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November 11, 2003

Mr. Michael Verne
Federal Trade Commission
Premerger Notification Office
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580

Re: Non-Reportability Of Certain Transactions

Dear Mr. Verne:

The purpose of this letter is to confirm our telephone conversation of several weeks ago in which you indicated that the two transactions described below relating to the direct and indirect transfer of limited partnership interests would not be reportable under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (as amended, the "Act") and the applicable regulations (the "Regulations"). Because the transactions are complicated, I thought it best to give you the opportunity to review in writing the two transactions we discussed. This letter includes more detail than we discussed by telephone, because I now have more information.

For purposes of your review of this letter, please assume that the size-of-the-parties test is met.

Background

Four corporations (the "Sellers"), each of which is a wholly owned subsidiary of its ultimate parent entity, own collectively (with no corporation owning 50% or more) 100% of the limited partnership interests in Limited Partnership No. 1 ("LP 1") and 100% of the membership interests in a limited liability company ("LLC") that is the sole general partner of LP 1. Each of the four ultimate parent entities are unaffiliated, publicly traded corporations.

Except as provided below, the only asset of LLC is its sole general partner interest in LP 1. LP 1 has no business activity other than serving as the sole general partner of a publicly traded Master Limited Partnership ("MLP"). Except as provided below, the only assets of LP 1 are: (i) 100% of the stock of Corporation C, (ii) an approximate 1% interest (as sole general partner) in MLP, (iii) an approximate 1% interest (as a limited partner) in MLP and (iv) an approximate 1% interest (as the sole general partner) in the operating limited partnership of MLP ("OLP"). Except as provided below, the only assets of Corporation C are:(i) an approximate 24.5% interest (as a limited partner) in MLP and (ii) an approximately $11.5 million promissory note from LP 1 payable to Corporation C (the "Note"). Although cash in LLC, LP 1 and

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Corporation C is periodically distributed to their respective owners, ultimately the Sellers, at varying times each entity may have cash or receivables from an entity in which it owns an interest.

MLP is engaged in the retail and wholesale propane distribution business and is its own ultimate parent entity. MLP's business is operated by OLP. As noted above, LP 1 owns directly an approximate 1% interest as sole general partner of OLP and an approximate 26.5% interest in MLP: (i) directly an approximate 1% interest as the sole general partner, (ii) directly an approximate 1% interest as a limited partner and (iii) indirectly a 24.5% interest as a limited partner through its ownership of Corporation C. The remaining approximate 73.5% of the interests in MLP are owned by public investors as limited partners. MLP owns all of the remaining interest in OLP (an approximate 99% limited partner interest).

Transactions

The Sellers wish to sell virtually all their interests in MLP. As a preliminary step, Sellers, the current owners of LP 1 and LLC, will form New LLC and then Sellers and New LLC will form New LP. New LLC and New LP will be owned by Sellers in the same identical proportions as their ownership of LLC and LP 1. Sellers will then contribute to New LP 100% of the interests in LP 1 as limited partners and 100% of the membership interests in LLC (which holds the sole general partner interest in LP 1), thereby making LP 1 a wholly owned subsidiary of New LP. LP 1 will then distribute its approximate 1% interest in MLP as a limited partner and the stock of Corporation C to New LP, with New LP assuming the Note and LP 1 being released from its obligations under the Note. At this point, the remaining assets of LP 1 will be the approximate 1% interest in MLP as the sole general partner and the approximate 1% interest in OLP as the sole general partner, and perhaps cash or a receivable from MLP or OLP.

To accomplish the result of selling virtually all their interests in MLP, the Sellers propose to engage in two transactions with two different buyers. In one transaction, New LP will sell 100% of the limited partnership interests in LP 1 (which holds the sole general partner interest in MLP and the sole general partner interest in OLP) and 100% of their membership interests in LLC (which holds the sole general partner interest in LP 1) to an unrelated buyer ("Buyer") for approximately $30 million. Buyer is not engaged in the propane distribution business. In the second transaction, Corporation C will distribute the Note to New LP as a dividend (effectively canceling the Note), and New LP will sell 100% of the stock of Corporation C to MLP for approximately $100 million. As a consequence, MLP will have acquired an approximate 24.5% limited partnership interest in itself.

Concurrently with the closing of these transactions, Buyer will contribute to MLP Buyer's ownership interests in certain partnerships and limited liability companies holding various midstream energy assets (gas gathering lines, gas transportation lines and gas processing plant assets) in exchange for consideration in excess of $50 million, consisting of limited partnership interests in MLP, cash and payment of Buyer's existing debt. Because the value

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exceeds $50 million, MLP and Buyer will be reporting the transaction under the Act. At the close of this concurrent transaction, Buyer will own less than a 50 % interest in MLP.

Analysis

The preliminary step of the formation of New LLC and New LP are intra-person transactions which would be exempt in the corporate context under 16 C.F.R. §802.30, and which under the informal position of the Premerger Notification Office are not reportable transactions.

The first transaction is the direct acquisition of 100% of a limited partnership interests of LP 1 and 100% of the membership interests in LLC (which holds the sole general partner interest in LP 1) for $30 million, which is the direct acquisition of 100% of LP 1 and in turn is the indirect acquisition of the sole general partner interest in MLP and the sole general partner interest in OLP. Although acquisition of 100% of a partnership or a limited liability company is potentially a reportable transaction, and is deemed to be the acquisition of all of the assets of the partnership or the limited liability company, this transaction is not reportable because the value of this transaction does not meet the $50 million filing threshold. However, had the threshold been met, the "look through" rationale discussed below would apply to make the transaction not reportable.

The second transaction is the acquisition of all the stock of Corporation C. As a general rule, the acquisition of 100% of the stock of a corporation for $100 million would be a reportable event. In this instance, however, all that MLP is actually acquiring is an approximate 24.5% limited partnership interest in a publicly-traded limited partnership (itself). The direct acquisition of less than 100% of a partnership is not a reportable event under the Act and the Regulations, regardless of the dollar value of the transaction. In this case, the acquisition of less than 100% of a partnership occurs indirectly, and although the "look through" provisions of 16 C.F.R. §802.4 do not specifically apply, you indicated that the Premerger Notification Office would apply the rationale of the "look through" provisions here for MLP's acquisition of less than 50% of the partnership interests. Therefore, the direct acquisition by MLP of 100% of Corporation C, which is the indirect acquisition of an approximate 24.5% limited partnership interest in MLP, would not be reportable. The reasoning is that a non-reportable acquisition of less than 100% of a partnership does not become a reportable transaction just because the acquisition occurred in the form of the acquisition of 100% of the stock of a corporation, here Corporation C, as long as control of the partnership (for purposes of the Act and the Regulations) does not change. In addition, although the repurchase of equity provisions of C.F.R. §802.30 do not specifically apply, if control does not change (for purposes of the Act and the Regulations), the repurchase of equity by a partnership should be treated the same as the repurchase of equity by a corporation, and therefore not reportable.

The concurrent transaction is reportable because it is an acquisition by MLP of assets of Buyer for more than $50 million.

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After you have had an opportunity to review this letter, please confirm that my analysis of the transactions is correct. My direct telephone number is [redacted]

Thank you as always for your valuable assistance.

Sincerely,

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AGREE -
B. Michael Verne
11/14/03