

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

COMMISSIONERS: **Joseph J. Simons, Chairman**
 Noah Joshua Phillips
 Rohit Chopra
 Rebecca Kelly Slaughter
 Christine S. Wilson

In the Matter of

**Marathon Petroleum Corporation,
a corporation,**

**Express Mart Franchising Corp.,
a corporation,**

**Petr-All Petroleum Consulting Corporation,
a corporation, and**

**REROB, LLC,
a limited liability company.**

Docket No. C-4661

ORDER TO MAINTAIN ASSETS

The Federal Trade Commission (“Commission”) initiated an investigation of the proposed acquisition by Respondent Marathon Petroleum Corporation, through its wholly owned subsidiary, Speedway LLC (collectively “Marathon”), of retail fuel outlets and other interests from Respondent REROB, LLC, Petr-All Petroleum Consulting Corporation, and Express Mart Franchising Corp. (collectively “Express Mart”). The Commission’s Bureau of Competition prepared and furnished to Respondents the Draft Complaint, which it proposed to present to the Commission for its consideration. If issued by the Commission, the Draft Complaint 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.

Respondents and the Bureau of Competition executed an agreement (“Agreement Containing Consent Orders” or “Consent Agreement”) containing (1) an admission by Respondents of all the jurisdictional facts set forth in the Draft Complaint, (2) a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by Respondents that the law has been violated as alleged in the Draft Complaint, or that the facts alleged in the Draft Complaint, other than jurisdictional facts, are true, (3) waivers

and other provisions as required by the Commission's Rules, and (4) a proposed Decision and Order and Order to Maintain Assets.

The Commission considered the matter and determined to accept the executed Consent Agreement and to place such Consent Agreement on the public record for a period of 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 issues its Complaint, makes the following jurisdictional findings, and issues this Order to Maintain Assets:

1. Respondent Marathon Petroleum Corporation is a corporation 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 539 South Main Street, Findlay, Ohio 45840.
2. Speedway, LLC is a limited liability company 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 500 Speedway Drive, Enon, Ohio 45323. Speedway LLC is a wholly-owned subsidiary of Respondent Marathon Petroleum Corporation.
3. Respondent Express Mart Franchising Corp. is a corporation organized, existing, and doing business under, and by virtue of, the laws of the State of New York, with its office and principal place of business located at 7401 Round Pond Road, Syracuse, New York 13212.
4. Respondent Petr-All Petroleum Consulting Corporation is a corporation organized, existing, and doing business under, and by virtue of, the laws of the State of New York, with its office and principal place of business located at 7401 Round Pond Road, Syracuse, New York 13212.
5. Respondent REROB, LLC is a corporation organized, existing, and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 7401 Round Pond Road, Syracuse, New York 13212.
6. Sunoco LP is a limited partnership organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its headquarters and principal place of business located at 8111 Westchester Drive, Suite 600, Dallas, Texas 75225.
7. The Federal Trade Commission has jurisdiction over the subject matter of this proceeding and over the Respondents, and the proceeding is in the public interest.

I.

IT IS ORDERED that, as used in this Order to Maintain Assets, the following definitions, and all other definitions used in the Consent Agreement and the Decision and Order, and Appendix A, which is attached to the Decision and Order and identifies the Retail Fuel Assets, are incorporated herein by reference and made a part hereof, shall apply:

A. “Marathon” means Marathon Pet

I.

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

2. Respondents shall (i) not offer any incentive to any Retail Fuel Employee to decline employment with the Acquirer or Commission Agent, (ii) remove any contractual impediments that may deter any Retail Fuel Employee from accepting employment with the Acquirer or Commission Agent, including but not limited to, any non-compete or confidentiality provision of employment or other contracts

2. Complying with financial reporting requirements, obtaining legal advice, prosecuting or defending legal claims, investigations, or enforcing actions threatened or brought against the Retail Fuel Assets, Retail Fuel Outlet Business or the post-divestiture Retail Fuel Outlet Business, or as required by law.
- B. If disclosure or use of any Confidential Business Information is permitted to Respondents' employees or to any other Person under Paragraph IV.A. of this Order, Respondents shall limit such disclosure or use (i) only to the extent such information is required, (ii) only to those employees or Persons who require such information for the purposes permitted under Paragraph IV.A., and (iii) only after such employees or Persons have signed an agreement to maintain the confidentiality of such information.
 - C. Respondents shall enforce the terms of this Paragraph IV. as to their employees or any other Person, and take such action as is necessary to cause each of their employees and any other Person to comply with the terms of this Paragraph IV., including implementation of access and data controls, training of employees, and all other actions that Respondents would take to protect their own trade secrets and proprietary information.

V.

IT IS FURTHER ORDERED that:

- A. Robert E. Ogle shall serve as the Monitor pursuant to the agreement executed by the Monitor and Respondents and attached as Appendix C ("Monitor Agreement") and Non-Public Appendix D ("Monitor Compensation") of the Decision and Order. The Monitor is appointed to assure that Respondents expeditiously comply with all of their obligations and perform all of their responsibilities as required by the Orders.
- B. No later than one day after the Acquisition Date, Respondents shall transfer to the Monitor all rights, powers, and authorities necessary to permit the Monitor to perform his duties and responsibilities, pursuant to the Orders and consistent with the purposes of the Orders.
- C. Respondents shall enter into an agreement with the Monitor, subject to the prior approval of the Commission, that (i) shall become effective no later than one (1) day after the date the Commission appoints the Monitor, and (ii) confers upon the Monitor all rights, powers, and authority necessary to permit the Monitor to perform his duties and responsibilities on the terms set forth in the Orders and in consultation with the Commission:

1. The Monitor shall (i) monitor Respondent's compliance with the obligations set forth in the Orders and (ii) act in consultation with the Commission or its staff, and shall serve as an independent third party and not as an employee or agent of the Respondent or of the Commission.
 2. Respondents shall (i) ensure that the Monitor has full and complete access to all Respondents' personnel, books, records, documents, and facilities relating to compliance with this Order and the Decision and Order or to any other relevant information as the Monitor may reasonably request, and (ii) cooperate with, and take no action to interfere with or impede the ability of, the Monitor to perform his duties pursuant to the Orders;
 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;
 4. Respondents shall indemnify the Monitor and hold him harmless against any losses, claims, damages, liabilities, or expenses arising out of, or in connection with, the performance of his 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 the Monitor's gross negligence or willful misconduct; and
 5. Respondents may require the Monitor and each of the Monitor's consultants, accountants, attorneys, and other representatives and assistants to sign a customary confidentiality agreement; *provided, however*, that such agreement shall not restrict the Monitor from providing any information to the Commission.
- D. The Monitor shall report in writing to the Commission (i) every 30 days after this Order to Maintain Assets is issued, and (ii) at any other time as requested by the staff of the Commission, concerning Respondents' compliance with the Orders.
- E. The Commission may require the Monitor and each of the Monitor'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 Monitor's duties.
- F.

- B. To interview officers, directors, or employees of the Respondents, who may have counsel present, regarding such matters.

X.

IT IS FURTHER ORDERED that this Order to Maintain Assets shall terminate on the later of:

- A. Three days after the Commission withdraws its acceptance of the Consent Agreement pursuant to the provisions of Commission Rule 2.34, 16 C.F.R. § 2.34;
- B. The day after Respondents or a Divestiture Trustee completes the divestiture required by Paragraph II.A. of the Decision and Order; *provided, however*, that if at the time such divestiture has been completed, the Decision and Order in this matter is not yet final, then this Order to Maintain Assets shall terminate the day after the Decision and Order becomes final;
- C. The day after Respondents, with the concurrence of the Acquirer, certifies in writing to