

UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: Maureen K. Ohlhausen, Acting Chairman  
Terrell McSweeney

In the Matter of	)	
	)	
Alimentation Couche-Tard Inc.,	)	Docket No. G4631
a corporation; and	)	
	)	
CrossAmerica Partners LP,	)	
a limited partnership.	)	
	)	

ORDER TO MAINTAIN ASSETS

The Federal Trade Commission ("Commission"), having initiated an investigation of the proposed acquisition by Respondent Alimentation Couche-Tard Inc., through its wholly owned subsidiary, Circle K Stores Inc. and CrossAmerica Partners LP (collectively "Respondents") of certain assets of JetPep Inc., and Respondents having been furnished thereafter with a copy of a draft of the Complaint that the Bureau of Competition proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge Respondents with violations of Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45; and

Respondents, their attorneys, and counsel for the Commission having thereafter executed an Agreement Containing Consent Order ("Consent Agreement"), containing an admission by Respondents of all the jurisdictional facts set forth in the aforesaid draft of the Complaint, a statement that the signing of said Consent Agreement is for settlement purposes only and does not constitute an admission by Respondents that the law has been violated as alleged in such Complaint, or that the facts as alleged in such Complaint, other than jurisdictional facts, are true, and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined to accept the executed Consent Agreement and to place such Consent Agreement on the public record for a period of thirty (30) days for the receipt and 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 issues its Complaint, makes the following jurisdictional findings and issues this Order to Maintain Assets

1. Respondent Alimentation Couche-Tard Inc. is a corporation organized, existing, and doing business under, and by virtue of, the laws of Canada, with its office and principal place of business located at 4204 Indes Blvd., Laval, Quebec H7L 0E3, Canada and its United States address for service of process and of the Complaint, the Decision and Order, and the Order to Maintain Assets, as follows: Corporate Secretary, Circle K Stores Inc., 1130 W. Warner Road, Tempe, Arizona 85284.
  
2. Respondent CrossAmerica Partners LP is 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 515 Hamilton Street, Suite 200 Allentown, Pennsylvania 18101. Its address for service of process and of the Complaint, the Decision and Order, and the Order to Maintain Assets, as follows: Corporate Secretary, Circle K Stores Inc., 1130 W. Warner Road, Tempe, Arizona 85284.

G. "Acquisition" means the proposed acquisitions described in (i) the Asset Purchase Agreement between CrossAmerica Partners, L.P., JetPep, Inc. and other signatories thereto, dated August 4, 2017; (ii) the Asset Purchase Agreement between Circle K Stores Inc., JetPep, Inc. and other signatories thereto, dated August 4, 2017; and (iii) the Terminal Purchase Agreement between Circle K Stores, Inc., Bama Terminating and Drafting, LLC, Clean Fuels, Inc., C.S.E. Properties, LLC, and Robert G. Norris, dated August 4, 2017.

H. "Acquisition Date" means the date the Acquisition is consummated.

I. "Books and Records" means all originals and copies of any operating, financial, environmental, governmental compliance, regulatory, or other information, documents, data, databases, printouts, computer files (including files stored on a computer's hard drive or other storage media), electronic files, books, records, ledgers, papers, instruments, and other materials, whether located, stored, or maintained in traditional paper format or by means of electronic, optical, or magnetic media or devices, photographic or video images, or any other format or media relating to the Retail Fuel Assets, including, but not limited to, real estate files; environmental reports; environmental liability claims and reimbursement data, information, and materials; underground storage tank (UST) system registrations and reports; registrations, licenses, and permits (to the extent transferable); regulatory compliance records, data, and files; applications, filings, submissions, communications, and correspondence with Governmental Entities; inventory data, records, and information; purchase order information and records; supplier, vendor, and procurement files, lists, and related data and information; credit records and information; account information; marketing analyses and research data; service and warranty records; warranties and guarantees; equipment logs, operating guides and manuals; employee lists and contracts, salary and benefits information, and personnel files and records (to the extent permitted by law); financial statements and records; accounting records and documents; telephone numbers and fax numbers; and all other documents, information, and files of any kind that are necessary for Acquirer to operate the Retail Fuel Outlet Business(es) in a manner consistent with the purposes of the Decision Order.

J. "Confidential Business Information" means all information owned by, or in the possession or control of, Respondents that is not in the public domain and to the extent that it related to or used in connection with the Retail Fuel Assets or the conduct of the Retail Fuel Outlet Business(es). The term "Confidential Business Information" excludes the following:

1. Information that is contained in documents, books, or records of Respondents that is provided to an Acquirer that is unrelated to Retail Fuel Assets or that is exclusively related to the Respondents' retained businesses; and
2. Information that (a) is or becomes generally available to the public other than as a result of disclosure in breach of the prohibitions of the Order or was developed independently of, and without reference to, any Confidential Business Information; (b) is necessary to be included in Respondents' mandatory regulatory

filings; (d) the disclosure of which is consented to by Acquirer; (e) is necessary to be exchanged in the course of consummating the Acquisition or transactions pursuant to the Divestiture Agreement; (f) is disclosed in complying with the Order; (g) the disclosure of which is necessary to allow Respondent to comply with the requirements and obligations of the laws of the United States and other countries, and decisions of Governmental Entities; or (h) is disclosed in obtaining legal advice.

- K. "Consent" means any approval, consent, ratification, waiver, or other authorization.
- L. "Contract(s)" means all agreements, contracts, licenses, leases (including, but not limited to, ground leases and subleases), consensual obligations, binding terms, promises and undertakings (whether written or oral and whether express or implied), whether or not legally binding.
- M. "Decision and Order" means the:
1. Proposed Decision and Order contained in the Consent Agreement in this matter until the issuance of a final and effective Decision and Order by the Commission; and
  2. Final Decision and Order issued by the Commission following the issuance and service of a final Decision and Order by the Commission in this matter.
- N. "Divestiture Agreement" means any agreement between Respondent (or between a Divestiture Trustee) and an Acquirer to divest the Retail Fuel Assets and any ancillary agreements relating to the divestiture of the relevant assets (such as for the provision of Transition Services) that has been approved by the Commission pursuant to the Decision and Order, including all amendments, exhibits, agreements, and documents thereto.
- O. "Divestiture Date" means the date on which Respondent (or the Divestiture Trustee) close on a transaction to divest the Retail Fuel Assets.
- P. "Divestiture Trustee" means the Person appointed by the Commission pursuant to Paragraph VI. of the Decision and Order.
- Q. "Fuel Products" means refined petroleum gasoline and diesel products.
- R. "Governmental Entity" means any federal, state, local, or U.S. government, or any court, legislature, governmental agency or commission, or any judicial or regulatory authority of any government.
- S. "Governmental Permit(s)" means all Consents, licenses, permits, approvals, registrations, certificates, rights, or other authorizations from any Governmental Entity(ies) necessary to effect the complete transfer and divestiture of the Retail Fuel Assets to an Acquirer and for such Acquirer to operate any aspect of the Retail Fuel Outlet Business.



CC. "Transition Services" means technical services, personnel, assistance, training, the supply of Products, and other logistical, administrative, and other transitional support as required by an Acquirer and approved by the Commission to facilitate the transfer of the Retail Fuel Assets from the Respondents to an Acquirer, including, but not limited to, these training, personnel, and support related to: audits, finance and accounting, accounts receivable, accounts payable, employee benefits, payroll, pensions, human resources, information technology and systems, maintenance and repair of facilities and equipment, Fuel Products supply, purchasing, quality control, R&D support, technology transfer, use of Respondents' Brands for transitional purposes, operating permits and licenses, regul

1. Maintain all operations at each of the Retail Fuel Assets in the regular and ordinary course of business, in accordance with past practice, including maintaining customary hours of operation and payments
2. Use best efforts to retain employees at each of the Retail Fuel Assets when vacancies occur, replace the employees in the regular and ordinary course of business, in accordance with past practice; and not transfer any employees of the Retail Fuel Assets
3. Provide each employee of the Retail Fuel Assets with reasonable financial incentives, including continuation of all employee benefits and regularly scheduled raises and bonuses, to continue in his or her position pending divestiture of the Retail Fuel Assets;
4. Not transfer inventory from any Retail Fuel Asset other than in the ordinary course of business in accordance with past practice;
5. Make all payments required to be paid under any contract when due, and otherwise pay all liabilities and satisfy all obligations associated with each of the Retail Fuel Assets, in each case in a manner in accordance with past practice;
6. Maintain the books and records of each of the Retail Fuel Assets
7. Not display any signs or conduct any advertising, (direct mailing, point-of-purchase coupons) that indicates that any Respondent is moving its operations at any Retail Fuel Asset to another location, or that indicates a Retail Fuel Asset will close;
8. Not conduct any "going out of business," "close," "liquidation," or similar sales or promotions at or relating to any Retail Fuel Asset;
9. Continue existing pricing or advertising practices, including marketing programs and policies, merchandising programs and policies, and price zone for or applicable to any of the Retail Fuel Assets, other than changes or modifications in the regular and ordinary course of business,

11. Continue at least at their scheduled pace, any additional expenditures for each of the Retail Fuel Assets authorized prior to the date the Consent Agreement was signed by Respondents including, but not limited to, all repairs, renovations, distribution, marketing and sales expenditures;
12. Provide such resources as may be necessary to respond to competition and to prevent any diminution in sales at each of the Retail Fuel Assets
13. Make available for use by each of the Retail Fuel Assets sufficient to perform all routine maintenance and all other maintenance as may be necessary and all replacements of, any assets related to the operation of the Retail Fuel Assets
14. Provide support services to each of the Retail Fuel Assets at least at the level as were beent -6(r)-1entknpT[1 Tw 4.66pondeih6(h)-4(e)]TJ 0.002 Tc -0.002 Tw [(R)-1(



III.

IT IS FURTHER ORDERED that, pending divestiture of the Retail Fuel Assets

A. Respondents shall not, and shall assure that its employees, agents, and representatives shall not

1. Receive, access, have access to, use, directly or indirectly, any Confidential Business Information, other than as is necessary to:

a. Comply with the requirements of the Orders;

b. Perform their obligations to the Acquirer under the terms of any Divestiture Agreement including providing Transition Services pursuant to a Transition Services Agreement; or

c. Comply with financial re;

,

2. Monitor the implementation and enforce the terms of Paragraph III. as to any of Respondents' employees, agents, and repr



V.

IT IS FURTHER ORDERED that within thirty (30) days after this Order to Maintain Assets is issued, and every thirty (30) days thereafter



Appendix A

Retail Fuel and Convenience Store Properties To Be Divested

State	Area	Property Name & Address
Alabama	Brewton	JetPep 13 13288 Highway 113 Brewton, Alabama 36426
Alabama	Monroeville	JetPep 65 3781 S. Alabama Avenue Monroeville, Alabama 36460
Alabama	Valley	JetPep 63 608 Fob James Drive Valley, Alabama 36854