801.90

[redacted]

August 11, 1998

Ms. Nancy Ovuka, Esq.
Federal Trade Commission
Premerger Notification Office
Bureau of Competition
Washington, D.C.

Via Facsimile

Dear Ms. Ovuka:

In line with our telephone conversation of August 10, I am enclosing for your review an outline of the structure of certain transactions proposed to be consummated by Limited Partnership No. 1 ("LP1"), Limited Partnership No. 2 ("LP2") and Company A. The structure is the one I had described to you on the phone. In addition to the outline, I represent to you that:

(1) LP1 and LP2 have not created a partnership between them at this time;

(2) The parties considered a structure that would have had LP1 and LP2 form a partnership before acquiring the Company A assets, and that this transaction may very well have required a filing under the Hart-Scott-Rodino Act ("HSR Act"); and

(3) You may assume that there are no business reasons that compel the choice of the proposed structure in lieu of the structure where the partnership is formed first, and that non-reportability under the HSR Act was a significant factor in the selection of the proposed structure.

This will confirm that you told me, after consultation with certain of your colleagues that:

(A) The proposed transaction structure appears to have been chosen to avoid an HSR filing; but

(B) The Staff did not believe that it could dictate the structure that the parties had to use, and, based on the facts presented, the proposed transaction structure would not violate 16 CFR Section 801.90.

[redacted]

[redacted]

If I have incorrectly set forth your conclusions, please let me know. As I indicated to you, the attorneys for Company A may want to discuss this with you directly and we may call you.

Thank you for your time and consideration.

Very truly yours,

[redacted]

[redacted]

Enclosure

cc: [redacted]

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Structure chosen to avoid a filing, but substance of transaction would not violate 801.90.

[redacted]

RS concurs

August 11, 1998

Outline of
Proposed Transaction Structure

The structure for the transactions currently under discussion among Limited Partnership No. 1 ("LP1"), Limited Partnership No. 2 ("LP2") and Company A is as set forth below. LP1 and LP2 are not affiliates and have no common owners.

Step 1

LP1 negotiates an acquisition of certain gas gathering and other assets (the "Assets") from Company A. LP1 enters into an asset purchase agreement (the "Asset Purchase Agreement") with Company A providing for such acquisition.

Step 2

LP1 assigns the rights to purchase the Assets to certain affiliates of LP1 (the "LP1 Affiliates") and a subsidiary of LP2 ("LP2 Sub").

Step 3

62.5% of total purchase price

Pursuant to the Asset Purchase Agreement, (i) LP2 Sub ~~buys a~~ 62.5% undivided interest in the Assets from Company A for approximately $14.1 million and (ii) LP1 Affiliates buy a 37.5% undivided interest in the Assets from ~~Company A for~~ approximately $8.4 million.

Step 4

LP1 Affiliates and LP2 Sub form a partnership and contribute the Assets, as well as certain other properties, to the partnership. The effective economic interests of LP2 Sub and LP1 Affiliates in the partnership are approximately 62.5% and 37.5%, respectively.

[redacted]