis to Aid Public Comment, by first class mail, return receipt requested, or by hand delivery (with signed confirmation) to:
1. All Persons employed by Respondents at the Managing Director level or above;
 2. All Persons who serve on each Magellan Board, including, but not limited to, each Magellan CR Director;
 3. All Persons who serve on each KMI Board, including, but not limited to, each KMI CR Director; and
 4. All investors in Knight Holdco LLC and Knight Acquisition Co.
- B. Send a copy of this Order, the Complaint, and the Analysis to Aid Public Comment, by first class mail, return receipt requested, or hand delivery (with signed confirmation) to:
1. each Person who becomes a KMI CR Director;
 2. each Person known to Respondents who becomes an equity investor in Knight Holdco LLC or Knight Acquisition Co. after the Acquisition unless and until Knight Holdco LLC and Knight Acquisition Co. become publicly traded; and
 3. each Person who serves on each Magellan Board.

~~Such to Aid Public Comment from this Paragraph I~~

IV.

IT IS FURTHER ORDERED that:

- A. Kevin Sudy of Navigant Consulting shall be appointed as Implementation Monitor to monitor Respondents' implementation of the firewall procedures under Paragraphs II.B. and II.C. of this Order, which Implementation Monitor shall have the rights, duties, and responsibilities as described below.
- B. Within one (1) day of this Order becoming final, Respondents shall, pursuant to the Monitor Agreement and to this Order, transfer to the Implementation Monitor all the rights, powers,

b. Assuring that Non-Public Informati

- B. Beginning twelve (12) months after the date this Order becomes final, and annually thereafter on the anniversary of the date this Order becomes final, for the next ten (10) years, each Respondent shall submit to the Commission a verified written report setting forth in detail the manner and form in which it is complying and has complied with this Order and the Amendment. Respondents shall submit at the same time a copy of these reports to the Implementation Monitor, if any Implementation Monitor has been appointed and whose term has not ended.

VI.

IT IS FURTHER ORDERED that Respondents shall notify the Commission at least thirty (30) days prior to:

- A. any proposed dissolution of Respondents;
- B. any proposed acquisition, merger, or consolidation of Respondents;
- C. any other change in the Respondents, including, but not limited to, assignment and the creation or dissolution of subsidiaries, if such change might affect compliance obligations arising out of this Order.

VII.

IT IS FURTHER ORDERED that, for the purpose of determining or securing compliance with this Order, and subject to any legally recognized privilege, and upon written request with reasonable notice to Respondents, Respondents shall permit any duly authorized representative of the Commission:

- A. Access, during office hours of Respondents and in the presence of counsel, to all facilities and access to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and all other records and documents in the possession or under the control of Respondents related to compliance with this Order; and
- B. Upon five (5) days' notice to Respondents and without restraint or interference from Respondents, to interview officers, directors, or employees of Respondents, who may have counsel present, regarding such matters.

VIII.

IT IS FURTHER ORDERED that this Order shall terminate on March 14, 2017.

By the Commission, Commissioner Leibowitz dissenting and Commissioner Rosch recused.

Donald S. Clark
Secretary

SEAL
ISSUED: March 14, 2007

CONFIDENTIAL APPENDIX A

**FIRST AMENDED & RESTATED LIMITED LIABILITY
COMPANY AGREEMENT OF MGG MIDSTREAM HOLDINGS GP, LLC**

[Redacted From the Public Record Version But Incorporated By Reference]

CONFIDENTIAL APPENDIX B

**AMENDMENT NO. 1 TO FIRST AMENDED & RESTATED
LIMITED LIABILITY COMPANY AGREEMENT OF MGG
MIDSTREAM HOLDINGS GP, LLC, DATED NOVEMBER 17, 2006**

[Redacted From the Public Record Version But Incorporated By Reference]

APPENDIX C

MONITOR AGREEMENT

[Public Record Version]