

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: Edith Ramirez, Chairwoman
Maureen K. Ohlhausen
Terrell McSweeney

_____)	
In the Matter of)	
)	
Energy Transfer Equity, L.P.,)	Docket No. C-4577
a master limited partnership, and)	
)	
The Williams Companies, Inc.,)	
a corporation.)	
_____)	

DECISION AND ORDER

The Federal Trade Commission ("Commission") having initiated an investigation of the proposed merger between Energy Transfer Equity, L.P. ("ETE") and Th.32.020 T()Td [()]5 a p e n t o a n d h a v i n g to Maintain Assets and having accepted the execut Consent Agreement on the public record for a peri

consideration of public comments, now in further conformity with the procedure described in Commission Rule 2.34, 16 C.F.R. § 2.34, the Commission hereby makes the following jurisdictional findings and enters the following Decision and Order (“Order”):

1. Respondent Energy Transfer Equity, L.P. is a master limited partnership organized, existing, and doing business under, and by virtue of, the laws of the State of Delaware, with its corporate office and principal place of business located at

- F. “Acquisition Date” means the date the Acquisition is consummated.
- G. “Capacity Lease Agreement” means the Amended and Restated Capacity Lease Agreement dated as of February 25, 2014, by and between Transcontinental Gas Pipe Line Company, LLC and Sabal Trail Transmission, LLC, including the First Amendment to the agreement dated March 2, 2016.
- H. “Confidential Information” means

identifiers whether registered or common law, containing or comprising the brand and mark “Williams” and “1Line.”

K. “Cost” means the actual cost of raw materials or parts, direct labor, utilities, administrative and third party expenses, and reasonably allocated operations, distribution, and shared corporate services overhead (i.e., administrative and related costs allocated consistent with Respondent’s past practice in the ordinary course) used to develop and supply the relevant service, including employee benefits, materials, resources, and services, plus the actual cost of any third-party charges.

L. “Divestiture Agreement” means any agreement between Respondents (or a Divestiture Trustee) and the Acquirer that receives the prior approval of the Commission to divest the Pipeline Assets, including all related ancillary agreements, schedule 0 Tlo-6(s)(a)4(r)3(i)-5 7(i)-2(t)-2(s)

- S. “Pipeline Assets” means all of Respondents’ right, title, and interest in and to all property and assets, real, personal, or mixed, tangible and intangible, of every kind and description, wherever located, relating to operation of the Pipeline Business, including, but not limited to:
1. Williams’ membership interest in (i) Gulfstream Natural Gas System, L.L.C., a limited liability company organized, existing, and doing business under and by virtue of the laws of the State of Delaware, and (ii) Gulfstream Management & Operating Services, L.L.C., a limited liability company organized, existing, and doing business under and by virtue of the laws of the State of Delaware;
 2. all real property interests (including fee simple interests and real property leasehold interests), including all easements, and appurtenances, together with all buildings and other structures, facilities, and improvements located thereon, owned, leased, or otherwise held;
 3. all Tangible Personal Property, including any Tangible Personal Property removed (outside of the ordinary course of business) from any location of the Pipeline Business since the date of the announcement of the Acquisition, and not replaced;
 4. all inventories;
 5. all Contracts and all outstanding offers or solicitations to enter into any Contract, and all rights thereunder and related thereto;
 6. all consents, licenses, registrations, or permits issued, granted, given, or otherwise made available by or under the authority of any governmental body or pursuant to any legal requirement, and all pending applications therefor or renewals thereof, to the extent assignable;
 7. all data and Records, including client and customer lists and Records, referral sources, research and development reports and Records, production reports and Records, service and warranty Records, equipment logs, operating guides and manuals, financial and accounting Records, creative materials, advertising materials, promotional materials, studies, reports, notices, orders, inquiries, correspondence, and other similar documents and Records, and copies of all personnel Records (to the extent permitted by law);
 8. all intangible rights and property, including Intellectual Property owned or licensed (as licensor or licensee) by Respondent (to the extent transferable or licensable), going concern value, goodwill, and telephone and telecopy listings; and

- C. Respondents shall cooperate with and assist the Acquirer to evaluate and hire any Pipeline Employee in connection with the divestiture of the Pipeline Assets, including, but not limited to:
1. Not later than twenty (20) days before the Divestiture Date, Respondents shall (i) identify the relevant Pipeline Employees, (ii) allow the Acquirer to inspect the personnel files and other documentation of the relevant Pipeline Employees, to the extent permissible under applicable laws, and (iii) allow the Acquirer an opportunity to interview the relevant Pipeline Employee;
 2. Respondents shall (i) not offer any incentive to any Pipeline Employee to decline employment with the Acquirer, (ii) remove any contractual impediments that may deter any Pipeline Employee from accepting employment with the Acquirer, including, but not limited to, any non-compete or confidentiality provision of employment or other contracts with Respondents that would affect the ability of such employee to be employed by the Acquirer, and (iii) not otherwise interfere with the recruitment, hiring, or employment of any Pipeline Employee by the Acquirer;
 3. Respondents shall (i) vest all current and accrued pension benefits as of the date of transition of employment with the Acquirer for any Pipeline Employee who accepts an offer of employment from the Acquirer and (ii) provide each Pipeline Employee with a financial incentive as necessary to accept an offer of employment with the Acquirer; and
 4. For a period of two (2) years after divestiture of any of the Pipeline Assets, Respondents shall not solicit the employment of any Pipeline Employee who becomes employed by the Acquirer at the time any of the Pipeline Assets are divested; ~~provided, however~~ that a violation of this provision will not occur if: (i) the individual's employment has been terminated by the Acquirer, (ii) Respondents advertise for employees in newspapers, trade publications, or other media not targeted specifically at the employees, or (iii) Respondents hire employees who apply for employment with Respondents, so long as such employees were not solicited by Respondents in violation of this paragraph.
- D. At the option of the Acquirer, Respondents shall, for a period of fifteen (15) months after the divestiture of the Pipeline Assets, provide Transitional Assistance to the Acquirer at a price not to exceed Cost and in quality and quantity sufficient to enable the Acquirer to operate the Pipeline Business in substantially the same manner (including allowing for growth of the Pipeline Business) as Williams prior to the Acquisition; ~~provided, however~~, that the Acquirer may extend the period of time for providing Transitional Assistance under this Paragraph II.D., subject to the prior approval of the Commission, up to three times for a period of three (3) months each, on the same terms as specified in this Paragraph II.D.; ~~provided further~~ that, as part of providing such Transitional Assistance, Respondents shall have no role in negotiating or setting rates, terms, or conditions of ser-

vice, making expansion or interconnection decisions, or marketing any services relating to the transportation of natural gas (or related products) through Gulfstream.

E. With respect to Intellectual Property, Respondents:

1. Shall grant a License to the Acquirer under the Retained Intellectual Property sufficient for the Acquirer to operate the Pipeline Business in substantially the same manner as Williams

the extent such information is required; (ii) only to those employees or Persons who re-

may reasonably request, and (ii) cooperate with, and take no action to interfere with or impede the ability of, the Monitor to perform his or her duties pursuant to this Order;

3. The Monitor (i) shall serve at the expense of Respondents, without bond or other security, on such reasonable and customary terms and conditions as the Commission may set, and (ii) may employ, at the cost and expense of Respondents, such consultants, accountants, attorneys, and other representatives and assistants as are reasonably necessary to carry out the Monitor's duties and responsibilities set forth in this Order

V.

IT IS FURTHER ORDERED that:

- A. If Respondents have not fully complied with the divestiture and other obligations as required by Paragraph II. of this Order, the Commission may appoint a Divestiture Trustee to divest the Pipeline Assets and perform Respondents' other obligations in a manner that satisfies the requirements of this Order. The Divestiture Trustee may be the same person as the Monitor appointed under this Order.
- B. In the event that the Commission or the Attorney General brings an action pursuant to Section 5(l) of the Federal Trade Commission Act, 15 U.S.C. § 45(l), or any other statute enforced by the Commission, Respondents shall consent to the appointment of a Divestiture Trustee in such action to divest the relevant assets in accordance with the terms of this Order. Neither the appointment of a Divestiture Trustee nor a decision not to appoint a Divestiture Trustee under this Paragraph shall preclude the Commission or the Attorney General from seeking civil penalties or any other relief available to it, including a court-appointed Divestiture Trustee, pursuant to Section 5(l) of the Federal Trade Commission Act, or any other statute enforced by the Commission, for any failure by the Respondents to comply with this Order.
- C. The Commission shall select the Divestiture Trustee, subject to the consent of Respondents, which consent shall not be unreasonably withheld. The Divestiture Trustee shall be a person with experience and expertise in acquisitions and divestitures. If Respondents have not opposed, in writing, including the reasons for opposing, the selection of any proposed Divestiture Trustee within ten (10) days after notice by the staff of the Commission to Respondents of the identity of any proposed Divestiture Trustee, Respondents shall be deemed to have consented to the selection of the proposed Divestiture Trustee.
- D. Within ten (10) days after appointment of a Divestiture Trustee, Respondents shall execute an agreement that, subject to the prior approval of the Commission, transfers to the Divestiture Trustee all rights and powers necessary to permit the Divestiture Trustee to effect the relevant

2. The Divestiture Trustee shall have twelve (12) months from the date the Commission approves the trust agreement described herein to accomplish the divestiture, which shall be subject to the prior approval of the Commission. If, however, at the end of the twelve (12) month period, the Divestiture Trustee has submitted a plan of divestiture or believes that the divestiture can be achieved within a reasonable time, the divestiture period may be extended by the Commission, or in the case of a court-appointed Divestiture Trustee, by the court.
3. Subject to any demonstrated legally recognized privilege, the Divestiture Trustee shall have full and complete access to the personnel, books, records, and facilities related to the relevant assets that are required to be assigned, granted, licensed, divested, delivered, or otherwise conveyed by this Order and to any other relevant information, as the Divestiture Trustee may request. Respondents shall develop such financial or other information as the Divestiture Trustee may request and shall cooperate with the Divestiture Trustee. Respondents shall take no action to interfere with or impede the Divestiture Trustee's accomplishment of the divestiture. Any delays in divestiture caused by Respondents shall extend the time for divestiture under this Paragraph V. in an amount equal to the delay, as determined by the Commission or, for a court-appointed Divestiture Trustee, by the court.
4. The Divestiture Trustee shall use commercially reasonable best efforts to negotiate the most favorable price and terms available in each contract that is submitted to the Commission, subject to Respondents' absolute and unconditional obligation to divest expeditiously and at no minimum price. The divestiture shall be made in the manner and to an the Acquirer as required by this Order; provided, however, if the Divestiture Trustee receives bona fide offers from more than one acquiring entity, and if the Commission determines to approve more than one such acquiring entity, the Divestiture Trustee shall divest to the acquiring entity selected by Respondents from among those approved by the Commission; provided further that Respondents shall select such entity within five (5) days of receiving notification of the Commission's approval.
5. The Divestiture Trustee shall serve, without bond or other security, at the cost and expense of Respondents, on such reasonable and customary terms and conditions as the Commission or a court may set. The Divestiture Trustee shall have the authority to employ, at the cost and expense of Respondents, such consultants, accountants, attorneys, investment bankers, business brokers, appraisers, and other representatives and assistants as are necessary to carry out the Divest

sation of the Divestiture Trustee shall be based at least in significant part on a commission arrangement contingent on the divestiture of all of the relevant assets that are required to be divested by this Order.

6. Respondents shall indemnify the Divestiture Trustee and hold the Divestiture Trustee harmless against any losses, claims, damages, liabilities, or expenses arising out of, or in connection with, the performance of the Divestiture Trustee's duties, including all reasonable fees of counsel and other expenses incurred in connection with the preparation for, or defense of, any claim, whether or not resulting in any liability, except to the extent that such losses, claims, damages, liabilities, or expenses result from gross negligence or willful misconduct by the Divestiture Trustee. For purposes of this Paragraph V.E.6., the term "Divestiture Trustee" shall include all Persons retained by the Divestiture Trustee pursuant to Paragraph V.E.5. of this Order.
 7. The Divestiture Trustee shall have no obligation or authority to operate or maintain the relevant assets required to be divested by this Order.
 8. The Divestiture Trustee shall report in writing to Respondents and to the Commission every thirty (30) days concerning the Divestiture Trustee's efforts to accomplish the divestiture.
 9. Respondents may require the Divestiture Trustee and each of the Divestiture Trustee's consultants, accountants, attorneys, and other representatives and assistants to sign a customary confidentiality agreement; provided, however, such agreement shall not restrict the Divestiture Trustee from providing any information to the Commission.
- F. The Commission may require the Divestiture Trustee and each of the Divestiture Trustee's consultants, accountants, attorneys, and other representatives and assistants to sign a confidentiality agreement related to Commission materials and information received in connection with the performance of the Divestiture Trustee's duties.
- G. If the Commission determines that a Divestiture Trustee has ceased to act or failed to act diligently, the Commission may appoint a substitute Divestiture Trustee in the same manner as provided in this Paragraph V.
- H. The Commission or, in the case of a court-appointed Divestiture Trustee, the court, may on its own initiative or at the request of the Divestiture Trustee issue such additional orders or directions as may be necessary or appropriate to accomplish the divestitures and other obligations or action required by this Order.

VI.

IT IS FURTHER ORDERED that:

- A. The Divestiture Agreement

- (b) Nothing in this Paragraph VII.C.3. shall alter Sabal Trail's rights to challenge Respondents' cost and rate methodology in the course of any review by the Federal Energy Regulatory Commission.
- 4. Respondents need not allow an expansion under this Paragraph VII.C. if (A) Sabal Trail (i) does not have sufficient available downstream natural gas transportation capacity to use a proposed expansion of the Hillabee Segment to serve Sabal Trail's customers located in the state of Florida or (ii) has not entered into binding agreements with customers for transportation of natural gas into the state of Florida that provides sufficient demand for approval of a proposed expansion of the Hillabee Segment by the Federal Energy Regulatory Commission or (B) Sabal Trail has plans to use the Hillabee Segment expansion capacity for any purpose other than to serve customers in the state of Florida.
- D. After the Acquisition Date, Respondents shall comply with Paragraph III. of this Order with respect to Confidential Information relating to any expansion of the Hillabee Segment, whether pursuant to the Capacity Lease Agreement or Paragraph VII. of this Order. For the avoidance of doubt, none of the exceptions for the use or disclosure of any such Confidential Information under Paragraph III. of this Order shall apply to Respondents' employees or any other Person whose job responsibilities relate to the operation, marketing, management, or oversight of the activities of Florida Gas Transmission Company, LLC.
- E. The purpose of this Paragraph VII. is to ensure that Sabal Trail will be an independent pipeline operator with the ability to expand its capacity on the Hillabee Segment as needed to serve its customers located in the state of Florida, and to remedy the lessening of competition resulting from the Acquisition as alleged in the Commission's complaint.

VIII.

IT IS FURTHER ORDERED that:

- A. Respondents shall file a verified written report with the Commission setting forth in detail the manner and form in which they intend to comply, are complying, and have complied with this Order:
 - 1. Every thirty (30) days from the date this Order is issued until Respondents have fully complied with Paragraph II.D. of this Order; and
 - 2. No later than one (1) year from the date this Order is issued and annually thereafter until this Order terminates, and at such other times as the Commission staff may request.

- B. With respect to any divestiture required by Paragraph II.A. of this Order, Respondents shall include in their compliance reports (i) the status of the divestiture and transfer of the Pipeline Assets; (ii) a description of all substantive contacts with a proposed acquirer; and (iii) as applicable, a statement that the divestiture approved by the Commission has been accomplished, including a description of the manner in which Respondents completed such divestiture and the date the divestiture was accomplished.

IX.

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

- A. Any proposed dissolution of either Respondent;
- B. Any proposed acquisition, merger, or consolidation of either Respondent (other than the Acquisition); or
- C. Any other change in either Respondent, including, but not limited to, assignment and the creation or dissolution of subsidiaries, if such change might affect compliance obligations arising out of the Order.

X.

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 and upon five (5) days' notice to Respondents, Respondents shall, without restraint or interference, permit any duly authorized representative of the Commission:

- A. Access, during business 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, which copying services shall be provided by Respondents at their expense; and
- B. To interview officers, directors, or employees of Respondents, who may have counsel present, regarding matters related to compliance with this Order.

XI.

IT IS FURTHER ORDERED that this Order shall terminate twelve (12) years from the date it is issued.

By the Commission.

Donald S. Clark
Secretary

SEAL:

ISSUED: