



UNITED STATES OF AMERICA
Federal Trade Commission
WASHINGTON, D.C. 20580

Statement of Commissioners Noah Joshua Phillips and Christine S Wilson

Buckeye Partners, L.P./Magellan Midstream Partners, L.P., FTC File No. 211 0144

June , 2022

The proposed consent order announced today eliminates the use of prior approval provisions in FTC consent orders.¹ There is a purpose to prior approval, but—as recent events demonstrate—prior approval does not benefit competition or consumers. We suggest approval interested parties

Commission implemented a new Statement of the Commission on Use of Prior Approval Provisions in Merger Orders³ pursuant to which today's prior approval provision is incorporated in the proposed order. The new policy provides that the Commission will include prior approval provisions that last for a minimum of ten years in all merger divestiture orders for every relevant market in which harm is alleged.⁴ And, in some situations, the Commission may seek prior approval provisions that cover product and geographic markets beyond the relevant product and geographic markets affected by the merger.⁵ The policy also provides that the Commission will pursue prior approval provisions even against merging parties that abandon the transaction.⁶

Today's proposed order is not the first instance in which, pursuant to the new policy, a prior approval provision has been deployed in the oil and gas industry. On March 25, 2022, the Commission accepted for public comment, subject to final approval, a consent agreement --0()4.73 Td [(C)op

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