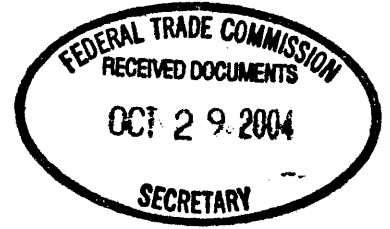


UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION



In the Matter of,
ENTERPRISE PRODUCTS
PARTNERS L.P.,

a limited partnership,

and

DAN L. DUNCAN,

a natural person.

DOCKET NO. C-041-0039

C4123

**PETITION OF ENTERPRISE PRODUCTS PARTNERS L.P. AND DAN L. DUNCAN
FOR APPROVAL OF THE PROPOSED DIVESTITURE OF THE ENTERPRISE
PROPANE STORAGE INTEREST TO ENBRIDGE**

Pursuant to Section 2.41(f) of the Federal Trade Commission (“Commission”) Rules of Practice and Procedure, 16 C.F.R. § 2.41(f)(2004), and Paragraphs III.A. and III.B. of the Decision and Order contained in the Agreement Containing Consent Orders (the “Agreement”), accepted for public comment in this matter, Enterprise Products Partners L.P. (“Enterprise”), which is controlled by Dan L. Duncan (“Mr. Duncan”), hereinafter sometimes collectively referred to as “Respondents,” hereby petition the Commission to approve (i) the divestiture of the Enterprise Propane Storage Interest¹ to Enbridge Midcoast Energy, L.P., a wholly-owned subsidiary of Enbridge Energy Partners, L.P. (“Enbridge”) and (ii) the related agreements, as required by Paragraph III.B. of the Decision and Order.

¹ As defined in the Decision and Order. All capitalized terms located but not otherwise defined herein shall have the meaning ascribed to such terms in the Decision and Order.

BACKGROUND

On September 16, 2004, Respondents and the Bureau of Competition (“Bureau”) of the Commission entered into an Agreement to settle the Commission’s allegations about the proposed merger between Respondents and GulfTerra Energy Partners, L.P. (“GulfTerra”) and GulfTerra Energy Company, L.L.C. (“GulfTerra GP”). The Agreement requires Respondents to abide by a proposed Decision and Order and an Order to Hold Separate and Maintain Assets, effective as of the date submitted for public comment (together, the “Order”). The Agreement and Order were accepted for public comment by the Commission on September 29, 2004, and the parties thereafter consummated the merger on September 30, 2004.

Paragraph III.A. of the Decision and Order requires Enterprise to divest the Enterprise Propane Storage Interest in good faith and at no minimum price by December 31, 2004. Paragraph III.B. also provides that the manner of divestiture and the Propane Acquirer are subject to Commission approval. Respondents desire to complete the proposed divestiture of the Enterprise Propane Storage Interest to Enbridge as soon as possible, following Commission approval. Prompt consummation of the proposed divestiture is in the interests of the public and the parties, as it will allow Enbridge to immediately implement its business plans for the Enterprise Propane Storage Interest in time before the start of next year’s propane season, will permit Respondents to expeditiously fulfill their obligations under the Agreement and Decision and Order, and will thereby promote the public good.

Respondents therefore hereby request that the Commission promptly commence the period of public comment under Section 2.41(f)(2) of the Commission’s Rules of Practice, 16 C.F.R. §2.41(f)(2)(2004), limit the extent of that period to the standard thirty days provided

therein, and grant this petition by approving the divestiture of the Enterprise Propane Storage Interest pursuant to the proposed agreements as soon as practicable after the close of the public comment period.

REQUEST FOR CONFIDENTIALITY

Respondents have prepared both a confidential version of this petition and a redacted version, as the confidential version and the related agreements attached thereto contain confidential and competitively sensitive business information relating to the Respondents, Enbridge, the Enterprise Propane Storage Interest, and the divestiture. The disclosure of this information would prejudice Respondents and Enbridge, would hinder Respondents from fulfilling their divestiture obligations under the Decision and Order, and would harm the ongoing competitiveness of the Enterprise Propane Storage Interest. Respondents have prepared the redacted version of this petition for public comment.

Pursuant to Section 2.41(f)(4) and 4.9(c) of the Commission's Rules of Practice and Procedure, 16 C.F.R. §§2.41(f)(4) & 4.9(c) and the applicable confidentiality provisions of the Hart-Scott-Rodino Antitrust Improvements Act, as amended, 42 U.S.C. §18a(h), Respondents hereby request that the confidential version of this petition and its attachments be afforded confidential treatment. The confidential version of this petition also falls within the scope of confidentiality provided by 5 U.S.C. §552 and Section 4.10(a)(2) of the Commission's Rules of Practice and Procedure, 16 C.F.R. §4.10(a)(2). It is also exempt from disclosure under Exemptions 4, 7(A), 7(B), 7(C) of the Freedom of Information Act, 5 U.S.C. §§552(b)(4), 552(b)(7)(A), 552(b)(7)(B) & 552(b)(7)(C).

ENBRIDGE WILL BE A VIABLE COMPETITOR.

In 1999, the Bureau prepared a study entitled “A Study of the Commission’s Divestiture Process.” This study identifies certain rules of thumb to be used in the identification of likely successful buyers of divested assets. The pertinent factors include (a) knowledge and experience, (b) a high degree of commitment to the market, and (c) deep financial and technical resources. As discussed more fully below, Enbridge exhibits each of these characteristics and is an excellent candidate for ownership of the Enterprise Storage Propane Interest.

Enbridge possesses knowledge of the local propane storage market and experience in NGL storage. Enbridge provides, among other services, marketing, transportation, treating, and storage services for natural gas liquids (“NGLs”), crude oil, carbon dioxide and various other petroleum products and chemicals throughout the United States and Canada. Enbridge, through its wholly owned subsidiary, Dufour Petroleum, L.P., which has its office in Petal, Mississippi, currently holds and operates a fleet of 98 tanker trucks and trailers (both pressurized and non-pressurized) and 48 pressurized railcars, along with associated above ground product storage vessels with a capacity of less than 10,000 barrels, and services customers throughout the Southeast, including Texas, Oklahoma, Arkansas, Louisiana, Mississippi, Alabama, Florida, Georgia, and the Carolinas.

Enbridge, has a clear commitment to expanding its competitive presence in the midstream natural gas and NGL services businesses. Enbridge received, in a 2002 transfer from Enbridge Inc., several key midstream assets in the Gulf region, including the Midcoast, Northeast Texas (formerly Sulphur River) and South Texas (formerly Transco) systems, which provide natural gas gathering, processing, transmission and marketing services, primarily in the

U.S. Mid-continent and Gulf Coast regions. Enbridge provides storage services in connection with its marketing business. Liquids storage is a natural corollary to its large natural gas gathering, treating and processing businesses. Enbridge writes in its 2003 10-K that it “sells NGLs resulting from its processing activities to a variety of customers ranging from large petrochemical and refining companies to small regional retail propane distributors.” *See id.* at 13. Furthermore, it is central to Enbridge’s strategy to develop its natural gas and liquids businesses in the Gulf region: “[Enbridge] will continue to analyze potential acquisitions, with a focus on crude oil, refined products and natural gas pipelines, terminals and related facilities. Major energy companies have sold their non-strategic assets in recent years, continuing a trend of rationalization of the energy infrastructure in the United States. [Enbridge] expects this trend to continue and believes it is well positioned to participate in these opportunities. [Enbridge] will seek out opportunities throughout the United States, particularly in the U.S. Gulf Coast area, where asset divestitures are anticipated in and around its existing natural gas gathering, processing and transportation businesses.” *See id.* at 7.

Enbridge has deep financial resources and broad technical capabilities. Enbridge had approximately \$3.2 billion in 2003 revenue, with net income over \$100 million. Enbridge has spent billions in acquisitions over the past few years and continues to take an acquisitive and competitive posture, as outlined in its strategic discussions above. In addition to its obvious financial strength, Enbridge has specific technical ability to handle ownership of the Enterprise Propane Storage Interest.

THE TERMS OF THE AGREEMENT ACCOMPLISH A FULL DIVESTITURE

As stated earlier, Paragraph III.A. of the Decision and Order requires Respondents to divest the Enterprise Propane Storage Interest in good faith and at no minimum price on or before December 31, 2004. On _____, Enterprise entered into an agreement, the closing of which is expressly conditioned upon the FTC's approval, that will fully accomplish the divestiture of its interest to Enbridge: the Purchase and Sale Agreement,

("PSA"). Respondents have diligently pursued a buyer acceptable to the Commission and have entered into this agreement with Enbridge over two months before the divestiture deadline.

Pursuant to the Purchase and Sale Agreement, Enterprise must transfer to Enbridge all of the limited liability company interests in its subsidiary, Enterprise Hattiesburg, LLC, which holds the Enterprise Propane Storage Interest, at such time as all conditions to closing are satisfied. The principal conditions to Enterprise's obligation to close are few: (a) continued accuracy of Enbridge's few representations and warranties, which include due organization and authority, and retention of necessary consents and approvals; (b) Enterprise's receipt of necessary consents and approvals, i.e. chiefly the approval of the Commission; and (c) that no injunctions have been entered to stop the transaction. _____ Enbridge has similar limited conditions to closing this transaction.

To further promote a rapid and smooth divestiture, the parties have also agreed to equitably apportion liabilities arising from the Enterprise Propane Storage Interest assets, such that Enterprise will be responsible for, and will be obligated to pay, perform, fulfill or otherwise discharge, any of the interest's liabilities related to the period prior to closing.

In keeping with Paragraphs III.C. and III.E. of the Decision and Order, the PSA requires Enterprise to maintain the Enterprise Propane Storage Interest as a viable going concern until the closing.

Pursuant to Paragraph III.D. of the Decision and Order, the parties are also under a joint covenant to use reasonable efforts to obtain necessary consents and approvals, including the approval of the Commission.

As an additional component of the sale and purchase, Enbridge requested and Enterprise agreed to enter into a Storage Agreement, which is attached to the PSA (the "Storage Agreement"), which provides that Enterprise will pay Enbridge for a capacity reservation of barrels in the Enterprise Propane Storage Interest's assets, once they are owned by Enbridge. Enterprise has agreed to pay the capacity reservation fee Enterprise is prohibited from assigning or using this capacity for the benefit of any third party and must pay irrespective of use.

The Storage Agreement is intended to facilitate Enbridge's competitive entry into the Hattiesburg propane storage market by

allowing Enbridge to be immediately competitive with the other propane storage participants in the Hattiesburg market.

Enterprise's capacity reservation under the Storage Agreement

will not in any way impair Enbridge's ability to actively and aggressively market its Hattiesburg storage capacity. Enbridge will have

ample storage capacity, , to actively market to

third parties. Enbridge's entry into the

underground propane storage business will inject a fourth major player into the mix, in addition

to Enterprise, Dynegy, and Louis Dreyfus.

In satisfaction of Paragraph III.B. of the Decision and Order, before the Storage Agreement can become effective, requires the Commission's prior approval of the Storage Agreement, the PSA, and of Enbridge as the Propane Acquirer.

Respondents and Enbridge have entered into divestiture agreements that comply with the Commission's Decision and Order. Enbridge possesses the experience, knowledge, commitment, financial and technical resources to be an aggressive and effective competitor as owner of the Enterprise Propane Storage Interest. In light of the foregoing, Respondents hereby seek expeditious Commission approval of the proposed divestiture and the related agreements, pursuant to Paragraph III.A. of the Decision and Order.

CONCLUSION

For the foregoing reasons, Respondents respectfully request that the Commission approve the proposed divestiture of the Enterprise Propane Storage Interest to Enbridge, in the manner provided in the attached agreements, as soon as practicable after expiration of the public comment period.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Neil W. Inus", written over a horizontal line.

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Attorney for Enterprise Products Partners L.P.
and Dan L. Duncan

Dated: October 29, 2004

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