

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

COMMISSIONERS: **Lina M. Khan, Chair**
 Noah Joshua Phillips
 Rebecca Kelly Slaughter
 Christine S. Wilson
 Alvaro Martín Bedoya

In the Matter of)
)
)
EnCap Investments L.P.)
 a limited partnership,)
)
EnCap Energy Capital Fund XI, L.P.,)
 a limited partnership,)
)
Verdun Oil Company II LLC,)
 a limited liability company,)
)
XCL Resources Holdings, LLC,)
 a limited liability company,)
)
EP Energy Corporation,)
 a corporation, and)
)
EP Energy LLC,)
 a limited liability company.)

DECISION AND ORDER
Docket No. C-4760

DECISION

The Federal Trade Commission (“Commission”) initiated an investigation of the proposed acquisition by Respondent Verdun Oil Company II LLC and Respondent XCL Resources Holdings, LLC, each a subsidiary of Respondent EnCap Energy Capital Fund XI, L.P., whose general partner is Respondent EnCap Investments L.P., of Respondent EP Energy LLC, a subsidiary of Respondent EP Energy Corporation (collectively, “Respondents”). 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

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 as 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 that it had reason to believe that Respondents have violated the said Acts, and that a complaint should issue stating its charges in that respect. The Commission accepted the Consent Agreement and placed it on the public record for a period of 30 days for the receipt and consideration of public comments; at the same time, it issued and served its Complaint and Order to Maintain Assets. The Commission duly considered any comments received from interested persons pursuant to Commission Rule 2.34, 16 C.F.R. § 2.34. Now, in further conformity with the procedure described in Rule 2.34, the Commission makes the following jurisdictional findings:

1. Respondent EnCap Investments L.P. is a limited partnership organized, existing, and doing business under and by virtue of the laws of the State of Texas with its executive offices and principal place of business located at 9651 Katy Freeway, Suite 600, Houston, Texas 77024.
2. Respondent EnCap Energy Capital Fund XI, L.P. is a limited partnership organized, existing, and doing business under and by virtue of the laws of the State of Texas with its executive offices and principal place of business located at 9651 Katy Freeway, Suite 600, Houston, Texas 77024.
3. Respondent Verdun Oil Company II LLC is a limited liability company organized, existing, and doing business under and by virtue of the laws of the State of Texas with its executive offices and principal place of business located at 55 Waugh Drive, Suite 400, Houston, Texas 77007.
4. Respondent XCL Resources Holdings, 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 executive offices and principal place of business located at 600 N Shepherd Drive, Suite 390, Houston, Texas 77007.
5. Respondent EP Energy Corporation is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware with its executive offices and principal place of business located at 601 Travis Street, Suite 1400, Houston, Texas 77002.
6. Respondent EP Energy 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 executive offices and principal place of business located at 601 Travis Street, Suite 1400, Houston, Texas 77002.

7. Crescent Energy Company is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware with its executive offices and principal place of business located at 600 Travis Street, Suite 7200, Houston, Texas, 77002.
8. The Commission has jurisdiction over the subject matter of this proceeding and over the Respondents and the proceeding is in the public interest.

ORDER

I. Definitions

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- F. “EP Energy” means EP Energy LLC, its officers, employees, agents, representatives, successors, and assigns; and the joint ventures, subsidiaries, divisions, groups, and affiliates controlled by EP Energy LLC, and the respective directors, officers, employees, agents, representatives, successors, and assigns of each.
- G. “Crescent” means Crescent Energy Company, its officers, employees, agents, representatives, successors, and assigns; and the joint ventures, subsidiaries, divisions, groups, and affiliates controlled by Crescent Energy Company, and the respective directors, officers, employees, agents, representatives, successors, and assigns of each.
- H. “Respondents” means EnCap, EnCap Fund XI, Verdun, XCL, EPE Corporation, and EP Energy, collectively.
- I. “Commission” means the Federal Trade Commission.
- J. “Acquirer” means:
1. Crescent; or
 2. Any other person that the Commission approves to acquire any of the Divestiture Assets pursuant to this Order.
- K. “Acquisition” means the proposed acquisition by Verdun of EP Energy pursuant to the terms set forth in the transaction agreement by and among Respondents dated as of July 26, 2021, as may be amended.
- L. “Acquisition Date” means the date Respondents consummate the Acquisition.
- M. “Business Information” means books, records, data, and information, wherever located and however stored, including documents, written information, graphic materials, and data and information in electronic format. Business Information includes books, records, data, and information relating to production, exploration, sales, marketing, logistics, operations, products, pricing, personnel, transportation, distribution, accounting, business strategy, information technology systems, customers, suppliers, vendors, research and development, Contracts, and Governmental Authorizations.
- N. “Confidential Information” means all Business Information and knowledge of employees not in the public domain, except for any information that was or becomes generally available to the public other than as a result of disclosure by Respondents.
- O. “Consent” means an approval, consent, ratification, waiver, or other authorization.
- P. “Contract” means an agreement, contract, lease, license agreement, consensual obligation, promise or undertaking with one or more third parties, whether written or oral and whether express or implied, and whether or not legally binding.

9. All intangible rights and property, including going concern value, goodwill, and telephone and telecopy listings;

Provided, however, that the Divestiture Assets need not include (x) Excluded Assets or (y) Retained Intellectual Property.

- T. “Divestiture Business” means all business activities of EP Energy in or relating to the state of Utah, including the business of oil and gas exploration, production, research, development, gathering, transportation, distribution, marketing, and sales in or from the Uinta Basin.
- U. “Divestiture Business Employee” means each full-time, part-time, or contract individual employed by EP Energy whose job responsibilities relate or related to the Divestiture Business at any time after July 1, 2021.
- V. “Divestiture Date” means the date on which Respondents (or a Divestiture Trustee appointed pursuant to Section IX of this Order) consummate the divestiture of the Divestiture Assets as required by Section II of this Order.
- W. “Divestiture Trustee” means the Person appointed by the Commission pursuant to Section IX of this Order.
- X. “Employee Information” means for each Divestiture Business Employee, to the extent permitted by law, the following information summarizing the employment history of each employee that includes:
 1. Name,

- Y. “Excluded Assets” means those assets listed on Appendix B.
- Z. “Governmental Authorization” means a Consent, license, registration, or permit issued, granted, given or otherwise made available by or under the authority of any governmental body or pursuant to any legal requirement.
- AA. “Intellectual Property” means all intellectual property, including: (1) commercial names, all assumed fictional business names, trade names, “doing business as” (d/b/a names), registered and unregistered trademarks, service marks and applications, and trade dress; (2) all patents, patent applications and inventions and discoveries that may be patentable; (3) all registered and unregistered copyrights in both published works and unpublished works; (4) all rights in mask works; (5) all know-how, trade secrets, confidential or proprietary information, customer lists, software, technical information, data, process technology, plans, drawings, and blue prints; (6) and all rights in internet web sites and internet domain names presently used.
- BB. “Monitor” means any Person appointed by the Commission to serve as a monitor pursuant to this Order or the Order to Maintain Assets.
- CC. “Person” means any individual, partnership, corporation, business trust, limited liability company, limited liability partnership, joint stock company, trust, unincorporated association, joint venture or other entity or a governmental body.
- DD. “Relevant Area” means the following counties in Utah: Duchesne, Uintah, Utah, Grand, Emery, Carbon, and Wasatch.
- EE. “Relevant Area Producer” means any Person (other than Respondents) engaged in the development, production, or sale of Uinta Basin waxy crude in the Relevant Area.
- FF. “Retained Intellectual Property” means any owned or licensed (as licensor or licensee) Intellectual Property (not included in the Excluded Assets) relating to both the operation of the Divestiture Business and any other business owned by Respondents prior to the Acquisition.
- GG. “Transitional Assistance” means services and support as required by the Acquirer to facilitate the transfer of the Divestiture Business and operation of the Divestiture Assets, including services and support related to human resources, payroll, employee benefits, accounting and finance, information technology systems, production, exploration, transportation, logistics, distribution, storage, supply chain management, vendor relations, customer relations, marketing, research and development, engineering, quality control, environmental issues, customers, warehousing, Contracts, Governmental Authorizations, and use of trademarks or trade names for transitional purposes.

Provided, however

1. Respondents may satisfy the requirement to obtain all Consents from third parties by certifying that the Acquirer has entered into equivalent agreements or arrangements directly with the relevant third party that are acceptable to the Commission, or has ot

- A. Until Respondents have transferred all Business Information included in the Divestiture Assets, Respondents shall ensure that the Business Information is maintained and updated in the ordinary course of business and shall provide the Acquirer with access to records and information (wherever located and however stored) that Respondents have not yet transferred to the Acquirer, and to employees who possess the records and information.

- B. At the option of Acquirer, Respondents shall provide the Acquirer with Transitional Assistance sufficient to (1) transfer efficiently the Divestiture Assets to the Acquirer and (2) assist the Acquirer in operating the Divestiture Business

1. No later than 10 days after a request from the Acquirer, provide a list of all Divestiture Business Employees and provide Employee Information for each;
2. No later than 10 days after a request from the Acquirer, provide the Acquirer an opportunity to privately interview any of the Divestiture Business Employees outside the presence or hearing of any employee or agent of any Respondent, and to make offers of employment to any of the Divestiture Business Employees;
3. Remove any impediments within the contsc-6 (h) (s)TJpion frsployeeent tthi-0.004 Tc 0.014 Tw C

- D. Respondents shall not enforce any noncompete or non-solicit provision or agreement against any individual who seeks or obtains a position with the Divestiture Business.

VI. Asset Maintenance

IT IS FURTHER ORDERED that Respondents shall, subject to their obligations under the Order to Maintain Assets, ensure that the Divestiture Assets are operated and maintained in the ordinary course of business consistent with past practices until such assets are fully transferred to the Acquirer, and shall:

- A. Take all actions necessary to maintain the full economic viability, marketability, and competitiveness of the Divestiture Business and related Divestiture Assets, to minimize the risk of any loss of their competitive potential, to operate them in a manner consistent with applicable laws and regulations, and to prevent their destruction, removal, wasting, deterioration, or impairment (other than as a result of ordinary wear and tear).
- B. Not sell, transfer, encumber, or otherwise impair the Divestiture Business and related Divestiture Assets (other than in the manner prescribed in this Order and the Order to Maintain Assets) or take any action that lessens their full economic viability, marketability, or competitiveness;
- C. Not terminate the operations of the Divestiture Business and related Divestiture Assets, and shall conduct or cause to be conducted the operations of the Divestiture Business and related Divestiture Assets in the ordinary course of business and in accordance with past practice (including regular repair and maintenance efforts) and as may be necessary to preserve the full economic viability, ongoing operations, marketability, and competitiveness of the Divestiture Business and related Divestiture Assets; and
- D. Use best efforts to preserve the existing relationships with suppliers, customers, employees, governmental authorities, vendors, landlords, and others having business relationships with the Divestiture Business and related Divestiture Assets.

Provided, however, that Respondents may take actions that the Acquirer has requested or agreed to in writing and that have been approved in advance by Commission staff, in all cases to facilitate the Acquirer’s acquisition of the Divestiture Assets and consistent with the purposes of this Order and the Order to Maintain Assets.

VII. Confidentiality

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however, that Respondents may disclose or use such Confidential Information in the course of:

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provision in this Order, Respondents and the Monitor shall comply with this Order.

C. The Monitor shall:

1. Have the authority to monitor Respondents' compliance with the obligations set forth in this Order;
2. Act in consultation with the Commission or its staff;
3. Serve as an independent third party and not as an employee or agent of Respondents or of the Commission;
4. Serve without bond or other security;
5. At the Monitor's option, employ such consultants, accountants, attorneys, and other representatives and assistants as are reasonably necessary to carry out the Monitor's duties and responsibilities;
6. Enter into a non-disclosure or other confidentiality agreement with the Commission related to Commission materials and information received in connection with the performance of the Monitor's duties and require that each of the Monitor's consultants, accountants, attorneys, and other representatives and assistants shall also enter into a non-disclosure or other confidentiality agreement with the Commission;
7. Notify staff of the Commission, in writing, no later than 5 days in advance of entering into any arrangement that creates a conflict of interest, or the appearance of a conflict of interest, including a financial, professional or personal conflict. If the Monitor becomes aware of a such a conflict only after it has arisen, the Monitor shall notify the Commission as soon as the Monitor becomes aware of the conflict;
8. Report in writing to the Commission concerning Respondents' compliance with this Order on a schedule as determined by Commission staff, and at any other time requested by the staff of the Commission; and
9. Unless the Commission or its staff determine otherwise, the Monitor shall serve until Commission staff determines that Respondents have satisfied all obligations under Sections II and IV of this Order, and files a final report.

D. Respondents shall:

1. Cooperate with and assist the Monitor in performing his or her duties for the purpose of reviewing Respondents' compliance with their obligations under this Order, including as requested by the Monitor, (a) providing the Monitor full and

complete access to personnel, information, and facilities; and (b) making such arrangements with third parties to facilitate access by the Monitor;

2. Not interfere with the ability of the Monitor to perform his or her duties pursuant to this Order;
 3. Pay the Monitor's fees and expenses as set forth in an agreement approved by the Commission, or if such agreement has not been approved, pay the Monitor's customary fees, as well as expenses the Monitor incurs performing his or her duties under this Order, including expenses of any consultants, accountants, attorneys, and other representatives and assistants that are reasonably necessary to assist the Monitor in carrying out his or her duties and responsibilities;
 4. Not require the Monitor to disclose to Respondents the substance of the Monitor's communications with the Commission or any other Person or the substance of written reports submitted to the Commission pursuant to this Order; and
 5. Indemnify and hold the Monitor harmless against any loss, claim, damage, liability, and expense (including attorneys' fees and out of pocket costs) that arises out of, or is connected with, a claim concerning the performance of the Monitor's duties under this Order, unless the loss, claim, damage, liability, or expense results from gross negligence or willful misconduct by the Monitor.
- E. Respondents may require the Monitor and each of the Monitor's consultants, accountants, attorneys, and other representatives and assistants to enter into a customary confidentiality agreement, so long as the agreement does not restrict the Monitor's ability to access personnel, information, and facilities or provide information to the Commission, or otherwise observe and report on the Respondents' compliance with this Order.
- F. If the Monitor resigns or the Commission determines that the Monitor has ceased to act, has failed to act diligently, or is otherwise unable to continue serving as a Monitor due to the existence of a conflict or other reasons, the Commission may appoint a substitute Monitor. The substitute Monitor shall be afforded all rights, powers, and authorities and shall be subject to all obligations of the Monitor Sections of this Order. The Commission shall select the substitute Monitor, subject to the consent of the Respondents.
- Respondents:
1. Shall not unreasonably withhold consent to the appointment of the selected substitute Monitor;
 2. Shall be deemed to have consented to the selection of the proposed substitute Monitor if, within 10 days of notice by staff of the Commission of the identity of the proposed substitute Monitor, Respondents have not opposed in writing, including the reasons for opposing, the selection of the proposed substitute Monitor; and

3. May enter into an agreement with the substitute Monitor relating to the substitute Monitor's services that either (a) contains substantially the same terms as the Commission-approved agreement referenced in Paragraph VIII.B; or (b) receives Commission approval.
- G. The Commission may on its own initiative or at the request of the Monitor issue such additional orders or directions as may be necessary or appropriate to assure compliance with the requirements of this Order.

IX. Divestiture Trustee

IT IS FURTHER ORDERED that:

If Respondents have not fully complied with the obligations to assign, grant, license, divest, transfer, deliver, or otherwise convey the Divestiture Assets as required by this Order, the Commission may appoint a trustee ("Divestiture Trustee") to assign, grant, license, divest, transfer, deliver, or otherwise convey these assets in a manner that satisfies the requirements of this Order.

In the event that the Commission or the Attorney General brings an action pursuant to § 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 assign, grant, license, divest, transfer, deliver, or otherwise convey these assets. Neither the appointment of a Divestiture Trustee nor a decision not to appoint a Divestiture Trustee under this Section 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 § 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.

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 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.

Not later than 10 days after the appointment of a Divestiture Trustee, Respondents shall execute a trust 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 divestitures required by this Order. Any failure by Respondents to comply with a trust agreement approved by the Commission shall be a violation of this Order.

If a Divestiture Trustee is appointed by the Commission or a court pursuant to this Section IX, Respondents shall consent to the following terms and conditions regarding the Divestiture Trustee's powers, duties, authority, and responsibilities:

1. Subject to the prior approval of the Commission, the Divestiture Trustee shall have the exclusive power and authority to assign, grant, license, divest, transfer, deliver, or otherwise convey the assets that are required by this Order to be assigned, granted, licensed, divested, transferred, delivered, or otherwise conveyed;
2. The Divestiture Trustee shall have one year from the date the Commission approves the trustee trust agreement described herein to accomplish the divestitures, which shall be subject to the prior approval of the Commission. If, however, at the end of the one-year period, the Divestiture Trustee has submitted a plan of divestiture or the Commission believes that the divestitures can be achieved within a reasonable time, the divestiture period may be extended by the Commission,

Provided, however, the Commission may extend the divestiture period only 2 times;

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 divestitures. Any delays in divestitures caused by Respondents shall extend the time for divestitures under this Section IX 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 Acquirer that receives the prior approval of the Commission as required by this Order,

Provided, however, if the Divestiture Trustee receives bona fide offers from more than one acquiring person for a divestiture, and if the Commission determines to approve more than one such acquiring person for the divestiture, the Divestiture Trustee shall divest to the acquiring person selected by Respondents from among those approved by the Commission,

Provided further, however, that Respondents shall select such person within 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 Divestiture Trustee's duties and responsibilities. The Divestiture Trustee shall account for all monies derived from the divestiture and all expenses incurred. After approval by the Commission of the account of the Divestiture Trustee, including fees for the Divestiture Trustee's services, all remaining monies shall be paid at the direction of the Respondents, and the Divestiture Trustee's power shall be terminated. The compensation 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;
7. The Divestiture Trustee shall have no obligation or authority to operate or maintain the Divestiture Assets required to be divested by this Order;
8. The Divestiture Trustee shall report in writing to Respondents and to the Commission every 30 days concerning the Divestiture Trustee's efforts to accomplish the divestiture; and
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, that such agreement shall not restrict the Divestiture Trustee from providing any information to the Commission.

The Commission may, among other things, require the Divestiture Trustee and each of the Divestiture Trustee's consultants, accountants, attorneys, and other representatives and assistants to sign an appropriate confidentiality agreement related to Commission

Provided, however, EnCap is not required to obtain prior approval of the Commission under this Paragraph XI for a change of control, merger, reorganization, or sale of all or substantially all of its business.

XII. Compliance Reports

IT IS FURTHER ORDERED that:

A. Respondent EnCap shall:

1. Notify Commission staff via email at bccompliance@ftc.gov of the Acquisition Date and of the Divestiture Date no later than 5 days after the occurrence of each; and
2. Submit the complete Divestiture Agreement to the Commission at ElectronicFilings@ftc.gov and bccompliance@ftc.gov no later than 30 days after the Divestiture Date.

B. Respondents shall file verified written reports (“Compliance Reports”) in accordance with the following:

1. Respondent EnCap shall file interim Compliance Reports 30 days after this Order is issued and every 30 days thereafter until Respondents have fully complied with the provisions of Sections II and IV of this Order. (A) 20-0-003 Tc 0.003h-refBT0 g 0 Tdec

during the period covered by such Compliance Report. Respondents shall provide copies of these documents to C

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

XV. Purpose

IT IS FURTHER ORDERED that the purpose of this Order is to remedy the harm to competition the Commission alleged in its Complaint and to ensure the Acquirer can operate the Divestiture Business in a manner equivalent in all material respects to the manner in which Respondent EP Energy operated the Divestiture Business prior to the Acquisition.

XVI. Term

IT IS FURTHER ORDERED that this Order shall terminate 10 years from the date it is issued.

By the Commission.

April J. Tabor
Secretary

SEAL:

Nonpublic Appendix A
Divestiture Agreement

Appendix B

Excluded Assets

- x Cash and cash equivalents as identified in the Divestiture Agreement.
- x Deposit, demand, savings, passbook, security or similar accounts with any bank or financial institution as identified in the Divestiture Agreement.
- x Bonds, letters of credit, guarantees, indemnity agreements and other sureties relating to retained entities as identified in the Divestiture Agreement.
- x Indebtedness of retained entities as identified in the Divestiture Agreement.
- x All hedges not included for purchase by the Acquirer.
- x Except as provided in the Divestiture Agreement, all trade credits, accounts, receivables and other proceeds, income, or revenues attributable to the Divestiture Assets with respect to any period of time prior to the Divestiture Agreement Effective Date.
- x Filed and pending claims against insurers under contracts or policies held by EP, to the extent pending on or prior to the Effective Date and set forth in the Divestiture Agreement.
- x Minute books and organizational documents and financial and business records relating to the retained businesses.
- x Sponsorship of and all rights arising under or with respect to any benefit plan or any other benefit or compensation plan, program, agreement, policy, contract or arrangement of seller.
- x Software that can readily be purchased or licensed from sources other than Respondents and that has not been materially modified (other than through user preference settings).
- x Enterprise software that Respondents also use to manage and account for businesses other than the Divestiture Business.
- x Corporate headquarters of Respondents.