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UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION

COMMISSIONERS: **Deborah Platt Majoras, Chairman**
Orson Swindle
Thomas B. Leary
Pamela Jones Harbour
Jon Leibowitz

In the Matter of **MAGELLAN MIDSTREAM PARTNERS, L.P.,** a limited partnership, and **SHELL OIL COMPANY,** a corporation.	**Docket No. C-4122**

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Clayton Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission ("FTC" or "Commission"), having reason to believe that Respondents Magellan Midstream Partners, L.P. ("Magellan") and Shell Oil Company ("Shell") (collectively "Respondents") have entered into an agreement pursuant to which Magellan proposes to acquire certain refined petroleum product assets from Shell, that such agreement violates Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45, and that such agreement and acquisition, if consummated, would violate 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 that a proceeding in respect thereof would be in the public interest, hereby issues its complaint, stating its charges as follows:

I. THE PARTIES

Magellan Midstream Partners, L.P.

1. Respondent Magellan is a 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 at Magellan GP, LLC, P.O. Box 22186, Tulsa, Oklahoma 74121.

2. Respondent Magellan is, and at all times relevant herein has been, engaged in the storage, terminaling, distribution and pipeline transportation of refined petroleum products, including gasoline, diesel fuel, and other light petroleum products.

3. Respondent Magellan is, and at all times relevant herein has been, engaged in commerce as “commerce” is defined in Section 1 of the Clayton Act, as amended, 15 U.S.C. § 12, and is a partnership as that term is used in Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45.

Shell Oil Company

4. Respondent Shell 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 910 Louisiana Street, Houston, Texas 77002.

5. Respondent Shell is, and at all times relevant herein has been, a diversified energy company engaged, either directly or through affiliates, in the business of manufacturing, refining, distributing, transporting, terminaling, and marketing petroleum products, including gasoline, diesel fuel, jet fuel, base oil, motor oil, lubricants, petrochemicals, and other petroleum products.

6. Respondent Shell is, and at all times relevant herein has been, engaged in commerce as “commerce” is defined in Section 1 of the Clayton Act, as amended, 15 U.S.C. § 12, and is a corporation whose business is in or affecting commerce as “commerce” is defined in Section 4 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 44.

II. THE PROPOSED ACQUISITION

7. Pursuant to a purchase and sale agreement dated June 23, 2004, Magellan plans to acquire from Shell certain refined petroleum products pipelines, tankage and terminal assets in the Midwest United States, including a refined petroleum product terminal that serves the Oklahoma City, Oklahoma Metropolitan Area.

III. TRADE AND COMMERCE

A. Relevant Product Market

8. Refined petroleum product terminals are specialized facilities that provide temporary storage for gasoline, diesel fuel, and other light petroleum products. Terminals receive deliveries typically from pipelines or marine vessels, store the products in large tanks, and redeliver them into tank trucks for ultimate delivery to retail gasoline stations or other buyers. There are no substitutes for petroleum product terminals for providing such terminaling services.

9. A relevant line of commerce in which to evaluate the effects of this acquisition is the terminaling of gasoline, diesel fuel, and other light petroleum products.

B. Relevant Geographic Market

10. Magellan and Shell each own a petroleum product terminal that supplies gasoline, diesel fuel, and other light petroleum products to buyers in the Oklahoma City Metropolitan Area. Buyers of gasoline, diesel fuel and other light petroleum products in the Oklahoma City Metropolitan Area, such as gasoline marketers and others, have no effective alternative to terminals located within the Oklahoma City Metropolitan Area. Because of costs and delivery logistics, terminals located outside the Oklahoma City Metropolitan Area are too far away to supply buyers in that area.

11. A relevant section of the country in which to evaluate the effects of this acquisition is the Oklahoma City Metropolitan Area.

C. Market Structure

12. The market for terminaling services in the Oklahoma City Metropolitan Area is highly concentrated and would become significantly more highly concentrated as a result of this acquisition. The pre-merger Herfindahl-Hirschman Index is more than 3,100, and would increase by more than 1,200 points to a level exceeding 4,300.

D. Entry Conditions

13. Entry into the market for terminaling services in the Oklahoma City Metropolitan Area is difficult and would not be timely, likely or sufficient to prevent the anticompetitive effects that are likely to result from the proposed acquisition. Constructing a new terminal is subject to significant regulatory and supply constraints, and would require substantial time to accomplish. As a result, new entry would not be sufficient to constrain the anticompetitive effects that are likely to result from this acquisition.

IV. ANTICOMPETITIVE EFFECTS

14. Magellan and Shell are actual competitors in the supply of terminaling services for gasoline, diesel fuel, and other light petroleum products in the Oklahoma City Metropolitan Area.

15. The effect of the proposed acquisition, if consummated, may be substantially to lessen competition in the supply of terminaling services for gasoline, diesel fuel, and other light petroleum products in the Oklahoma City Metropolitan Area in violation 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, in the following ways, among others:

    a. by eliminating direct competition between Magellan and Shell in the supply of terminaling services in the Oklahoma City Metropolitan Area; and

    b. by increasing the likelihood of, or facilitating, collusion or coordinated interaction in the relevant market;

    each of which increases the likelihood that the prices of gasoline, diesel fuel, and other light petroleum products will increase in the relevant market.

V. STATUTES VIOLATED

16. Magellan's proposed acquisition of terminaling assets from Shell violates Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45, and would, if consummated, violate 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.

WHEREFORE, THE PREMISES CONSIDERED, the Federal Trade Commission on this twenty-eighth day of September, 2004, issues its complaint against said Respondents.

By the Commission, Chairman Majoras recused.

Donald S. Clark
Secretary

SEAL: