Public Record Version

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

In the Matter of

El Paso Energy Corporation,
a corporation, and

The Coastal Corporation,
a corporation

Docket No. C-3996

PETITION OF
EL PASO CORPORATION
TO REOPEN AND MODIFY

El Paso Corporation ("El Paso") is the successor to El Paso Energy Corporation and the parent company of The Coastal Corporation ("Coastal"), the named Respondents in the above-captioned matter. The Federal Trade Commission's (the "Commission's") March 19, 2001 Decision and Order (the "Consent Order") in this matter required El Paso to divest a number of pipeline assets to various buyers, including Williams Field Services ("Williams"), and to create a $40 million "Development Fund" for the benefit of Williams in order for El Paso to close its acquisition of Coastal. For the reasons described below, El Paso respectfully requests that the Commission reopen and modify, in part, the Consent Order and order the return of the principal and interest in the Development Fund to El Paso. Pursuant to Section 5(b) of the Federal Trade Commission Act, 15 U.S.C. § 45(b) and §2.51 of the Commission's Rules of Practice and Procedure, 16 C.F.R. §2.51, El Paso's request is based on public interest considerations and on unforeseen changed conditions of fact that have eliminated the need for the continued maintenance of the Development Fund. Williams supports El Paso's request.

The Consent Order, attached hereto as Exhibit 1, relates to El Paso's January 17, 2000 agreement to acquire Coastal. Both El Paso and Coastal owned natural gas pipelines in various locations in the United States and the Complaint identified several relevant geographic markets of Commission concern. One such area was the "Central Gulf of Mexico" where El Paso owned all or part of several pipelines and Coastal owned the ANR pipeline ("ANR"). To ameliorate the Commission's concerns in the Central Gulf of Mexico caused by El Paso's acquisition of ANR, the Consent Order required El Paso to divest several of its pipelines in the Central Gulf to independent third parties.

The Consent Order placed an additional obligation on El Paso relating to a smaller area (defined as the "Development Area") within the larger Central Gulf of Mexico area specified in the Complaint. Prior to the merger, this "Development Area" was accessible primarily through El Paso pipelines and Coastal's ANR pipeline. In order to acquire ANR, El Paso was required to divest its ownership interest in the Tarpon and Green Canyon pipelines as well as in the Manta Ray, Nautilus, and Nemo pipelines. In addition, in order to allow "the Tarpon and Green Canyon acquirer to extend its pipelines into an area of competitive concern [the Development Area] and to compete against the Respondents in that area"[1] El Paso was required to establish a $40 million fund that had a 20-year term.[2] This Development Fund, placed with the FTC under the authority of an independent monitor, could be used by the acquirer of the Tarpon and Green Canyon pipelines to pay for the direct costs of constructing a natural gas pipeline or related facility that would serve producers in the "Development Area."

The El Paso – Coastal transaction closed on January 29, 2001. Also on that date, El Paso divested the Tarpon and Green Canyon pipeline systems to Williams and established the $40 million Development Fund with the FTC. Shortly thereafter, El Paso transferred the other pipeline assets in the Central Gulf of Mexico as required by the Consent Order.

---

[1] *In the Matter of El Paso Energy Corporation*, Docket No. C-3996, Analysis of the Complaint and Proposed Consent Order to Aid Public Comment (henceforth "Aid to Public Comment"), at 7, attached as Exhibit 9.
[2] The Fund will expire on March 19, 2021.

Since 2001, El Paso has undertaken a number of actions that have reduced its influence in the Development Area. Most notably, on February 22, 2007, El Paso sold the ANR pipeline it had acquired in the Coastal transaction to TransCanada, Inc. ("TransCanada"). **This sale introduced a new viable competitor into the market and restored ANR to its premerger status as a separate and independent pipeline alternative to El Paso.** El Paso also divested all of its deepwater pipeline ownership interests to Enterprise Products Partners, LP. ("Enterprise") in 2004.[3] These divestitures included the Constitution and Anaconda Pipelines, which serve wells in and just south of the Development Area.[4]

The sales of these pipelines from El Paso to independent competitors increased competition in the market, and, in and of themselves, constitute changes of circumstance sufficient to merit reopening and modifying the Consent Order.

Furthermore, other post-merger changes have increased competition in the Development Fund Area, providing additional justification for modifying the Order. In particular, declining offshore production has created substantial excess capacity on the Gulf pipelines, including those that serve the Development Area. This excess capacity eliminates any constraints on the flow of gas that may have concerned the Commission when the Consent was negotiated.

Moreover, the competitive relevance of the Development Fund has declined significantly due to changes that affect the focus of natural gas exploration and discovery. In particular, due to technological advances in horizontal drilling and fracturing techniques, drillers have a newfound ability to recover gas from inland shale at much lower costs. The availability of abundant, low-cost on-shore shale production, in conjunction with increased costs of offshore exploration and lower natural gas prices, have shifted the focus of natural gas exploration activity away from the Gulf of Mexico. Williams has not used any of the money in the Development Fund to date and

[3] Gordon Platt, "El Paso Sells GulfTerra Stake To Lessen Hefty Debt Load," Global Finance, February 2004, available at http:/ www.gfinag com/archives/76-76-february-2004/2012-corporate-finance-el-paso-sells-GulfTerra-stake-to-lessen-hefty-debt-load.html#axzz0mUuwQnvs; *see also* Affidavit of David M. Leland in Support of Petition to Reopen and Modify Order, attached as Exhibit 7.
[4] In addition, due to declining production, El Paso abandoned its CNT pipeline and is considering abandoning its TTT pipeline, both of which run near or through parts of the Development Area.

with the shift in natural gas exploration it is extremely unlikely that the Development Fund will ever be tapped

In sum, these changes in circumstance have eliminated the need to maintain the Development Fund. The funds can be put to more productive uses today rather than held in a trust fund until 2021. El Paso therefore requests that the Commission reopen and modify the Consent Order so as to eliminate the Development Fund and return the monies to El Paso. As noted above, Williams supports this request.

I. BACKGROUND

A. El Paso's Acquisition of The Coastal Corporation

The Consent Order at issue arose in response to a merger agreement entered into between El Paso and The Coastal Corporation ("Coastal") on January 17, 2000. At the time of the merger, El Paso, a Delaware corporation with its principal place of business in Houston, Texas, was engaged in, *inter alia*, the transportation of natural gas in the United States.[5] Coastal, also a Delaware corporation with its principal place of business in Houston, Texas, was likewise engaged in, *inter alia,* the transportation of natural gas in the United States.[6] Pursuant to the merger agreement, El Paso was to acquire all of Coastal's common stock in exchange for 53% of El Paso's voting securities.[7] The total dollar value of the acquisition, which included approximately $6 billion in debt and preferred securities, was estimated at $16 billion.[8]

In January, 2001, the FTC filed a complaint ('the Complaint") alleging that, if consummated, the merger would reduce competition and violate Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45 and Section 7 of the Clayton Act, 15 U.S.C. § 18.[9] The Complaint is attached hereto as Exhibit 2. The Complaint alleged six counts of loss of

---

[5] *In the Matter of El Paso Energy Corporation,* Docket No. C-3996, Complaint, at ¶ 2 (hereinafter "Complaint").
[6] *Id.* at ¶ 5.
[7] *Id.* at ¶ 7.
[8] *Id.*
[9] *Id.* at ¶¶ 101-102.

competition in various geographic markets in which El Paso and Coastal allegedly competed for transportation of natural gas, long term firm transportation of natural gas (a sub-category of natural gas transportation) and provision of tailored services.[10]

In order to resolve these concerns, the Commission and El Paso entered into a Consent Order whereby El Paso agreed to divest several assets and undertake additional actions to remedy the alleged lessening of competition in those markets. For purposes of this Modification Request, the only count of the Complaint at issue is Count V, addressing competition in ten geographic markets in the Central Gulf Sections of the Gulf of Mexico (the "Central Gulf Sections").[11] Furthermore, the only part of the Consent Order for which El Paso requests modification is Section V.(D), which mandates the creation and maintenance of a Development Fund.

B. The Commission's Complaint, Count V

Count V of the Complaint alleged that El Paso and Coastal were competitors in the Central Gulf Sections in two product markets and ten geographic markets.

The product markets consisted of the market for transportation of natural gas and the market for long term firm transportation of natural gas. Transportation of natural gas was defined as transportation of commercial quantities of natural gas over significant distances through large diameter high pressure pipelines.[12] Long term firm transportation was defined as "a type of natural gas transportation service requiring the pipeline company to guarantee for one year or more that it will transport a specified daily quantity of natural gas from one destination to another, without interruption. Many natural gas users cannot bear the risk of interruption and, in

---

[10] *Id.* at ¶¶ 8-9. The "provision of tailored services" relevant product market was defined as provision of services that allow users of natural gas (customers) to balance their demand with the supply and transportation, such as "limited notice" and "no notice" service, often sold in conjunction with natural gas storage services. According to the Complaint, competition between El Paso and Coastal in this relevant product market occurred in geographic markets that are immaterial and unaffected by this modification request.
[11] *Id.* at ¶¶ 89-94.
[12] *Id.* at ¶ 8.

areas where the pipeline capacity is constrained periodically, these users must purchase long term firm transportation."[13]

The geographic markets were defined as ten sections off of the coast of Louisiana in or around portions of the areas known by the Department of Interior assigned names of Ewing Bank, Ship Shoal, Ship Shoal South Addition, Eugene Island, Eugene Island South Addition, South Marsh Island, South Marsh Island South Addition, Vermilion, Vermilion South Addition, Garden Banks, and Green Canyon.[14]

---

[13] Aid to Public Comment at 2-3.
[14] *Complaint* at ¶ 49. Specifically, the ten sections were defined as:

a. eastern Eugene Island South Addition (the area bounded by the following blocks: Eugene Island 282, Eugene Island 279, Ewing Bank 982, Ewing Bank 979);

b. northwestern Eugene Island South Addition (the area bounded by the following blocks: Eugene Island 334, Eugene Island 267, Eugene Island 274, Eugene Island 327);

c. southwestern Eugene Island South Addition (the area bounded by the following blocks: Eugene Island 395, Eugene Island 335, Eugene Island 341, Ewing Bank 978);

d. southern Vermilion South Addition (the area bounded by the following blocks: Vermilion 410, Vermilion 327; Vermilion 333, Vermilion 413);

e. central and southern Ship Shoal South Addition (the area bounded by the following blocks: Ship Shoal 290, Ship Shoal 288, Ewing Bank 989, Ewing Bank 983, Ship Shoal 364, Ship Shoal 319, Ship Shoal 314);

f. northwestern Ship Shoal South Addition (the area bounded by the following blocks: Ship Shoal 296, Ship Shoal 247, Ship Shoal 243, Ship Shoal 300);

g. the area around the western part of the Bluewater Header (the area bounded by the following blocks: South Marsh Island 57, South Marsh Island 63, South Marsh Island 95, South Marsh Island 105, South Marsh Island 89, South Marsh Island 86);

h. the area around the central part of the Bluewater Header (the area bounded by the following blocks: Eugene Island 267, Eugene Island 201, Eugene Island 211, Eugene Island 257);

i. the area around the eastern part of the Bluewater Header (the area bounded by the following blocks: Ship Shoal 127, Ship Shoal 128, Ship Shoal 207, Ship Shoal 231, Ship Shoal 224); and

j. the central Gulf deepwater (the area bounded by the following blocks: Garden Banks 26, Garden Banks 35, Garden Banks 79, Garden Banks 80, Garden Banks 85, Green Canyon 49, Green Canyon 5, Green Canyon 35, Green Canyon 1003, Green Canyon 969, Garden Banks 994).

According to the Complaint, most natural gas produced from these sections was transported to consumer markets in the Midwestern and Eastern United States by pipeline.[15] Moreover, the Complaint indicates that producers looking to transport their gas out of one of these sections had no reasonable alternative but to use natural gas pipelines located in or near each particular section.[16]

In 2000, El Paso and Coastal were both active in the Central Gulf Sections. El Paso, according to the Complaint, was one of the major transporters of natural gas out of the Central Gulf Sections, owning all or part of several pipelines. The El Paso pipelines in the Central Gulf in 2000 were (1) Bluewater Pipeline System (also known as Tennessee/Bluewater, since it is part of El Paso's Tennessee Gas Pipeline System, or "TGP");[17] (2) TTT pipeline;[18] (3) Green Canyon Pipeline System; (4) Tarpon Pipeline System;[19] (5) Manta Ray/Nemo Pipeline System;[20] and (6) the Nautilus Pipeline System.[21] El Paso and Coastal's Stingray Joint Venture Pipeline was located to the west of this area, passing through the Vermillion South Addition area.[22]

Coastal owned the ANR pipeline system, which, among other things, transported natural gas out of the Central Gulf Sections.[23] ANR was Coastal's only Federal Energy Regulatory Commission (FERC) regulated pipeline serving the Central Gulf. The Complaint described Coastal as "one of the major transporters of natural gas out of each Central Gulf Section."[24]

---

[15] *Id.* At ¶¶ 50-51.
[16] *Id.* at ¶ 51
[17] Bluewater was a joint venture pipeline operated by El Paso. Columbia Gulf had an interest that varied by section. Specifically, Columbia Gulf's share of Bluewater's capacity was 65.5% of the West Leg, 13.1 % of the East Leg, 38.1% of the Header, and 68.4% of the Southwest Leg. El Paso owned the rest. Columbia Gulf has since sold its interest in Bluewater to El Paso.
[18] TTT was also a joint venture pipeline. El Paso and TETCO each owned and had capacity rights equal to 42.5% and Texas Gas owned 15%. TTT links up with and may be viewed as a branch of TGP. El Paso now owns all of TTT. El Paso is currently considering abandoning this line.
[19] El Paso owned all of Tarpon, which it divested.
[20] El Paso owned a minority interest, 25.7%, in Manta Ray, which it divested.
[21] El Paso owned a minority interest, 25.7%, in Nautilus, which it divested.
[22] The Stingray Pipeline, was divested under the FTC Order to Enterprise and Shell. They owned Starfish Pipeline Company, which became the owner of Stingray. Starfish Pipeline Company is now 100% owned by Enbridge, which acquired it in 2004.
[23] Complaint at ¶ 53.
[24] *Id.* at ¶ 53.

Certain other pipelines also served the area in 2000. Southern Union operated the Sea Robin and Trunkline Gas Company pipelines. Shell owned and operated the Garden Banks pipeline.[25] Williams owned and operated the Transco pipeline.[26] Coastal owned the Anaconda pipeline, a non-FERC-regulated pipeline, which was later sold to Enterprise.[27]

While the Commission recognized that there were other pipelines in the area, there was a concern at the time the Complaint was issued that ANR and Tennessee were particularly close competitors, and in some instances, the only options for producers to get their gas to shore.[28] Therefore, according to the Complaint, the merger would "eliminate ongoing, actual potential and perceived potential competition between [El Paso and Coastal] with the likely result of raising rates and reducing output of natural gas transportation in each Central Gulf Section, and diminishing production of natural gas in each Central Gulf Section."[29]

C. The Commission's Decision and Order

(i) Required Divestitures

To remedy the perceived lessening of competition in the Central Gulf Sections, the Commission and El Paso crafted a Consent Order under which El Paso would divest the "Manta Ray Assets" to Enterprise and the "Green Canyon/Tarpon Assets" to Williams. The Manta Ray Assets consisted of five pipeline systems,[30] three of which were prominent in the Central Gulf Sections:

(1) the Manta Ray Pipeline System;

(2) the Nautilus Pipeline System; and

---

[25] Shell sold its interest in the Garden Banks pipeline to Enbridge at the end of 2004. www.allbusiness.com/mining/support-activities-mining-support-oil/291498-1.html

[26] Williams also owned the Discovery pipeline, which had capacity of 0.6 Bcfd, and which lies to the east of the Development Area in the South Timbalier and South Timbalier South Addition areas. .

[27] At the time of the EL Paso/Coastal merger, the Anaconda Pipeline was a single 20" line that extended from Eugene Island 371 to the Chevron Typhoon Platform in GC 237. After the El Paso/Coastal merger, El Paso (via GulfTerra) added additional lines, but they were all sold to Enterprise as part of the GulfTerra transaction in 2004.

[28] Complaint at ¶ 54.

[29] *Id.* at ¶ 94.

[30] The Manta Ray Assets were defined to mean "Manta Ray Pipeline System, Nautilus Pipeline, Nemo Pipeline System, Sailfish Pipeline Company, and Moray Pipeline Company." (Decision and Order, §I, (HH).)

(3) the Nemo Pipeline System.

The Green Canyon/Tarpon Assets[31] consisted mainly of two pipelines in the Central Gulf Sections:

(1) the Green Canyon Gathering System, and

(2) the Tarpon Pipeline.[32]

These divestitures left El Paso with two FERC-regulated natural gas pipeline systems in the Central Gulf Sections: (1) the TGP/Bluewater system and (2) the ANR system, formerly owned by Coastal; and one non-FERC-regulated line: Anaconda.

El Paso has complied with, and does not seek modification of, the divestiture provisions in the Consent Order. Nor does it seek revision of the prior notification provisions that are associated with the divestitures of these assets.[33]

(ii) The Required Development Fund

While the aforementioned divestitures addressed most of the competitive concerns raised in the Complaint, the Commission remained concerned about a particular smaller area of the Central Gulf centered on the Eugene Island and Eugene Island South Addition sections. Specifically, the Commission appears to have been concerned that new wells that would result from ongoing discovery efforts might be located in areas where the retained El Paso TGP Pipeline System was a particularly close competitor with Coastal's ANR Pipeline System for connecting new wells.

---

[31] The Order calls for the divestiture of the Green Canyon/Tarpon Assets which are defined to mean "(1) the assets listed on Exhibit A of the Green Canyon/Tarpon Purchase Agreement, and (2) all El Paso's rights, title, and interest in the Green Canyon Gathering System, Tarpon Pipeline, and Tarpon Transition Company" (Decision and Order, §I, (R)

[32] *In the Matter of El Paso Energy Corporation*, Docket No C-3996, Decision and Order (March 19, 2001), § II (A) (3) and (4).

[33] The Order prohibits El Paso from reacquiring any of the divested assets for ten years without providing advance written notification to the Commission Decision and Order, at § VII (A)

In order to address the concern that ANR and TGP were particularly close competitors, the Consent Order created a "virtual pipeline" that would position the acquirer of the Tarpon and Green Canyon pipelines to be a more effective competitor in the Development Area, so drillers in that area would have another option. The "virtual pipeline" was created by funding a "Development Fund" that, while controlled by the FTC (via an independent monitor), would be available to Williams for the sole purpose of supporting pipeline construction into the "Development Area."[34] A map of the Development Area and the pipelines that serve this area today is attached hereto as Exhibit 3.

More specifically, Section V.(D) of the Consent Order required El Paso to deposit $40 million with the Commission. The monies were placed in an interest bearing account under the control of an appointed Monitor Trustee, and were available to Williams, as acquirer of the Tarpon and Green Canyon lines, to reimburse the direct costs[35] of constructing pipelines and associated equipment ("Eligible Facilities") connecting Williams' lines to drillers in the Development Area. Eligible Facilities were specifically defined as:

> any natural gas pipeline or related facility serving producers in the Development Area and extending from any pipeline owned by the Green Canyon/Tarpon Acquirer or any subsidiary or affiliate of the Green Canyon/Tarpon Acquirer; provided, however that "Eligible Facility" excludes (1) natural gas pipelines extending less than two miles from any pipeline owned by the Green Canyon/Tarpon Acquirer, or any subsidiary or affiliate of the Green Canyon/Tarpon Acquirer, immediately after it acquires the Green Canyon/Tarpon assets and (2) facilities relating solely to such excluded pipelines.[36]

According to the Consent Order, Development Fund monies could only be used for construction in the Development Area, and only $15 million of the fund could be used for

[34] *Id.* at § 1.(F). The Development Area is defined as a 2394 square-mile area comprising the South Marsh Island Blocks 57 through 70, South Marsh Island Sound Addition Blocks 71 through 81 and 92 through 97, Eugene Island Blocks 201 through 266, Eugene Island South Addition Blocks 267 through 311, 315 through 330, 338 through 353, 361 through 374, and 384 through 389, Ewing Bank Blocks 937 through 940 and 978 through 985, Green Canyon Blocks 8 through 15 and 54 through 59, Ship Shoal Blocks 149 through 154, 172 through 179, and 196 through 203, and Ship Shoal South Addition Blocks 248, 249, 270 through 273, 294 through 297, 318 through 321, 341 through 346, and 362 through 365.

[35] Direct costs was defined as the "costs of direct material and labor, and variable overhead incurred in construction, but excluding administrative and general costs allocable to the Green Canyon/Tarpon Acquirer." *Id.* at V.(D).

[36] *Id.* at § I. (I).

projects in a section of the Development Area termed the "Restricted Development Area," which is also shown on the map attached as Exhibit 3.[37] Furthermore, the exclusion of pipelines extending less than two miles from Williams' lines required that Williams construct something more substantial than just a short lateral line in order to qualify for reimbursement from the Fund.

In order to obtain reimbursement, Williams was required by the Consent Order to make a written request to a Monitor Trustee stating the amount requested, describing how the expenditures for which reimbursement was sought were to be made, and attesting that the reimbursement was consistent with the requirements of the Development Fund.[38] The Monitor Trustee then had full authority to grant or deny the request.[39] The Fund was scheduled to expire in 20 years, after which all unused funds were to be returned to El Paso.[40]

According to the Commission, the express purpose of the Development Fund and its requirements were

> to ensure that competition is maintained by allowing [the Green Canyon and Tarpon acquirer's] pipelines to extend into an area of competitive concern and to compete with the respondents [and their TGP and ANR pipelines] in that area. Without this fund competition would be reduced and the Tarpon and Green Canyon acquirer [Williams] would be at a competitive disadvantage due to the longer distance between the acquiring firm's pipelines and the areas of concern.[41]

By providing Williams with an opportunity to obtain additional funding to connect its lines into the Development Area, the Development Fund placed Williams on closer footing with

---

[37] *Id.* at § V.(D) (2). The Restricted Development Area consists of those portions of the Development Area to the south or southwest of Tarpon, including areas to the south or southwest of Tarpon in the following blocks: Ewing Bank Blocks 937 through 940, and 978 through 985, Green Canyon Blocks 8 through 15, and 54 through 59, Ship Shoal Addition Blocks 273, 294 through 297, 318 through 321, 341 through 346, and 362 through 365, and Eugene Island South Addition Blocks 323, 324, 343 through 345, 346 through 350, 361 through 374, and 384 through 389. *Id.* at § I. (YY).
[38] *Id.* at § V.(D)(5).
[39] *Id.* at § V.(D)(6).
[40] *Id.* at § V.(D)(8).
[41] Press Release, Federal Trade Commission, Multiple Pipeline Divestitures Ordered to Safeguard Competition, (January 29, 2001), available at http: /www.ftc.gov/opa/2001/01/elpasocoastal.shtm

TGP/ANR when bidding for transportation contracts from natural gas drillers in the Development Area.

It is the Development Fund requirements of Section V.(D) of the Consent Order that El Paso now seeks to modify based on changed conditions of fact and public interest considerations.

II. FACTUAL CHANGES SINCE THE CONSENT ORDER

A. Introduction

Following the Consent Order, El Paso acquired Coastal and assumed control of its pipeline operations. El Paso complied with all of the provisions of the Consent Order, including the required divestitures to Enterprise and Williams and the funding and maintenance of the $40 million Development Fund. A copy of the Tarpon and Green Canyon Purchase and Sale Agreement is attached hereto as Exhibit 4. The divestiture of the Manta Ray Assets to Enterprise is not material to this modification request and thus the associated sale agreements are not attached.

The Development Fund was placed under the authority of Monitor Trustee Robert E. Ogle, then of Arthur Anderson LLP, who retains control of the monies. To the best of El Paso's knowledge and belief, the Fund has not been used during the nine years since its inception.

B. Changes In Pipeline Ownership In The Central Gulf Market Have Eliminated The Need For The Development Fund

(i) El Paso Has Sold ANR, The Central Gulf Pipeline That It Acquired In The Coastal Transaction, Thus Restoring the Development Area to Its Pre-Merger Level of Competitiveness

On February 22, 2007, El Paso sold ANR in its entirety to TransCanada, which continues to own and operate it today. El Paso currently has no ownership or operating interest in ANR or

TransCanada. The Purchase and Sale Agreement between El Paso and TransCanada is attached as Exhibit 5. The sale of ANR introduced a new competitive option in the Development Area.

Moreover, it was the close competition between TGP and ANR in the Development Area that motivated the creation of the Development Fund. According to the Complaint, "Together [El Paso and Coastal] own or control a significant share of all pipeline capacity out of each Central Gulf Section. For some natural gas producers, Respondents' pipelines are the only alternatives."[42] The Development Fund was designed "to cover the costs of extending [other competitors' pipelines] to specified areas in the Gulf where El Paso and Coastal pipelines are significant competitors."[43] El Paso's subsequent sale of the ANR pipeline to TransCanada restored competition between the ANR and TGP pipelines in the Development Area, thus eliminating the rationale for the Development Fund. Put slightly differently, if the ANR pipeline had been part of the divestiture package at the time the Coastal merger was originally analyzed by the FTC, the Development Fund would never have been required.

(ii) There Have Been Other Pipeline Ownership Changes And At Least One New Pipeline In Or Near The Development Area Since 2001

While the independence of ANR is the most prominent alteration in the competitive landscape of the Development Area, the FTC should also recognize that there have been other changes in ownership and development in the Central Gulf and there are currently a number of independent operators whose pipelines cross through or near the Development Area. These pipelines are listed in Table 1, along with information, to the best of El Paso's knowledge and belief, detailing capacity, ownership, and ownership data at present and from 2001, directly after the Consent Order went into effect.

---

[42] Complaint. at ¶ 54.
[43] FTC Press Release, January 29, 2001, *supra* note 41, at ¶ 1.

Table 1: Pipelines In Or Near The Development Area

Pipeline	Owner(s) in 2001 (post-Consent Order)	Current Owner(s)	Capacity (through or by the Development Area)	Pipeline Diameters	Marketed by
Anaconda	El Paso	Enterprise	0.3 Bcfd	20"	Enterprise
ANR Patterson System	El Paso	TransCanada	1.4 Bcfd*	20"-30"-	ANR
Tennessee/Bluewater**	El Paso	El Paso	over 2 Bcfd	26"-30"-36"	Tennessee
Centana Offshore Vermillion System (COVES)***	Duke Energy	PSI Midstream	Not Available	16"	Believed to be PSI
Constitution	Pipeline did not exist. Construction on Constitution was completed in 2005****	Enterprise	0.3 Bcfd	16"	Enterprise
Garden Banks	Shell	Enbridge	1Bcfd	30"	Enbridge
Manta Ray	Enterprise/Shell/Marathon	Enbridge (74 33%), Enterprise (25 67%)	0.8 Bcfd	24"	Enbridge
Nautilus	Enterprise/Shell/Marathon	Enbridge (74 33%), Enterprise (25 67%)	0.6Bcfd	30"	Enbridge
Nemo Pipeline	Enterprise/Tejas	Enbridge (66 1%), Enterprise (33 9%)	0.102 Bcfd	20"	Believed to be Enbridge
Sea Robin	CMS Energy	Southern Union	1Bcfd	30"	Sea Robin
Stingray	Shell/Enterprise	Enbridge (through Starfish)	0.65 Bcfd	36"	Enbridge
Tarpon/Green Canyon	Williams	Williams	0.3 Bcfd*****	16"	Williams
Transco	Williams	Williams	Over 300MMcfd	24"	Transco
Trunkline	CMS Energy	Southern Union	Over 1 Bcfd	20"-26"	Trunkline

* ANR is 1.4 Bcfd south of the Paterson compressor station to offshore, and is estimated at about 1.2 Bcfd across the Eugene Island 188 block.

** In 2001, El Paso owned 50% of the capacity on Bluewater, with the other 50% controlled by Columbia Gulf. El Paso subsequently bought out Columbia Gulf's interest.

*** COVES connects to a Texas Eastern (TETCO) Pipeline and comes very close to the Development Area. In 2000, both the TETCO and COVES pipelines were owned by Duke Energy. Today, Spectra Energy (a spin-off of Duke) owns TETCO and COVES is owned by PSI Midstream

**** "Enterprise Announces Initial Flows on Constitution Oil and Gas Pipelines," Business Wire, April 12, 2006, available at http 'findarticles.com'p articles/mi m0EIN/is 2006 April 12/ai n26825782/

*****Tarpon is 190 MMcfd and Green Canyon is 220 MMcfd.

The six companies now owning pipelines listed in Table 1 are all effective independent competitors that can serve new wells in or near the Development Area. Short profiles of these firms and their Development Area pipelines are attached as Exhibit 6.

As the Table suggests, there has been a marked change in the pipeline structure in the Central Gulf since 2001, when the Consent Order was issued. Several of the pipelines have changed ownership, and a new pipeline (Constitution) has opened just south of the Development Area. Of greatest significance for the Development Area is that ANR is now an independent competitor rather than owned by El Paso. Since the FTC viewed ANR as El Paso's (TGP Pipeline's) closest competitor, and it was the acquisition of ANR by El Paso that necessitated the remedies imposed in the Order, the re-introduction of ANR as an independent competitor to El Paso constitutes a major structural alteration in the market, and an unforeseen change of fact for purposes of this modification request.

C. Offshore Gulf Production Has Been Declining, Creating Substantial Excess Capacity On Gulf Pipelines And Eliminating Any Bottlenecks That May Have Limited The Ability Of Pipelines To Compete In The Past

In addition to changes involving pipeline ownership and development, there is another significant unforeseen change in market structure since the Order was issued that has increased competition for any new gathering contracts. Natural gas production in the Gulf, including the Development Area, has fallen dramatically. This decline in production has led to a reduction in pipeline flows out of the Gulf (and the Development Area), which in turn has led to substantial unutilized offshore natural gas pipeline capacity. Given the abundance of unused, excess offshore pipeline capacity, any capacity constraints that may have limited the ability of certain pipelines to compete in the Development Area in the past have been eliminated. Put simply, all of the pipelines identified in the preceding section currently have the capacity to carry substantial amounts of additional gas.

Data from the Energy Information Administration (EIA) document the decline in gas production in the Gulf of Mexico. Table 2 shows how withdrawals of gas in the Gulf have declined over the last five years. Withdrawals in 2009 were 22% below the level in 2005.[44]

Table 2: Annual Natural Gas Withdrawals in the Gulf Of Mexico (Bcf), 2005-2009[45]	
2005	3,151
2006	2,914
2007	2,813
2008	2,342
2009	2,447

The number of producing gas wells in the Gulf has also declined dramatically, as shown in Table 3. From 2001 to 2008, the number of producing gas wells in the Gulf fell by more than half, while the number for the United States as a whole increased by 28%.

Table 3: Number of Producing Gas Wells in the U.S. and the Gulf of Mexico, 2001-2008[46]		
Year	U.S.	Gulf of Mexico
2001	373,304	3,271
2002	387,772	3,245
2003	393,327	3,039
2004	406,147	2,781
2005	425,887	2,123
2006	440,516	2,419
2007	452,945	2,552
2008	478,562	1,527

This decline in production has been particularly acute in the Development Area. As Table 4 shows, in 2009, production in the Development Area decreased by 76% to less than 24% of

---

[44] Based on current 2009 estimates from April 2010 release of EIA-914 report. 2009 data are subject to revisions and will not be final until August of 2010.
[45] Data are from EIA.
[46] Data are unavailable for 2000 and 2009. Data are from www.tonto.eia.doe.gov/dnav/ng/ng_prod_wells_s1_a.htm.

what it was in 2000. In the 2009, the development area produced only 0.2% of U.S. natural gas, while in 2000 it produced 1.0%.

Table 4: Natural Gas Production in the Development Area and the United States (MMCF), 2000-2009[47]			
Year	Development Area	U.S. Total	Share*
2000	240,927	24,173,875	1.0%
2001	239,679	24,500,779	1.0%
2002	180,779	23,941,279	0.8%
2003	174,851	24,118,978	0.7%
2004	149,314	23,969,678	0.6%
2005	118,254	23,456,822	0.5%
2006	94,555	23,535,018	0.4%
2007	94,120	24,663,656	0.4%
2008	66,218	25,754,348	0.3%
2009	56,648	26,176,700	0.2%

* rounded to one decimal point

The declining production in the Gulf has led to substantial unused, excess capacity on the pipelines in the Gulf, including the Development Area. El Paso's own experience, along with general knowledge of industry conditions, indicates that no pipeline that serves this area of the Gulf is close to full capacity. For example, El Paso's TGP is currently only receiving approximately 252 MMcf/d from wells in the Central Gulf, roughly one-eighth of total TGP capacity.[48] Table 5 gives El Paso's best estimates of the capacity utilization of pipelines that serve the Central Gulf during March 2010, the most recent month for which data are available. As demonstrated in the Table, all these pipelines have substantial excess capacity. ANR is the pipeline with the highest rate of capacity utilization, and even that uses only 51% of capacity. No other pipeline uses more than 34% of capacity.

[47] El Paso acquired the Development Area data from HPDI. U.S. Production data are from the Energy Information Administration (EIA), U.S. Natural Gas Gross Withdrawals and Production, available at www.tonto.eia.doc.gov/dnav/ng/ng_prod_sum_dcu_nus_m.htm.

[48] To put unused capacity on TGP to use, El Paso has actually been routing up to 275 mcf/d of gas from onshore to offshore lines as an alternative way to move this gas to the East.

Table 5: Pipeline Excess Capacity, March 2010[49]

Pipeline	Capacity (Bcfd)	Throughput (MMcfd)	Utilization Rate
Sea Robin	1.0	339	34%
Trunkline	1.5	307	20%
ANR	1.4*	719	51%
Nautilus	0.6	146	24%
Garden Banks	1.0	254	25%
Transco	1.0	201	20%
Bluewater/TGP	2.0	252	13%

* ANR is 1.4 Bcfd south of the Paterson compressor station to offshore, and is estimated at about 1.2 Bcfd across the Eugene Island 188 block.

Given the current relatively low capacity utilization levels, bottlenecks cannot possibly limit the ability of pipelines in the Development Area to compete for new wells, should any such wells be discovered. Moreover, there is good reason to believe that capacity utilization levels will remain low, since continuing declines in offshore production are projected.[50]

D. Decline in Exploration And New Wells Not Only Implies Continued Excess Pipeline Capacity, But Also Makes It Unlikely That Development Fund Will Be Used

In addition to the unexpected decline in production of gas in the Gulf,[51] there has been a corresponding decline in exploration for and discovery of gas in the offshore area, including the Development Area.[52] Because of a number of structural changes in the gas markets, there has been a clear shift in natural gas exploration efforts towards onshore shale gas, indicating that it is very unlikely that there will be gas discoveries in the Development Area before the Fund expires in 2021.

---

[49] Data were obtained by El Paso from Velocity Suite, a service of Ventyx.

[50] See "Annual Energy Outlook 2010 Reference Case," Remarks by Richard G. Newell, Administrator EIA, December 14, 2010, available at www.ascension-publishing.com/BIZ/HD18-2010.pdf, p. 17. This information is also at EIA, "The U.S. Energy Outlook," remarks by John Conti, April 10, 2010, available at www.eia.doe.gov/conference/2010/session3/conti.pdf, p. 12.

[51] In 2000, the Energy Information Administration (EIA) in its *Annual Energy Outlook 2000* forecast natural gas production in the Gulf of Mexico from 2000 to 2020. It predicted that in 2010, natural gas production in the Gulf would be 3% above the level in 2000. www.eia.doe.gov/oiaf/archive/aeo00/supplement/sup2kg.pdf.

[52] In 2000, the FTC thought that the then-recent Tanzanite discovery (Eugene Island 346, which is in the Development Area) was evidence that other similar discoveries would be made in the area in the near future. However, this has not proved to be the case. (Anadarko began producing gas and oil from a well in Eugene Island 346 in January 2001. www.anadarko.com/Investor/Pages/NewsReleases/NewsReleases.aspx?release-id=148186.)

Quite simply, the Central Gulf is not the focus of aggressive natural gas exploration and discovery. Reduced gas prices and, more importantly, the identification of far superior inland shale plays, have shifted gas exploration and development efforts to fields on land where gas can be obtained at lower cost and at lower risk.[53]

The shift in gas exploration away from the Gulf is evidenced by data on the number of rigs targeting gas in the Gulf of Mexico. As is shown in Table 6, the number of rotary rigs drilling for natural gas in the Gulf of Mexico has fallen from over 100 at the end of 2000 to just 22 at the end of 2009. The Gulf of Mexico had 12% of all rigs drilling for gas at the end of 2000, but only 3% at the end of 2009. Using the most recent data available, for the week of April 17, 2010, the gas rig count in the Gulf remains low, 25, less than one-quarter the level at the end of 2000 and only 3% of all U.S. rigs drilling for gas.

Table 6: Rigs Drilling For Gas in the Gulf of Mexico as a Share of U.S. Rigs Drilling For Gas, Current and End of Year, 2000-2009[54]

Area	Gulf of Mexico	U.S. Total	Share of Total
2000	105	879	12%
2001	108	748	14%
2002	99	722	14%
2003	94	966	10%
2004	93	1058	9%
2005	39	1234	3%
2006	80	1425	6%
2007	56	1452	4%
2008	62	1347	5%
2009	22	759	3%
4/17/10	25	973	3%

[53] Daniel Yergin and Robert Ineson, "America's Natural Gas Revolution," *The Wall Street Journal*, Nov. 2, 2009, available at http://online.wsj.com/article/SB10001424052748703399204574507440795971268.html
[54] Source: "North America Rotary Rig Counts," Baker Hughes; www.wtrg.com/rotaryrigs.html#Weekly.

The main reason for the decline in Gulf exploration and new wells is that it is cheaper and less risky today to search for and retrieve natural gas from other locations. This is true because of improvements in horizontal drilling and fracturing techniques that have occurred since 2000.[55] Specifically, changes in technology have made it cheaper and less risky to extract natural gas from hard rock formations known as shales. The result has been a dramatic shift in gas production. According to Richard Newell, Administrator of the EIA, "Over the last decade, U.S. shale gas production has increased 8-fold."[56] According to Mr. Newell, the "EIA expects shale gas and Alaska production increases to more than offset declines in other supplies."[57] He also called shale gas, "the primary source of recent growth in U.S. technically recoverable natural gas resources."[58]

The advancement of onshore shale gas has put offshore natural gas development at a competitive disadvantage, both from an economic and risk perspective. Not only are well economics and high success rates favoring onshore development, but concerns about hurricanes and other uncertainties offshore have intensified because of recent experiences that forced closures and reconstruction of natural gas infrastructure.[59] These disincentives for offshore

---

[55] Yergin and Ineson, *supra* note 53.

[56] "Shale Gas: A Game Changer for U.S. and Global Gas Markets?" Remarks by Richard G. Newell, Administrator EIA at Flame – European Gas Conference, Amsterdam, March 2, 2010, available at www.energyindepth.org/wp-content/uploads/2009/03/EIA_Shale-Gas.pdf, p. 8.

[57] "Shale Gas: A Game Changer for U.S. and Global Gas Markets?" op. cit., p. 13.

[58] *Id.* at 10. Even in the unlikely event that all new shale gas exploration ceased tomorrow (for environmental or other unexpected reasons), the amount of new inland gas reserves discovered in the last few years makes it highly unlikely that producers would refocus on offshore drilling in the Gulf. Despite a nearly 7% increase in the amount of natural gas produced in the U.S. from 2000 to 2008, proven U.S. reserves increased by 38% during that time, from 177.4 to 244.7 trillion cubic feet. EIA, Dry Natural Gas Proven Reserves and Production, available at http://tonto.eia.doc.gov/dnav ng hist rngr11nus 1a.htm and http:/ tonto.eia.doe.gov/dnav/ng/hist/rngr11nus_1a.htm. Those reserves now amount to more than a 10-year supply of natural gas at current U.S. consumption levels, even if none of the nation's 1,536 trillion "unproven" but "technically recoverable" natural gas is harvested (an implausible scenario). EIA, Annual U.S. Natural Gas Consumption, available at http://www.eia.doc.gov/dnav/ng/hist/n9140us2A.htm; EIA, Assumptions to the Annual Energy Outlook, 2009, available at http://www.eia.doe.gov/oiaf/aco/assumption/pdf/tbl9.2.pdf Other industry analysts estimate that discovered natural gas in North America is already closer to a 100-year supply. IHS CERA, "Fueling North America's Energy Future," Executive Summary at ES-4, available at http://www2.cera.com/docs/Executive_Summary.pdf. For El Paso's TGP line alone, new shale gas has led to 4 billion cff/d of additional onshore gas connections either already in service or under construction.

[59] *See e.g.*, EIA Report on Hurricane Impacts on U.S. Energy, "Hurricane Impacts on the U.S. Oil and Natural Gas Markets," available at http:/.tonto.eia.doe.gov/oog/special/eia1_katrina.html

development may well be the reason that, to the best of El Paso's knowledge, the Development Fund has not been tapped for a single project.

E. Pricing Trends Do Not Encourage Off Shore Drilling and Exploration

Furthermore, pricing trends make it unlikely that there will be many more natural gas wells drilled in the Development Area before the Fund expires. In 2000, the price of natural gas was rising and expected to continue to increase. But prices peaked in July of 2008 (at over $11.00 per mcf) and are much lower today (e.g., prices fell below $4.00 per mcf in 2009), in part due to the abundance of new shale gas discoveries.[60] The EIA expects the availability of shale gas to restrain natural gas prices in its projections that extend to 2035.[61] According to the EIA, the average wellhead price of natural gas in 2008 dollars is likely to very slowly rise over the next 11 years and reach $6.12 per mcf in 2021, the year the Development Fund is set to expire.[62] Generally, shale gas can be produced for approximately half the cost of offshore production for an equivalent return.[63] This is particularly significant considering the current price environment for natural gas.

Price projections from IHS Global Insight show levels only slightly higher than those projected by the EIA.[64] Such prices are too low to make it profitable to increase gas exploration and development in the Development Area.[65] Based on foreseeable supply and demand relationships, El Paso believes it is unlikely that the price will return to a level that makes it economically feasible to drill enough wells to support construction of new pipeline infrastructure in the Development Area in the foreseeable future.[66]

---

[60] Gas prices fell to $2.92 in September 2009 and then rallied, probably because of seasonal demand, to reach $5.14 in January 2010. They fell to $4.89 in February 2010. Price data are from the U.S. EIA, tonto.eia.doe.gov/dnav/ng/hist/n9190us3m.htm.
[61] "Shale Gas: A Game Changer for U.S. and Global Gas Markets?" op. cit., p. 16.
[62] EIA, "Annual Energy Outlook, 2010," Table 13, www.eia.doe.gov/oiaf/aeo/aeoref_tab.html.
[63] Based on development breakeven estimates supplied to El Paso by Wood Mackenzie, an energy industry research and consulting firm, June 2010.
[64] EIA, "The U.S. Energy Outlook," remarks by John Conti, April 10, 2010, available at www.eia.doe.gov/conference/2010/session3/conti.pdf, p. 10.
[65] A stable price of at least $7 per mcf would be required to make it worthwhile to drill.
[66] Affidavit of Joseph J. Wyzik in Support of Petition to Reopen and Modify Order, attached as Exhibit 8.

F. Williams Does Not Oppose Termination of the Fund

As noted previously, diminished offshore gas production and exploration, along with increased inland discoveries and lower gas prices, have reduced the demand for new pipeline capacity in the Gulf. Furthermore, these production, exploration, and pricing trends are not expected to reverse in the foreseeable future.[67] There have not been any qualifying projects that have arisen over the last nine years and for the reasons just stated, it is highly likely that unless the Order is modified, the entire Development Fund will remain unused until the money is returned to El Paso in 2021. Williams does not oppose return of the Development Fund to El Paso.

III. Legal Standard for Reopening and Modification

A. Changed Conditions of Law or Fact

Section 5(b) of the Federal Trade Commission Act, 15 U.S.C. §45(b), provides that the Commission shall reopen a final order to consider whether it should be altered, modified, or set aside, in whole or in part, if the applicant makes a satisfactory showing that "changed conditions of law or fact" so require.[68] A satisfactory showing is demonstrated when the request to reopen identifies a significant and unforeseen change in condition and shows that this change eliminates the need for the order or makes continued application of it inequitable or harmful to competition.[69]

The burden is on Respondent to make the requisite satisfactory showing.[70] The burden is not a light one, but the Commission has consistently granted reopening and modification where

---

[67] *See* Yergin and Ineson, *supra* note 53, noting, "The recent increase in estimated U.S. gas reserves by the Potential Gas Committee, representing both academic and industry experts, is in itself equivalent to more than half of the total proved reserves of Qatar, the new LNG powerhouse. With more drilling experience, U.S. estimates are likely to rise dramatically in the next few years. At current levels of demand, the U.S. has about 90 years of proven and potential supply—a number that is bound to go up as more and more shale gas is found."

[68] Section 5 (b) of the Federal Trade Commission Act, 15. U.S.C. §45(b).

[69] Rep. No. 96-500, 96th Cong., 2nd Sess. 9 (1979). *See also In the Matter of Entergy Corporation,* Docket No. C-3998, 140 F.T.C 1125, 1127 (July 1, 2005).

[70] *In the Matter of MidCon Corporation*, Docket No. 9198, Order Modifying Order, 111 F.T.C. 100 (Feb. 6, 1986).

there are changed circumstances and where the remedial purpose of the Order being modified will still be fulfilled following modification. A satisfactory showing has been demonstrated both in cases in which a new competitor entered the relevant market, thus restoring competition and making divestiture unnecessary (*see In the Matter of The Penn Traffic Company*, Order Reopening and Modifying Order, Docket No. C-3577 (Jan. 10, 1997); *In the Matter of Arkla, Inc.*, Order Modifying Order, 119 F.T.C. 413 (April 5, 1995)) and cases in which the respondent subsequently sold off an asset in the relevant market, thus removing one of the "offending assets" that prompted the Commission's concern and restoring an independent competitor (*see In the Matter of MidCon Corporation*, Docket No. 9198, Order Modifying Order, 111 F.T.C. 100 (Feb. 6, 1986); *In the Matter of Entergy Corporation*, Docket No. C-3998, 140 F.T.C. 1125, Order Reopening and Setting Aside Order (July 1, 2005)).

In *Penn Traffic*, for example, the Commission concluded that the unforeseen entry of a new competitor, a Wal-Mart Supercenter, restored the competitive balance that existed prior to Penn Traffic's two-to-one merger with a competing supermarket firm. The FTC therefore removed its requirement that Penn Traffic divest one of its stores.[71]

Likewise in *Arkla*, a natural gas pipeline case, the FTC concluded that an unforeseen increase in entry and pipeline capacity in the market (prompted by new FERC rules), coupled with flat natural gas production, had led to excess capacity and unexpectedly vigorous competition in the market. As a result, Arkla no longer possessed the kind of market power that necessitated divestiture. The FTC set aside its divestiture order based on these changed circumstances.[72]

In another natural gas pipeline matter, *Midcon*, the Commission order required Midcon to divest gas pipelines after acquiring an interest in United Gas Pipelines, a competitor in the Baton Rouge-New Orleans pipeline "corridor." The Commission set aside its divestiture requirement after MidCon sold its United interest to a third party, thus removing the "offending asset" that

---

[71] *In the Matter of The Penn Traffic Company*, Order Reopening and Modifying Order, Docket No. C-3577, ¶ 8. (Jan. 10, 1997,

[72] *In the Matter of Arkla, Inc.*, Order Modifying Order, 119 F.T.C. 413, 1995 FTC LEXIS 76, *11 (April 5, 1995).

prompted the FTC's concern, and restoring the corridor market to its pre-merger competitive state.[73]

B. Public Interest

Modification may also be justified if it is in the public interest.[74] For this to apply, a petitioner must make a *prima facie* "satisfactory showing" of a legitimate public interest reason or other reasons justifying the requested modification.[75] This showing requires a petitioner to demonstrate, for example, that there is a more effective or efficient way of achieving the purposes of the order; or that the order in whole or part is no longer needed; or that there is some other clear public interest that would be served if the Commission were to grant the requested relief.[76] This showing must be supported by evidence that is credible and reliable.[77] After determining that the requester has made this *prima facie* showing, the Commission will balance the reasons for and against modification.

A satisfactory showing has been demonstrated in a variety of cases, including several in which the Commission determined it was futile to continue imposing consent order requirements, and that eliminating such requirements would not harm competition in the market. (*See In the Matter of Institut Merieux S.A.*, Modifying Order in Regard to Alleged Violation of Sec. 7 of the Clayton Act and Sec. 5 of the Federal Trade Commission Act, 117 F.T.C. 473 (April 22, 1994)) and *In the Matter of Cooper Industries, Inc.*, Docket No. C-3469, Order Reopening and Modifying Order (Dec. 15, 1997).

In *Cooper Industries*, for instance, the Commission set aside an order requiring Cooper to license its technology after concluding that it was futile for Cooper to keep trying, since four years had passed without a willing buyer coming forward, and the value of the license had since

---

[73] *In the Matter of MidCon Corporation*, Docket No. 9198, Order Modifying Order, 111 F.T.C. 100 (Feb. 6, 1986).
[74] *Id.*
[75] *See* Requests to Reopen, Supplementary Information, 65 Fed. Reg. 50,636 50,637 (Aug. 21, 2001) *amending* 16 C.F.R. § 2.51(b).
[76] *In the Matter of Johnson & Johnson*, Docket No. C-4154, Order Reopening and Setting Aside Order, ¶ 9 (May 25, 2006).
[77] *Id.*

declined considerably.[78] Similarly, in *Institut Merieux*, the Commission removed its requirement that Merieux lease a business to potential new entrants after concluding that there was no realistic possibility of finding a taker, despite good faith efforts for two years by the company.[79]

IV. Modification is Appropriate Under Both the Change of Fact and Public Interest Standards

The purpose of the Commission's Consent Order was to remedy the alleged lessening of competition caused by the merger of Coastal and El Paso. This goal was accomplished by requiring various divestitures and, for a particular area of the Central Gulf labeled the Development Area, requiring the creation and maintenance of a $40 million Development Fund to subsidize new competition. That subsidy is no longer necessary because of changed circumstances that could not have been foreseen at the time of the Order. In particular, the subsequent sale of ANR by El Paso to TransCanada in January 2007 introduced a strong new entrant into the Development Area. By restoring ANR to its pre-merger status as a competitive independent pipeline in the Development Area, this sale, in and of itself, constitutes a change of fact sufficient to support modification of the Consent Order and removal of the Development Fund requirement.

In addition, as noted in Section II:

- with six independent pipeline companies currently operating in or near the Development Area, the Central Gulf market is competitive;

- the unanticipated decline in natural gas production in the Gulf has created excess capacity thus eliminating potential bottlenecks that might have limited the ability of some pipelines to compete;

[78] *In the Matter of Cooper Industries, Inc.*, Docket No. C-3469, Order Reopening and Modifying Order, ¶ 11 (Dec. 15, 1997)

[79] *In the Matter of Institut Merieux S.A.*, Modifying Order in Regard to Alleged Violation of Sec. 7 of the Clayton Act and Sec. 5 of the Federal Trade Commission Act, 117 F.T.C. 473 (April 22, 1994).

- the focus of natural gas exploration and discovery has shifted from offshore to inland shale plays, with the result that capacity constraints in the Central Gulf are unlikely to arise in the future; and

- with the focus of exploration and discovery now on less expensive and more abundant inland shale plays, and the price of natural gas at low levels and likely to stay that way, it is unlikely there will be competitions and opportunities for which the Development Fund could be of use within the next 11 years.

Changed circumstances have thus made it possible to eliminate the Development Fund without causing an impact on competition in the natural gas transportation market in the Central Gulf, and without affecting the remedial purpose of the FTC's Order. As in *Midcon, Arkla,* and *Penn Traffic,* unforeseen changes of circumstance since the Consent Order have more than restored the competitive balance in the market, thus rendering a Consent Order requirement unnecessary.

Furthermore, returning the Development Fund to El Paso is in the public interest because there is no social value in requiring El Paso to continue to maintain a $40 million fund that will go unused. As in *Cooper Industries* and *Institut Merieux,* it would be futile to maintain the Order's requirement, since changes in the production, exploration, and pricing of natural gas, which most certainly contributed to the lack of any qualifying projects in the Development Area over the last nine years, will very likely eliminate any opportunity for Williams to use the Development Fund for the remainder of the term. Returning the money now will enable El Paso to use the funds productively in its on-going operations.

V. Conclusion

In sum, changes in circumstance have made the Development Fund unnecessary to protect competition. Given this fact, and the fact that the funds could be employed more productively, it is in the public interest to close the Development Fund. El Paso thus respectfully requests that the Commission reopen its Decision and Order, eliminate Section V.(D) in its entirety, along with corresponding definitions in Sections I.(F), (I), and (YY), and order the Monitor Trustee to return all principal and interest in the Development Fund to El Paso within 30 days.

Dated: June 28, 2010

Respectfully submitted

by Paul Spelman

Neil W. Imus

Neil W. Imus
VINSON & ELKINS LLP
1455 Pennsylvania Ave. NW
Washington, DC 20004
Telephone: (202) 639-6775
Facsimile: (202) 879-8875
Email: nimus@velaw.com
Counsel for El Paso Corporation

EXHIBIT 1

001-0086

UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION

COMMISSIONERS:	**Robert Pitofsky, Chairman** **Sheila F. Anthony** **Mozelle W. Thompson** **Orson Swindle** **Thomas B. Leary**

In the matter of **El Paso Energy Corporation,** a corporation, and **The Coastal Corporation,** a corporation.	Docket No. **C-3996**

DECISION AND ORDER

The Federal Trade Commission ("Commission") having initiated an investigation of the proposed acquisition by Respondent El Paso Energy Corporation of certain voting securities of Respondent The Coastal Corporation and Respondents having been furnished thereafter with a copy of a draft of Complaint that the Bureau of Competition proposed to present to the Commission for its consideration and that, if issued by the Commission, 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; and

Respondents and Dominion Resources, their attorneys, and counsel for the Commission having thereafter executed an Agreement Containing Consent Orders ("Consent Agreement"), an admission by Respondents of all the jurisdictional facts set forth in the aforesaid draft of Complaint, a statement that the signing of the Consent Agreement is for settlement purposes only and does not constitute an admission by Respondents that the law has been violated as alleged in such Complaint, or that the facts as alleged in such Complaint, other than jurisdictional facts, are true, and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having 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, and having thereupon issued its Complaint and its Order to

Maintain Assets and having accepted the executed Consent Agreement and placed such Consent Agreement on the public record for a period of thirty (30) days for the receipt and consideration of public comments, now in further conformity with the procedure described in Commission Rule 2.34, 16 C.F.R. § 2.34, the Commission hereby makes the following jurisdictional findings and issues the following Decision and Order ("Order"):

1. Respondent El Paso Energy Corporation 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 1001 Louisiana Street, Houston, Texas 77002.

2. Respondent The Coastal Corporation 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 Nine Greenway Plaza, Houston, Texas 77046.

3. Dominion Resources is a corporation organized, existing and doing business under and by virtue of the laws of the State of Virginia with its office and principal place of business located at 120 Tredegar Street, Richmond, Virginia 23219.

4. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the Respondents and the proceeding is in the public interest.

ORDER

I.

IT IS ORDERED that, as used in this Order, the following definitions shall apply:

A. "El Paso" means El Paso Energy Corporation, its directors, officers, employees, agents, representatives, successors, and assigns; its subsidiaries, divisions, groups, and affiliates controlled by El Paso, and the respective directors, officers, employees, agents, representatives, successors, and assigns of each.

B. "Coastal" means The Coastal Corporation, its directors, officers, employees, agents, representatives, successors, and assigns; its subsidiaries, divisions, groups, and affiliates controlled by Coastal, and the respective directors, officers, employees, agents, representatives, successors, and assigns of each.

C. "Dominion Resources" means Dominion Resources, Inc., its directors, officers, employees, agents, representatives, successors, and assigns; its subsidiaries, divisions, groups, and affiliates controlled by Dominion Resources, and the respective directors, officers, employees, agents, representatives, successors, and assigns of each.

D. "Acquisition" means the transaction described in the Agreement and Plan of Merger between El Paso and Coastal, dated January 17, 2000, pursuant to which El Paso agreed to acquire certain voting securities of Coastal.

E. "Commission" means the Federal Trade Commission.

F. "Development Area" means South Marsh Island Blocks 57 through 70, South Marsh Island South Addition Blocks 71 through 81 and 92 through 97, Eugene Island Blocks 201 through 266, Eugene Island South Addition Blocks 267 through 311, 315 through 330, 338 through 353, 361 through 374, and 384 through 389, Ewing Bank Blocks 937 through 940 and 978 through 985, Green Canyon Blocks 8 through 15 and 54 through 59, Ship Shoal Blocks 149 through 154, 172 through179, and 196 through 203, and Ship Shoal South Addition Blocks 248, 249, 270 through 273, 294 through 297, 318 through 321, 341 through 346, and 362 through 365.

G. "Duke Energy" means Duke Energy Gas Transmission Corporation, a corporation organized, existing and doing business under and by virtue of the laws of Delaware, with its office and principal place of business located at 5400 East Heimer Court, Houston, Texas 77056.

H. "East Breaks Gathering Company" means East Breaks Gathering Company, L.L.C., a limited liability company organized, existing and doing business under and by virtue of the laws of Delaware, with its office and principal place of business located at 1001 Louisiana Street, Houston, Texas 77002.

I. "Eligible Facility" means any natural gas pipeline or facility directly connected to such pipeline that (i) serves producers in the Development Area, (ii) originates at any pipeline owned by the Green Canyon/Tarpon Acquirer, or any subsidiary or affiliate of the Green Canyon/Tarpon Acquirer, and (iii) extends to a point more than two miles from any pipeline owned by the Green Canyon/Tarpon Acquirer, or any subsidiary or affiliate of the Green Canyon/Tarpon Acquirer, immediately after it acquires the Green Canyon/ Tarpon Assets.

J. "Empire Acquirer" means the Person that acquires the Empire Assets.

K. "Empire Assets" means all of Coastal's rights, title, and interest in the Empire State Pipeline and Empire State Pipeline Company.

L. "Empire State Pipeline" means the natural gas pipeline known as the Empire State Pipeline that originates near Niagara, New York, and extends approximately 157 miles to its interconnection with the facilities of Niagara Mohawk Power Corporation, 15 miles northwest of Syracuse, New York.

M. "Empire State Pipeline Company" means the Empire State Pipeline Company, Inc., a corporation organized, existing and doing business under and by virtue of the laws of New York, with its office and principal place of business located at 500 Renaissance Center, Detroit, Michigan 48243.

N. "Empire Purchase Agreement" means the Stock Purchase and Sale Agreement between American Natural Resources Company and Westcoast Energy Enterprises (U.S.), Inc., dated November 6, 2000, including all related amendments, agreements, schedules, exhibits, and appendices.

O. "Enterprise Products" means Enterprise Products Operating L.P., a limited partnership organized, existing and doing business under and by virtue of the laws of Delaware, with its office and principal place of business located at 2727 North Loop West, Suite 700, Houston, Texas 77008.

P. "Green Canyon Gathering System" means the natural gas gathering system located in the central Gulf of Mexico consisting of approximately 68 miles of 10-inch to 20-inch diameter pipeline that transports natural gas from South Marsh Island, Eugene Island, Garden Banks, and Green Canyon areas to Transcontinental Gas Pipeline's South Lateral in South Marsh Island Block 106, and related facilities.

Q. "Green Canyon/Tarpon Acquirer" means the Person that acquires the Green Canyon/ Tarpon Assets.

R. "Green Canyon/Tarpon Assets" means (1) the assets listed on Exhibit A to the Green Canyon/Tarpon Purchase Agreement, and (2) all of El Paso's rights, title, and interest in the Green Canyon Gathering System, Tarpon Pipeline, and Tarpon Transmission Company.

S. "Green Canyon/Tarpon Purchase Agreement" means the Purchase and Sale Agreement by and among El Paso Energy Partners, L.P., Green Canyon Pipeline Company, L.P. and Williams Field Services - Gulf Coast Company, L.P., dated December 8, 2000, including all related amendments, agreements, schedules, exhibits, and appendices.

T. "Guardian Pipeline" means the natural gas pipeline (with a planned initial capacity of approximately 750 million cubic feet per day) to be constructed at a point near Joliet, Illinois, and extending to a point near Ixonia, Wisconsin, as described in the Application of Guardian Pipeline, L.L.C. for Certificates of Public Convenience and Necessity, FERC Docket Nos. CP00-36-000, CP00-37-000, and CP00-38-000.

U. "Guardian Interconnection" means a pipeline interconnection between MGT Pipeline and Guardian Pipeline at or near Joliet, Illinois, with capacity of at least 450 million cubic feet per day of natural gas, to be constructed on commercially reasonable terms agreed to between the MGT Acquirer and the owner or representative of the Guardian Pipeline.

V. "Gulfstream Acquirer" means the Person that acquires the Gulfstream Assets.

W. "Gulfstream Assets" means all of Coastal's rights, title, and interests in the Gulfstream Pipeline and Gulfstream Natural Gas System.

X. "Gulfstream Confidential Information" means any information relating to the Gulfstream Assets obtained by Respondent El Paso in the course of evaluating the Acquisition or obtained from any Coastal employee, agent, or representative who remains or becomes employed by Respondents, provided, however, that Gulfstream Confidential Information shall not include information already within the public domain.

Y. "Gulfstream Natural Gas System" means Gulfstream Natural Gas System, L.L.C., a limited liability company organized, existing and doing business under and by virtue of the laws of Delaware, with its office and principal place of business located at Nine Greenway Plaza, Houston, Texas 77046.

Z. "Gulfstream Pipeline" means the natural gas pipeline (with a planned initial capacity of approximately 1.1 billion cubic feet per day) to be constructed at a point near Mobile Bay, Alabama, and extending across the Gulf of Mexico to a point south of Tampa, Florida, and extending on land in an easterly direction branching out to serve markets across central and southern Florida, as described in the Application of Gulfstream Natural Gas System, L.L.C. for Certificate of Public Convenience and Necessity, FERC Docket Nos. CP00-6-000, CP00-7-000, and CP00-8-000.

AA. "Gulfstream Purchase Agreement" means the Amended and Restated Acquisition Agreement by and among Duke Energy Gas Transmission Corporation, Williams Gas Pipeline Company, ANR Gulfstream, L.L.C. and Coastal Southern Pipeline Company, dated December 8, 2000, including all related amendments, agreements, schedules, exhibits, and appendices.

BB. "Iroquois Assets" means all of Coastal's rights, title, and interest in the Iroquois Gas Transmission System.

CC. "Iroquois Gas Transmission System" means Iroquois Gas Transmission System, L.P., a limited partnership organized, existing and doing business under and by virtue of the laws of Delaware, with its office and principal place of business located at One Corporate Drive, Suite 600, Shelton, Connecticut 06484.

DD. "Iroquois Pipeline" means the natural gas pipeline that originates near the United States/Canadian border at Waddington, New York, and extends approximately 375 miles to Long Island, New York.

EE. "Johnson Bayou Plant" means the production handling facility that provides liquids separation and gas dehydration services for UTOS Pipeline System that is located at the onshore terminus of UTOS Pipeline System in Cameron Parish, Louisiana.

FF. "Long Term Firm Transportation" means the provision of natural gas pipeline transportation for a period greater than one year that is not subject to a prior claim by another pipeline customer or another class of transportation service and cannot be interrupted except in a situation of force majeure.

GG. "Manta Ray Acquirer" means the Person that acquires the Manta Ray Assets.

HH. "Manta Ray Assets" means all of El Paso's rights, title, and interest in the Manta Ray Pipeline System, Nautilus Pipeline, Nemo Pipeline System, Sailfish Pipeline Company, and Moray Pipeline Company.

II. "Moray Pipeline Company" means Moray Pipeline Company, L.L.C., a limited liability company organized, existing and doing business under and by virtue of the laws of Delaware, with its office and principal place of business located at 1001 Louisiana Street, Houston, Texas 77002.

JJ. "Manta Ray Pipeline System" means the natural gas pipeline system known as Manta Ray Pipeline System located in the east central Gulf of Mexico, including but not limited to, approximately 237 miles of 12-inch to 24-inch diameter pipeline that transports natural gas within the areas of Green Canyon, Ewing Bank, Ship Shoal, Grand Isle, and South Timbalier areas to ANR Pipeline Company and Nautilus Pipeline Company in Ship Shoal Block 207 and CMS Trunkline in South Timbalier Block 280 and Transcontinental Gas Pipeline's Southeast Louisiana lateral in Ship Shoal Block 332.

KK. "Manta Ray Purchase Agreement" means the Purchase and Sale Agreement by and among El Paso Energy Partners, L.P. and El Paso Energy Partners Company and Enterprise Products Operating L.P., dated December 8, 2000, including all related amendments, agreements, schedules, exhibits, and appendices.

LL. "MGT Acquirer" means the Person that acquires the MGT Assets.

MM. "MGT Assets" means all of El Paso's rights, title, and interest in the MGT Pipeline, Midwestern Gas Transmission Company, and Midwestern Gas Marketing Company.

NN. "MGT Pipeline" means the natural gas pipeline known as the Midwestern Gas Transmission pipeline that originates near Portland, Tennessee, and extends approximately 350 miles to a point near Joliet, Illinois.

OO. "Midwestern Gas Transmission Company" means Midwestern Gas Transmission Company, a corporation organized, existing and doing business under and by virtue of the laws of Delaware, with its office and principal place of business located at 1001 Louisiana Street, Houston, Texas 77002.

PP. "Midwestern Gas Marketing Company" means Midwestern Gas Marketing Company, a corporation organized, existing and doing business under and by virtue of the laws of Delaware, with its office and principal place of business located at 1001 Louisiana Street, Houston, Texas 77002.

QQ. "Monitor Trustee" means the Monitor Trustee appointed pursuant to Paragraph XI of this Order.

RR. "Nautilus Pipeline System" means the natural gas pipeline system known as Nautilus Pipeline System located in the east central Gulf of Mexico, including but not limited to, approximately 101 miles of 30-inch diameter pipeline that transports natural gas from the Manta Ray junction platform in Ship Shoal Block 207 to delivery point interconnections downstream of the outlet of the Garden City Gas Processing Plant in St. Mary Parish, Louisiana and delivery point interconnects downstream at the outlet of the Neptune Gas Processing Plant.

SS. "Nemo Pipeline" means the natural gas gathering system known as Nemo Pipeline under construction in the east central Gulf of Mexico, including but not limited to, approximately 24 miles of 20-inch diameter pipeline that will transport natural gas from the Brutus and Glider deepwater development properties to Manta Ray Pipeline System.

TT. "Newco" means Starfish Pipeline Company, L.L.C., a limited liability company to be owned by Enterprise Products and Shell Gas Transmission and organized and doing business under and by virtue of the laws of Delaware, with its office and principal place of business located at 1301 McKinney, Suite 700, Houston, Texas 77010.

UU. "Order to Maintain Assets" means the Order to Maintain Assets incorporated into and made a part of the Consent Agreement.

VV. "Person" means any individual, partnership, firm, corporation, association, trust, unincorporated organization or other entity.

WW. "Pipeline Assets" means the assets to be divested pursuant to Paragraphs II and III of this Order.

XX. "Respondents" means El Paso and Coastal, individually and collectively.

YY. "Restricted Development Area" means those portions of the Development Area to the south or southwest of Tarpon, including areas to the south or southwest of Tarpon in the following blocks: Ewing Bank Blocks 937 through 940, and 978 through 985, Green Canyon Blocks 8 through 15, and 54 through 59, Ship Shoal South Addition Blocks 273, 294 through 297, 318 through 321, 341 through 346, and 362 through 365, and Eugene Island South Addition Blocks 323, 324, 343 through 345, 346 through 350, 361 through 374, and 384 through 389.

ZZ. "Sailfish Pipeline Company" means Sailfish Pipeline Company, L.L.C., a limited liability company organized, existing and doing business under and by virtue of the laws of Delaware, with its office and principal place of business located at 1001 Louisiana Street, Houston, Texas 77002.

AAA. "Shell Gas Transmission" means Shell Gas Transmission, L.L.C., a limited liability company organized, existing and doing business under and by virtue of the laws of Delaware, with its office and principal place of business located at 1301 McKinney, Suite 700, Houston, Texas 77010.

BBB. "Stingray Acquirer" means the Person that acquires the Stingray Assets.

CCC. "Stingray Assets" means all of El Paso's rights, title, and interest in the Stingray Pipeline System, West Cameron Dehydration Facility, Stingray Pipeline Company, West Cameron Dehydration Company, and East Breaks Gathering Company.

DDD. "Stingray Pipeline Company" means Stingray Pipeline Company, L.L.C., a limited liability company organized, existing and doing business under and by virtue of the laws of Delaware, with its office and principal place of business located at 1001 Louisiana Street, Houston, Texas 77002.

EEE. "Stingray Pipeline System" means the natural gas pipeline system known as Stingray Pipeline located in the central Gulf of Mexico, including but not limited to, approximately 325 miles of 6-inch to 36-inch diameter pipeline that transports natural gas from the High Island, West Cameron, East Cameron, Vermilion, and Garden Banks areas to onshore transmission systems at Holly Beach and Cameron Parish, Louisiana, and eighteen former NGPL laterals connected to the Stingray Pipeline and located in the East Cameron, Vermilion, and West Cameron areas.

FFF. "Stingray Purchase Agreement" means the Purchase and Sale Agreement by and among Deepwater Holdings, L.L.C, and Enterprise Products Operating L.P., Shell Gas Transmission, L.L.C., and Newco, L.L.C., dated December 8, 2000, including all related amendments, agreements, schedules, exhibits, and appendices.

GGG. "Tarpon Pipeline" means the natural gas gathering system known as Tarpon located in the central Gulf of Mexico, including but not limited to, approximately 40 miles of 16-inch diameter pipeline that extends from Trunkline at Ship Shoal Block 274 to the Eugene

Island area of the Gulf.

HHH. "Tarpon Transmission Company" means the Tarpon Transmission Company, a corporation organized, existing and doing business under and by virtue of the laws of Texas, with its office and principal place of business located at 1001 Louisiana Street, Houston, Texas 77002.

III. "Transitional Pipelines" means the Empire State Pipeline, MGT Pipeline, Stingray Pipeline System, and UTOS Pipeline, individually and collectively.

JJJ. "UTOS Acquirer" means the Person that acquires the UTOS Assets.

KKK. "UTOS Assets" means all of El Paso's rights, title, and interest in the UTOS Pipeline, Johnson Bayou Plant, and U-T Offshore System.

LLL. "U-T Offshore System" means U-T Offshore System, L.L.C., a limited liability company organized, existing and doing business under and by virtue of the laws of Delaware, with its office and principal place of business located at 1001 Louisiana Street, Houston, Texas 77002.

MMM. "UTOS Pipeline" means the system known as the U-T Offshore System located in the Gulf of Mexico, including but not limited to, approximately 30 miles of 42-inch diameter pipeline that transports natural gas from an interconnection with the HIOS system at West Cameron Block 167 to the Johnson Bayou Plant.

NNN. "West Cameron Dehydration Facility" means the dehydration facility located at Holly Beach, Cameron Parish, Louisiana, and connected to the onshore terminus of Stingray Pipeline System at Holly Beach, and related facilities.

OOO. "West Cameron Dehydration Company" means West Cameron Dehydration Company, L.L.C., a limited liability company organized, existing and doing business under and by virtue of the laws of Delaware, with its office and principal place of business located at 1001 Louisiana Street, Houston, Texas 77002.

PPP. "Westcoast Energy" means Westcoast Energy, Inc., a corporation organized, existing and doing business under and by virtue of the laws of Canada, with its office and principal place of business located at 1333 West Georgia Street, Vancouver, British Columbia, Canada V8E 3K0.

QQQ. "Williams Field Services" means Williams Field Services - Gulf Coast Company LP, a Delaware limited partnership organized, existing and doing business under and by virtue of the laws of Delaware, with its office and principal place of business located at 1800 South Baltimore, Tulsa, OK 74119.

RRR. "Williams Gas Pipeline" means Williams Gas Pipeline Company, a corporation organized, existing and doing business under and by virtue of the laws of Delaware, with its office and principal place of business located at 2800 Post Oak Boulevard, Houston, Texas 77056.

II.

IT IS FURTHER ORDERED that:

A. Respondents shall divest, absolutely and in good faith:

1. The Gulfstream Assets to Williams Gas Pipeline and Duke Energy, in accordance with the Gulfstream Purchase Agreement (which agreement shall not be construed to vary from or contradict the terms of this Order), no later than twenty days from the date the Commission accepts the Consent Agreement for public comment;

2. The Empire Assets to Westcoast Energy, in accordance with the Empire Purchase Agreement (which agreement shall not be construed to vary from or contradict the terms of this Order). If, at the time the Commission determines to make this Order final, the Commission determines that Westcoast Energy is not acceptable as the Empire Acquirer or that the Empire Purchase Agreement is not an acceptable manner of divestiture, and so notifies Respondents, Respondents shall immediately terminate the Empire Purchase Agreement and divest the Empire Assets, at no minimum price, to another Person that receives the prior approval of the Commission and in a manner that receives the prior approval of the Commission. Respondents shall divest to Westcoast or such Person no earlier than the date this Order becomes final and no later than ten days after the later of (1) the date this Order becomes final or (2) the date Respondents receive approval from the New York Public Service Commission, and in any event, no later than 150 days from the date this Order becomes final;

3. The Green Canyon/Tarpon Assets to Williams Field Services, in accordance with the Green Canyon/Tarpon Purchase Agreement (which agreement shall not be construed to vary from or contradict the terms of this Order), no later than twenty days from the date the Commission accepts the Consent Agreement for public comment;

4. The Manta Ray Assets to Enterprise Products, in accordance with the Manta Ray Purchase Agreement (which agreement shall not be construed to vary from or contradict the terms of this Order), no later than twenty days from the date the Commission accepts the Consent Agreement for public comment;

5. The Stingray Assets to Enterprise Products, Shell Gas Transmission, and Newco,

in accordance with the Stingray Purchase Agreement (which agreement shall be construed to vary from or contradict the terms of this Order), no later than twenty days from the date the Commission accepts the Consent Agreement for public comment; and

6. Each of the assets described in Paragraph II.A. of this Order shall be divested pursuant to and in accordance with the corresponding purchase agreement, which agreement shall be incorporated by reference into this Order and made a part hereof. Any failure by Respondents to comply with any term of any such purchase agreement shall constitute a failure to comply with this Order;

Provided, however, that if Respondents have divested any of the assets described in Paragraphs II.A.1., II.A.3., II.A.4., and II.A.5. prior to the date this Order becomes final, and if, at the time the Commission determines to make this Order final, the Commission determines that any acquirer identified in Paragraphs II.A.1., II.A.3., II.A.4., and II.A.5. is not acceptable as the acquirer of the corresponding assets or that the corresponding purchase agreement is not an acceptable manner of divestiture, and so notifies Respondents, Respondents shall immediately rescind the applicable purchase agreement and divest the assets, at no minimum price, to another Person that receives the prior approval of the Commission and in a manner that receives the prior approval of the Commission, no later than 120 days from the date this Order becomes final.

B. The purpose of the divestiture of the assets described in Paragraph II.A. of this Order is to ensure the continued use of the assets in the same businesses in which such assets were engaged at the time of the announcement of the proposed Acquisition by Respondents and to remedy the lessening of competition alleged in the Commission's complaint.

III.

IT IS FURTHER ORDERED that:

A. 1. Respondents shall divest at no minimum price, absolutely and in good faith the Iroquois Assets only to an acquirer or acquirers that receive the prior approval of the Commission and only in a manner that receives the prior approval of the Commission, no later than ninety days from the date the Commission accepts the Consent Agreement for public comment; provided, however, that Respondents shall not divest more than an 8.72% partnership interest in Iroquois Gas Transmission System to Dominion Resources;

2. If Dominion Resources acquires a partnership interest in Iroquois Gas Transmission System pursuant to this Order, Dominion Resources shall not, for a period of ten years following such acquisition, acquire any additional interest, in whole or in part, in Iroquois Gas Transmission System, without providing advance written

notification to the Commission.

B. Respondents shall divest at no minimum price, absolutely and in good faith the MGT Assets only to an acquirer that receives the prior approval of the Commission and only in a manner that receives the prior approval of the Commission, no later than 120 days from the date the Commission accepts the Consent Agreement for public comment; provided, however, that Respondents shall include and enforce a provision in the purchase agreement between Respondents and the MGT Acquirer requiring the MGT Acquirer to complete the Guardian Interconnection no later than the in-service date of the Guardian Pipeline.

C. Respondents shall divest at no minimum price, absolutely and in good faith the UTOS Assets only to an acquirer that receives the prior approval of the Commission and only in a manner that receives the prior approval of the Commission, no later than April 1, 2001.

D. The purpose of the divestiture of the assets described in Paragraph III of this Order is to ensure the continued use of the assets in the same businesses in which such assets were engaged at the time of the announcement of the proposed Acquisition by Respondents and to remedy the lessening of competition alleged in the Commission's complaint.

IV.

IT IS FURTHER ORDERED that between the date Respondents sign the Consent Agreement and the date the Pipeline Assets are completely divested pursuant to Paragraphs II and III of this Order, Respondents shall:

A. Maintain the Pipeline Assets in substantially the same condition (except for normal wear and tear) existing on the date Respondents sign the Consent Agreement and shall continue to take such action that is consistent with the past practices of Respondents and is taken in the ordinary course of the normal day-to-day operations of Respondents.

B. Use their best efforts to keep available the services of the current officers, employees, and agents relating to the Pipeline Assets; and maintain the relations and goodwill with suppliers, customers, landlords, creditors, employees, agents, and others having business relationships with the Pipeline Assets.

C. Preserve the Pipeline Assets intact as ongoing businesses and not take any affirmative action, or fail to take any action within their control, as a result of which the viability, competitiveness, and marketability of the Pipeline Assets would be diminished.

V.

IT IS FURTHER ORDERED that:

A. In connection with the divestitures required by Paragraphs II.A.2, II.A.5., III.B. and III.C. of this Order, Respondents shall provide services at the request of the applicable acquirer sufficient to operate the Transitional Pipelines pursuant to the following terms and conditions:

1. Respondents shall operate the Transitional Pipelines and provide related services on behalf of each pipeline's respective acquirer in a manner consistent with Respondents' past practices for a period up to nine months for each pipeline from the date Respondents divest such pipeline;

2. Respondents shall use their best efforts to transfer the operation of the Transitional Pipelines from Respondents to each applicable acquirer no later than nine months from the date Respondents divest each pipeline;

3. From the date they divest each of the Transitional Pipelines, Respondents shall have no role in negotiating or setting rates, terms or conditions of service, making expansion or interconnection decisions, or marketing any services relating to the transportation of natural gas (or related products) through each of the Transitional Pipelines; provided, however, that Respondents, in providing transitional services may assist in submitting any necessary regulatory filings and facilitating expansions or interconnections;

4. Respondents shall (i) use all information obtained in the course of operating the Transitional Pipelines solely to fulfill Respondents' obligations under this Paragraph V.A., and (ii) make available such information only to those persons employed by Respondents having a need to know and who agree in writing to maintain the confidentiality of such information; and

5. Respondents shall provide the services required by this Paragraph V.A. to any applicable acquirer for a fee agreed to by Respondents and acquirer and included in the applicable purchase agreement.

B. In connection with the divestitures required by Paragraphs II and III of this Order, Respondents shall provide each acquirer of the Pipeline Assets an opportunity to transfer employment relationships from Respondents to the acquirer, pursuant to the following terms and conditions:

1. Respondents shall provide each acquirer an opportunity to enter into an employment contract with each individual identified in the purchase agreement between

Respondents and the acquirer (hereinafter "Key Employee");

2. Respondents shall allow the acquirer to inspect the personnel files and other documentation relating to each Key Employee, to the extent permissible under applicable laws, no later than ten days before the date the applicable assets are divested;

3. Respondents shall take steps to cause each Key Employee to accept an offer of employment from the acquirer (such as payment of all current and accrued benefits and pensions, to which the employees are entitled). To incentivize each Key Employee to accept such an offer, Respondents shall pay a bonus to each Key Employee who accepts an offer of employment on or prior to the date of divestiture of the applicable assets and remains employed by the applicable acquirer for a period of twelve months (eighteen months if employed by the Gulfstream Acquirer), equal to 25% of the Key Employee's current annual salary and commissions (including any annual bonuses) as of November 1, 2000;

4. Respondents shall not interfere with the employment by the acquirer of any Key Employee; not offer any incentive to any Key Employee to decline employment with the acquirer; and shall remove any contractual impediments with Respondents that may deter any Key Employee from accepting employment with the acquirer, including, but not limited to, any non-compete or confidentiality provisions of employment or other contracts with Respondents that would affect the ability of the Key Employee to be employed by the acquirer; and

5. For a period of one year from the date this Order becomes final, Respondents shall not, without the consent of the acquirer, directly or indirectly, hire or enter into any arrangement for the services of any Key Employee employed by the acquirer, unless the Key Employee's employment has been terminated by the acquirer without the Key Employee's consent.

C. 1. Respondents shall provide consulting services at the request of the Gulfstream Acquirer, for a fee not to exceed Respondents' costs of direct material and labor, for a period beginning from the date Respondents sign the Consent Agreement to the in-service date of the Gulfstream Pipeline, relating to any aspect of the Gulfstream Pipeline and furnished by any one or more individuals identified in the Gulfstream Purchase Agreement;

2. Unless otherwise compelled by law, Respondents shall not provide, disclose or otherwise make available any Gulfstream Confidential Information to any Person (including any of Respondents' employees, agents, or representatives) and shall not use any Gulfstream Confidential Information for any reason or purpose (except in the course of providing consulting services to the Gulfstream Acquirer), and

shall enforce the terms of this Paragraph V.C.2. as to any Person and take such action to the extent necessary to cause each such Person to comply with the terms of this Paragraph V.C.2., including all actions that Respondents would take to protect their own trade secrets and confidential information; and

3. Respondents shall not enter into any agreement to acquire any rights to Long Term Firm Transportation on the Gulfstream Pipeline except that nothing in this Paragraph V.C.3. shall preclude Respondents from acquiring Long Term Firm Transportation to serve the peak day needs of any planned or existing power plant of Respondent El Paso, or any other Long Term Firm Transportation where Respondent El Paso is the end user of the natural gas, and Respondent El Paso may release capacity so obtained so long as the term of the release is less than one year.

D. In connection with the divestiture required by Paragraph II.A.3. of this Order, Respondents shall pay to the Commission the sum of $40 million, no later than ten days from the date Respondents divest the Green Canyon/Tarpon Assets, pursuant to the following terms and conditions:

1. The funds paid to the Commission shall be deposited into an interest-bearing account ("Development Fund") administered by the Commission (which may designate an agent to administer the Development Fund) to be used in a manner consistent with this Paragraph V.D.;

2. Funds from the Development Fund (including earnings, but excluding costs of administration which shall be paid from the Development Fund) shall be made available to reimburse the Green Canyon/Tarpon Acquirer only for the total direct costs of constructing any Eligible Facility; <u>provided, however</u>, that no more than $15 million shall be made available for construction in the Restricted Development Area;

3. For each construction project for which the Green Canyon/Tarpon Acquirer may seek reimbursement from the Development Fund, the Green Canyon/Tarpon Acquirer shall (i) maintain records relating to the design and cost of the project and sufficient to identify all project expenditures and recipients of expenditures, and (ii) make available such records upon request to the Monitor Trustee or to representatives of the Commission;

4. To obtain reimbursement from the Development Fund, the Green Canyon/ Tarpon Acquirer shall make a written request to the Monitor Trustee, state the amount of reimbursement requested, provide a description of how the expenditures for which reimbursement is sought were made, and include an attestation that the reimbursement will not be inconsistent with the use of the Development Fund permitted by this Paragraph;

5. The Monitor Trustee shall have full authority to review the written request submitted by the Green Canyon/Tarpon Acquirer, request any additional information that may be necessary to determine whether the conditions imposed by this Paragraph V.D. for reimbursement has been met (to which the Green Canyon/Tarpon Acquirer shall promptly respond), and report to the Commission, provided, however, that no funds from the Development Fund shall be paid without approval by a duly authorized representative of the Commission;

6. The Monitor Trustee shall (i) not disclose any information received from the Green Canyon/Tarpon Acquirer to Respondents, (ii) maintain records of all information submitted by the Green Canyon/Tarpon Acquirer, and (iii) make available such records upon request to representatives of the Commission;

7. The Green Canyon/Tarpon Acquirer may seek reimbursement from the Development Fund for a period of twenty years from the date the Development Fund is created, including reimbursement for any Eligible Facility that is constructed after the twenty year period if the Green Canyon/Tarpon Acquirer committed to such construction prior to the end of the twenty year period and such construction is completed within two years after the twenty year period has ended. After all appropriate reimbursements have been paid to the Green Canyon/Tarpon Acquirer, all funds remaining in the Development Fund shall be paid to Respondent El Paso; and

8. The Commission may on its own initiative or at the request of the Monitor Trustee issue such additional orders or directions as may be necessary or appropriate to assure compliance with this Paragraph.

For purposes of this Paragraph V., "direct costs" means costs of direct material and labor, and variable overhead incurred in construction, but excluding administrative and general costs allocable to the Green Canyon/Tarpon Acquirer.

E. In connection with any of the divestitures required by Paragraphs II.A.1., II.A.2., and III.B. of this Order, from the date Respondents sign the Consent Agreement until Respondents have divested the applicable pipeline, Respondents shall not enter into any agreement to acquire any rights to Long Term Firm Transportation on the Gulfstream Pipeline, Empire State Pipeline, or MGT Pipeline.

VI.

IT IS FURTHER ORDERED that between the date Respondents sign the Consent Agreement and the date the Iroquois Assets are divested, Respondents shall not serve on any committee of Iroquois Gas Transmission System, attend any meeting of any such committee, exercise any vote as a partner in Iroquois Gas Transmission System or receive any information from Iroquois Gas Transmission System not made available to all shippers or to the public at large; provided, however, that Respondents shall vote (i) in favor of any expansion of the Iroquois Pipeline, (ii) in favor of the divestiture of the Iroquois Assets, and (iii) to create unanimity when unanimous action by all partners of a block within Iroquois Gas Transmission System is required and Respondents' vote is necessary to create unanimity; provided, further, that a representative of Respondents may observe meetings of any management committee and may receive and use nonpublic information of Iroquois Gas Transmission System solely for the purpose of effectuating the divestiture of the Iroquois Assets pursuant to this Order. Said representative shall be identified to the Commission, shall not divulge any nonpublic Iroquois Gas Transmission System information to Respondents (other than employees of Respondents whose sole responsibility is to effectuate the divestiture, and agents of Respondents specifically retained for the purpose of effectuating the divestiture), and shall acknowledge these obligations in writing to the Commission.

VII.

IT IS FURTHER ORDERED that for a period of ten years from the date this Order becomes final, Respondents shall not, without providing advance written notification to the Commission:

A. Acquire, directly or indirectly, through subsidiaries or otherwise, any leasehold, ownership interest, or any other interest, in whole or in part, in any of the Pipeline Assets.

B. Enter into any agreement that would result in Respondents holding any rights to Long Term Firm Transportation greater than 100,000 dekatherms per day on the Empire Pipeline or 100,000 dekatherms per day on the MGT Pipeline, except that any amount acquired to serve the peak day needs of any planned or existing power plant of Respondent El Paso, or any other Long Term Firm Transportation where Respondent El Paso is the end user of the natural gas shall not be included in calculating the 100,000 dekatherms per day limitation.

VIII.

IT IS FURTHER ORDERED that:

A. The prior notification required by Paragraphs III.A.2. and VII.A. of this Order shall be given on the Notification and Report Form set forth in the Appendix to Part 803 of Title 16 of the Code of Federal Regulations as amended (hereinafter referred to as "the Notification"), and shall be prepared and transmitted in accordance with the requirements of that part, except that no filing fee will be required for any such notification, notification shall be filed with the Secretary of the Commission, notification need not be made to the United States Department of Justice, and notification is required only of the acquiring party and not of any other party to the transaction. The acquiring party shall provide the Notification to the Commission at least thirty (30) days prior to consummating the transaction (hereinafter referred to as the "first waiting period"). If, within the first waiting period, representatives of the Commission make a written request for additional information or documentary material (within the meaning of 16 C.F.R. § 803.20), the acquiring party shall not consummate the transaction until twenty days (or such other duration that may hereinafter be determined by amendment to Section 7A of the Clayton Act, 15 U.S.C. 18a, as the second waiting period) after submitting such additional information or documentary material. Early termination of the waiting periods in this Paragraph may be requested and, where appropriate, granted by letter from the Bureau of Competition. Provided, however, that prior notification shall not be required by this Paragraph for a transaction for which notification is required to be made, and has been made, pursuant to Section 7A of the Clayton Act, 15 U.S.C. 18a.

B. The prior notification required by Paragraph VII.B. of this Order shall be provided in writing to the Commission at least twenty days prior to consummating the transaction and shall set forth the principal terms of the agreement, including the name of the pipeline on which the Long Term Firm Transportation rights are being acquired, identity of the seller, the volume to be acquired, the length of the contract, the date of expected execution, the receipt and delivery points, and the price.

IX.

IT IS FURTHER ORDERED that Respondents shall not:

A. Engage in any unfair or deceptive act or practice that would prevent, hinder, or delay the construction or approval of the Guardian Pipeline;

B. Take any affirmative action, directly or indirectly, or fail to take any action the result of which would prevent, hinder, or delay completion of the Guardian Interconnection; or

C. Fail to publicly disclose to the Federal Energy Regulatory Commission and the Public Service Commission of Wisconsin funding by Respondents of third-party efforts to oppose the Guardian Pipeline.

X.

IT IS FURTHER ORDERED that Respondents shall provide a copy of this Order (i) to each of Respondent's officers, employees, or agents having managerial responsibility for any of Respondent's obligations under Paragraphs II through XIV of this Order, no later than ten days after Respondents sign the Consent Agreement, and (ii) subsequent to the date the Commission accepts the Consent Agreement for public comment, to any Person who Respondents propose to acquire any of the assets to be divested pursuant to Paragraph III of this Order, prior to executing a purchase agreement with such proposed acquirer.

XI.

IT IS FURTHER ORDERED that:

A. At any time after Respondents sign the Consent Agreement, the Commission may appoint one or more Persons to serve as Monitor Trustee to ensure that Respondents expeditiously perform their obligations as required by this Order and the Order to Maintain Assets.

B. If a Monitor Trustee is appointed pursuant to this Paragraph XI, Respondents shall consent to the following terms and conditions regarding the powers, duties, authorities, and responsibilities of the Monitor Trustee:

1. The Commission shall select the Monitor Trustee, subject to the consent of Respondents, which consent shall not be unreasonably withheld. If Respondents have not opposed in writing, including the reasons for opposing, the selection of any proposed trustee within ten business days after notice by the staff of the Commission to Respondents of the identity of any proposed trustee, Respondents shall be deemed to have consented to the selection of the proposed trustee.

2. The Monitor Trustee shall have the power and authority (i) to monitor Respondents' compliance with the terms of this Order and the Order to Maintain Assets and (ii) to perform the responsibilities required by Paragraph V.D. of this Order, and shall exercise such power and authority and carry out the duties and responsibilities of the Monitor Trustee in a manner consistent with the purposes of this Order and the Order to Maintain Assets and in consultation with the Commission.

3. Within ten business days after appointment of the Monitor Trustee, Respondents shall execute a trust agreement that, subject to the approval of the Commission, confers on the Monitor Trustee all the rights and powers necessary to permit the Monitor Trustee to monitor Respondents' compliance with the terms of this Order and the Order to Maintain Assets in a manner consistent with the purposes of these orders. Respondents may require the Monitor Trustee to sign a confidentiality agreement prohibiting the use, or disclosure to anyone other than the Commission, of any competitively sensitive or proprietary information gained as a result of his or her role as Monitor Trustee.

4. The Monitor Trustee shall serve until Respondents have completed all obligations under this Order and the Order to Maintain Assets.

5. The Monitor Trustee shall have full and complete access to Respondents' books, records, documents, personnel, facilities and technical information relating to compliance with this Order and Order to Maintain Assets, or to any other relevant

information, as the Monitor Trustee may reasonably request. Respondents shall cooperate with any reasonable request of the Monitor Trustee. Respondents shall take no action to interfere with or impede the Monitor Trustee's ability to monitor Respondents' compliance with this Order and Order to Maintain Assets.

6. The Monitor Trustee shall serve, without bond or other security, at the expense of Respondents, on such reasonable and customary terms and conditions as the Commission may set. The Monitor Trustee shall have authority to employ, at the expense of Respondents, such consultants, accountants, attorneys and other representatives and assistants as are reasonably necessary to carry out the Monitor Trustee's duties and responsibilities. The Monitor Trustee shall account for all expenses incurred, including fees for his or her services, subject to the approval of the Commission.

7. Respondents shall indemnify the Monitor Trustee and hold the Monitor Trustee harmless against any losses, claims, damages, liabilities or expenses arising out of, or in connection with, the performance of the Monitor Trustee's duties (including the duties of the Monitor Trustee's employees), 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, willful or wanton acts, or bad faith by the Monitor Trustee.

8. If at any time the Commission determines that the Monitor Trustee has ceased to act or failed to act diligently, or is unwilling or unable to continue to serve, the Commission may appoint a substitute to serve as Monitor Trustee in the same manner as provided in this Paragraph XI.

9. The Commission may on its own initiative or at the request of the Monitor Trustee issue such additional orders or directions as may be necessary or appropriate to assure compliance with the requirements of this Order and Order to Maintain Assets.

10. The Monitor Trustee shall report in writing to the Commission concerning Respondents' compliance with this Order and Order to Maintain Assets every sixty days for a period of six months from the date Respondents sign the Consent Agreement and annually thereafter on the anniversary of the date this Order becomes final during the remainder of the Monitor Trustee's period of appointment, and at such other time as representatives of the Commission may request.

XII.

IT IS FURTHER ORDERED that:

A. If Respondents have not divested, absolutely and in good faith any of the Pipeline Assets within the time and manner required by Paragraphs II and III of this Order, the Commission may at any time appoint one or more persons as trustee to divest such assets.

B. 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 trustee in such action. Neither the appointment of a trustee nor a decision not to appoint a trustee under this Paragraph XII shall preclude the Commission or the Attorney General from seeking civil penalties or any other relief available to it, including a court-appointed 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.

C. If a trustee is appointed by the Commission or a court pursuant to this Paragraph XII, Respondents shall consent to the following terms and conditions regarding the trustee's powers, duties, authority, and responsibilities:

1. The Commission shall select the trustee, subject to the consent of the Respondents, which consent shall not be unreasonably withheld. The trustee shall be a person with experience and expertise in acquisitions and divestitures and may be the same person as the Monitor Trustee appointed pursuant to Paragraph XI of this Order. If Respondents have not opposed, in writing, including the reasons for opposing, the selection of any proposed trustee within ten business days after receipt of written notice by the staff of the Commission to Respondents of the identity of any proposed trustee, Respondents shall be deemed to have consented to the selection of the proposed trustee.

2. Subject to the prior approval of the Commission, the trustee shall have the exclusive power and authority to effect the divestiture for which he or she has been appointed.

3. Within ten business days after appointment of the trustee, Respondents shall execute a trust agreement that, subject to the prior approval of the Commission and, in the case of a court-appointed trustee, of the court, transfers to the trustee all rights and powers necessary to permit the trustee to effect the divestiture for which he or she has been appointed.

4. The trustee shall have twelve months from the date the Commission approves the

trust agreement described in Paragraph XII.C. to accomplish the divestiture, which shall be subject to the prior approval of the Commission. If, however, at the end of the twelve-month period the trustee has submitted a plan of divestiture or believes that divestiture can be achieved within a reasonable time, the divestiture period may be extended by the Commission, or, in the case of a court appointed trustee, by the court; provided, however, the Commission may extend this period only two times.

5. The trustee shall have full and complete access to the personnel, books, records and facilities related to the assets to be divested, or to any other relevant information, as the trustee may request. Respondents shall develop such financial or other information as such trustee may reasonably request and shall cooperate with the trustee. Respondents shall take no action to interfere with or impede the trustee's accomplishment of the divestiture. Any delays in divestiture caused by Respondents shall extend the time for divestiture under this Paragraph in an amount equal to the delay, as determined by the Commission or, for a court-appointed trustee, by the court.

6. The trustee shall use his or her best efforts to negotiate the most favorable price and terms available in each contract that is submitted to the Commission, but shall divest expeditiously at no minimum price. The divestiture shall be made only to an acquirer that receives the prior approval of the Commission, and the divestiture shall be accomplished only in a manner that receives the prior approval of the Commission; provided, however, if the trustee receives bona fide offers from more than one acquiring entity, and if the Commission determines to approve more than one such acquiring entity, the trustee shall divest to the acquiring entity or entities selected by Respondents from among those approved by the Commission; provided, further, that Respondents shall select such entity within five business days of receiving written notification of the Commission's approval.

7. The 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 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 trustee's duties and responsibilities. The trustee shall account for all monies derived from the divestiture and all expenses incurred. After approval by the Commission and, in the case of a court-appointed trustee, by the court, of the account of the trustee, including fees for his or her services, all remaining monies shall be paid at the direction of the Respondents, and the trustee's power shall be terminated. The trustee's compensation shall be based at least in significant part on a commission arrangement contingent on the trustee's divesting the assets.

8. Respondents shall indemnify the trustee and hold the trustee harmless against any losses, claims, damages, liabilities, or expenses arising out of, or in connection with, the performance of the trustee's duties (including the duties of the trustee's employees), 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 liabilities, losses, damages, claims, or expenses result from misfeasance, gross negligence, willful or wanton acts, or bad faith by the trustee.

9. If the trustee ceases to act or fails to act diligently, a substitute trustee shall be appointed in the same manner as provided in this Paragraph XII.

10. The Commission or, in the case of a court-appointed trustee, the court, may on its own initiative or at the request of the trustee issue such additional orders or directions as may be necessary or appropriate to accomplish the divestitures required by this Order.

11. The trustee shall have no obligation or authority to operate or maintain the assets to be divested.

12. The trustee shall report in writing to the Commission every sixty days concerning the trustee's efforts to accomplish the divestiture.

XIII.

IT IS FURTHER ORDERED that no later than sixty days from the date this Order becomes final and annually thereafter, on the anniversary of the date this Order becomes final, until the Order terminates, and at other times as the Commission may require, Respondents shall file a verified written report with the Commission setting forth in detail the manner and form in which it intends to comply, is complying, and has complied with this Order; provided, however, that if, at the time this Order becomes final, Respondents are required to file one or more written reports pursuant to the Order to Maintain Assets, Respondents shall file the first report required by this Paragraph no later than sixty days from the date Respondents file their final report pursuant to the Order to Maintain Assets.

XIV.

IT IS FURTHER ORDERED that Respondents shall notify the Commission at least thirty days prior to any proposed change in the corporate Respondents such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, or the creation or dissolution of subsidiaries or any other change in the corporation that may affect compliance obligations arising out of this Order.

XV.

IT IS FURTHER ORDERED that for the purposes of determining or securing compliance with this Order, and subject to any legally recognized privilege, and upon written request with reasonable notice to Respondents made to its principal United States offices, Respondents shall permit any duly authorized representatives of the Commission:

A. Access, during office hours of Respondents and in the presence of counsel, to all facilities, and access to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and all other records and documents in the possession or under the control of Respondents relating to compliance with this Order; and

B. Upon five days' notice to Respondents and without restraint or interference from Respondents, to interview officers, directors, or employees of Respondents, who may have counsel present, regarding such matters.

XVI.

IT IS FURTHER ORDERED that this Order shall terminate on March 19, 2021.

By the Commission.

Donald S. Clark
Secretary

SEAL
ISSUED: March 19, 2001

EXHIBIT 2

001 0086

UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION

In the matter of **El Paso Energy Corporation,** a corporation, and **The Coastal Corporation,** a corporation.

Docket No. C-3996

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 ("Commission"), having reason to believe that respondent El Paso Energy Corporation has entered into an agreement to acquire all of the securities of The Coastal Corporation, all subject to the jurisdiction of the Commission, in violation of Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45, that such 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 this complaint, stating its charges as follows.

I. RESPONDENTS

El Paso

1. Respondent El Paso Energy Corporation ("El Paso") 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 at 1001 Louisiana Street, El Paso Energy Building, Houston, Texas 77002.

2. Respondent El Paso is, and at all times relevant herein has been, engaged in, among other things, the exploration, production, gathering, processing, transportation, storage, marketing and sales of natural gas in the United States.

3. Respondent El Paso had total revenues of $10.6 billion in 1999.

<u>Coastal</u>

4. Respondent The Coastal Corporation ("Coastal") 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 at Coastal Tower, Nine Greenway Plaza, Houston, TX 77046.

5. Respondent Coastal is, and at all times relevant herein has been, engaged in, among other things, the exploration, production, gathering, processing, transportation, storage, marketing and sales of natural gas in the United States.

6. Respondent Coastal had total revenues of $ 8.2 billion in 1999.

II. THE ACQUISITION

7. Respondent El Paso entered into a merger agreement, dated January 17, 2000, in which El Paso would acquire all of the Coastal common stock and the former Coastal shareholders will, as a result, own approximately 53% of El Paso's voting securities (the "Acquisition"). The total dollar value of the Acquisition, which includes about $6 billion in debt and preferred securities, is estimated to be $16 billion.

III. TRADE AND COMMERCE

8. A relevant line of commerce in which to analyze the effects of the Acquisition is transportation of natural gas. The only way economically to transport commercial quantities of natural gas over significant distances is through large diameter, high pressure pipelines.

9. A second relevant line of commerce in which to analyze the effects of the Acquisition is long term firm transportation of natural gas. Long term firm transportation is a natural gas transportation service requiring the pipeline company to guarantee for one year or more that it will transport a specified daily quantity of natural gas from one destination to another, without interruption. Many users of natural gas cannot bear the risk of interruption and must purchase long term firm transportation in areas where pipelines are periodically capacity constrained. For these customers, other pipeline services and periodic resales of transportation by holders of long term transportation rights are not reasonably interchangeable.

10. A third relevant line of commerce in which to analyze the effects of the Acquisition is the provision of tailored services. Tailored services allow users of natural gas, such as local natural gas distribution companies, to balance their changes in natural gas demand with their supply of natural gas and transportation. Tailored services include limited and no notice services and are typically sold in conjunction with natural gas storage services. Users of this service, such as local natural gas distribution companies, face severe variations in their natural gas demand and cannot substitute alternative pipeline services and periodic resales of transportation by long-term transportation holders for tailored services.

Central Florida

11. A section of the country in which to analyze effect of the Acquisition is the natural gas consuming area consisting of the Florida counties of Brevard, Charlotte, Citrus, De Soto, Glades, Hardee, Hendry, Hernando, Highlands, Hillsborough, Indian River, Lake, Lee, Manatee, Martin, Okeechobee, Orange, Osceola, Palm Beach, Pasco, Pinellas, Polk, Sarasota, Sumter and St. Lucie ("Central Florida").

12. The major buyers of natural gas in Central Florida include local natural gas distribution companies, electric power generating utilities and industrial customers. These entities buy large quantities of natural gas to resell, to use as fuel to generate electricity or for industrial processes.

13. Consumption of natural gas in Central Florida is substantially higher than production, with the result that most natural gas consumed in Central Florida must be transported by natural gas pipelines.

14. Natural gas users in Central Florida can only receive natural gas from those pipelines that travel to Central Florida. Natural gas users in Central Florida have no effective alternative to natural gas pipeline transportation within that area and cannot economically access natural gas pipelines outside of Central Florida.

15. El Paso owns a 50% interest in the Florida Gas Transmission ("FGT") pipeline which transports natural gas to Central Florida. FGT is the only interstate natural gas pipeline currently transporting natural gas to Central Florida.

16. Coastal has proposed building the Gulfstream Natural Gas System ("Gulfstream") to transport natural gas into Central Florida. Gulfstream has precedent agreements with ten Florida utilities and power-generation facilities representing long-term commitments for the majority of its 1.1 billion cubic feet of natural gas per day capacity. Coastal plans to have Gulfstream begin service in June of 2002.

17. Together Respondents will own or control all the pipeline capacity into Central Florida. For natural gas buyers in Central Florida, Respondents' pipeline systems are or will be the only two alternatives.

18. El Paso and Coastal are ongoing competitors, actual potential competitors, and perceived potential competitors in Central Florida.

19. There are substantial barriers to entering Central Florida. Building additional pipelines to natural gas production areas or pipelines out of Central Florida would be unlikely, take over two years, and not prevent Respondents from maintaining prices at pre-Acquisition levels.

<u>Buffalo-Niagara Falls, Rochester, Syracuse, and Albany-Schenectady-Troy MSAs</u>

20. Sections of the country in which to analyze effect of the Acquisition are the natural gas consuming areas in or around the Buffalo-Niagara Falls, Rochester, Syracuse, and Albany-Schenectady-Troy, New York, Metropolitan Statistical Areas ("MSAs").

21. The major buyers of natural gas in each of the Buffalo-Niagara Falls, Rochester, Syracuse, and Albany-Schenectady-Troy MSAs include local natural gas distribution companies, electric power generating utilities, and industrial customers. These entities buy large quantities of natural gas to resell, to use as fuel to generate electricity or for industrial processes.

22. Consumption of natural gas in each of the New York State MSAs is substantially higher than production, with the result that most natural gas consumed in each of the MSAs must be transported by natural gas pipelines.

23. Natural gas users in each of the Buffalo-Niagara Falls, Rochester, Syracuse, and Albany-Schenectady-Troy MSAs can only receive natural gas from those pipelines that travel through that MSA. Natural gas users in each MSA have no effective alternative to natural gas pipeline transportation within that MSA and cannot economically access natural gas pipelines outside of that MSA.

24. El Paso's Tennessee Gas Pipeline is one of the major suppliers of natural gas transportation into each of the Buffalo-Niagara Falls, Rochester, Syracuse, and Albany-Schenectady-Troy MSAs.

25. Coastal operates and owns a 50% interest in the Empire State Pipeline. The Empire State Pipeline is a major supplier of natural gas to each of the Buffalo-Niagara Falls, Rochester, and Syracuse MSAs.

26. Coastal also owns a 16% interest in the Iroquois Gas Transmission Company, which owns the Iroquois Pipeline ("Iroquois"). Iroquois is a major supplier of natural gas to the Albany-Schenectady-Troy MSA.

27. Together Respondents own or control a significant share of all pipeline capacity into the Buffalo-Niagara Falls, Rochester, Syracuse and Albany-Schenectady-Troy MSAs. For some natural gas buyers, Respondents' pipelines are two of the only three transportation options. For some natural gas buyers, Respondents' pipelines are the only two transportation options for transporting low cost Canadian natural gas into these areas.

28. El Paso and Coastal are ongoing competitors in the Buffalo-Niagara Falls, Rochester, Syracuse and Albany-Schenectady-Troy MSAs. Competition between the El Paso and Coastal pipeline systems has resulted in significant competition to transport natural gas to the Buffalo-Niagara Falls, Rochester, Syracuse and Albany-Schenectady-Troy MSAs.

29. There are substantial barriers to entering any Buffalo-Niagara Falls, Rochester, Syracuse and Albany-Schenectady-Troy MSA. Building additional pipelines to natural gas production areas or pipelines out of any of those MSAs would be unlikely, take over two years, and not prevent Respondents from raising prices above pre-Acquisition levels.

<u>Milwaukee-Waukesha PMSA</u>

30. A section of the country in which to analyze effect of the Acquisition is the natural gas consuming area in or around the Milwaukee-Waukesha, Wisconsin, Primary Metropolitan Statistical Area ("Milwaukee-Waukesha PMSA").

31. The major buyers of natural gas in the Milwaukee-Waukesha PMSA include local natural gas distribution companies. These entities buy large quantities of natural gas to resell.

32. Consumption of natural gas in this section of the country is substantially higher than production, with the result that most natural gas consumed in the Milwaukee-Waukesha PMSA must be transported by natural gas pipelines.

33. Natural gas users in the Milwaukee-Waukesha PMSA only can receive natural gas from those pipelines that travel through the Milwaukee-Waukesha PMSA. Natural gas users in the Milwaukee-Waukesha PMSA have no effective alternative to natural gas pipeline transportation within that PMSA and cannot economically access natural gas pipelines outside of the Milwaukee-Waukesha PMSA.

34. Coastal's ANR pipeline is the only supplier of natural gas transportation to the Milwaukee-Waukesha PMSA. The ANR pipeline is the only pipeline that currently allows Wisconsin users of natural gas to access storage fields in Michigan and is the only current supplier of tailored services to the Milwaukee-Waukesha PMSA.

35. Guardian Pipeline L.L.C. has proposed building the Guardian pipeline to compete with ANR in the Milwaukee-Waukesha PMSA in the provision of natural gas pipeline transportation and tailored services. Guardian expects to enter service in the fall of 2002.

36. El Paso's Midwestern Gas Transmission ("MGT") pipeline likely will offer tailored services to customers within the Milwaukee-Waukesha PMSA by acting as an upstream supplier to the Guardian pipeline once it enters service. MGT terminates near the origin of the Guardian pipeline. MGT is the only supplier of tailored services that would allow Guardian to access low-cost natural gas storage fields in Michigan.

37. Together Respondents will own or control a significant share of all the pipeline capacity capable of offering tailored services to the Milwaukee-Waukesha PMSA that accesses gas storage fields in Michigan. For tailored services buyers in the Milwaukee-Waukesha PMSA, Respondents' pipeline systems in combination with the Guardian pipeline will form the only two routes to associated natural gas storage facilities.

38. Respondents' pipelines are significant actual potential and perceived potential competitors in the provision of tailored services in the Milwaukee-Waukesha PMSA. Specifically, the merged entity will be in a position to deny the rival Guardian pipeline timely and reliable access to tailored services or competitive prices for tailored services. El Paso's MGT pipeline forms the only link to alternate sources of storage needed to provide tailored services that will compete directly with ANR in the Milwaukee-Waukesha PMSA, once Guardian is in service. Together Respondents will control both MGT and ANR, preventing Guardian from competing effectively.

39. There are substantial barriers to entering the Milwaukee-Waukesha PMSA. Offering tailored services requires a pipeline with appropriate tariff services as well as access to low-cost natural gas storage fields in Michigan. Building additional pipelines to natural gas production areas and natural gas storage fields or pipelines outside the geographic market would be unlikely, take over two years and not prevent Respondents from maintaining prices at pre-Acquisition levels and denying Guardian access to tailored services.

Evansville Area

40. A section of the country in which to analyze the effect of the Acquisition is the natural gas consuming area in or around the Indiana counties of Posey, Vanderburgh and Warrick counties in Indiana ("Evansville Area").

41. The major buyers of natural gas in the Evansville Area include local natural gas distribution companies, electric power generating utilities, and industrial customers. These entities buy large quantities of natural gas to resell, to use as fuel to generate electricity, or

for industrial processes.

42. Consumption of natural gas in the Evansville Area is substantially higher than production, with the result that most natural gas consumed in the Evansville Area must be transported by natural gas pipelines.

43. Natural gas users in the Evansville Area can only receive natural gas from those pipelines that travel through the Evansville Area. Natural gas users in the Evansville Area have no effective alternative to natural gas pipeline transportation within the Evansville Area and cannot economically access natural gas pipelines outside of the Evansville Area.

44. El Paso's MGT pipeline transports natural gas into the Evansville Area. MGT is one of the major suppliers of natural gas transportation in the Evansville Area.

45. Coastal's ANR pipeline transports natural gas into the Evansville Area. ANR is one of the major suppliers of natural gas transportation to the Evansville Area.

46. Together Respondents own or control a significant share of all pipeline capacity into the Evansville Area. For some natural gas buyers, Respondents' pipelines are the only alternatives. For some natural gas buyers, Respondents' pipelines are two of the only three transportation options.

47. El Paso and Coastal are ongoing competitors, actual potential competitors and perceived potential competitors in the Evansville Area. Competition between the El Paso and Coastal pipeline systems has resulted in significant competition to transport natural gas to the Evansville Area.

48. There are substantial barriers to entering the Evansville Area. Building additional pipelines to natural gas production areas or pipelines out of the Evansville Area would be unlikely, take over two years and not prevent Respondents from raising prices above pre-Acquisition levels.

<u>Central Gulf of Mexico</u>

49. Sections of the country in which to analyze the effect of the Acquisition are the following offshore natural gas producing areas in the Central Gulf of Mexico (collectively and individually referred to as "Central Gulf Sections"):

   a. eastern Eugene Island South Addition (the area bounded by the following blocks: Eugene Island 282, Eugene Island 279, Ewing Bank 982, Ewing Bank, 979);

   b. northwestern Eugene Island South Addition (the area bounded by the following blocks: Eugene Island 334, Eugene Island 267, Eugene Island 274, Eugene Island

327);

c. southwestern Eugene Island South Addition (the area bounded by the following blocks: Eugene Island 395, Eugene Island 335, Eugene Island 341, Ewing Bank 978);

d. southern Vermilion South Addition (the area bounded by the following blocks: Vermilion 410, Vermilion 327, Vermilion 333, Vermilion 413);

e. central and southern Ship Shoal South Addition (the area bounded by the following blocks: Ship Shoal 290, Ship Shoal 288, Ewing Bank 989, Ewing Bank 983, Ship Shoal 364, Ship Shoal 319, Ship Shoal 314);

f. northwestern Ship Shoal South Addition (the area bounded by the following blocks: Ship Shoal 296, Ship Shoal 247, Ship Shoal 243, Ship Shoal 300);

g. the area around the western part of the Bluewater Header (the area bounded by the following blocks: South Marsh Island 57, South Marsh Island 63, South Marsh Island 95, South Marsh Island 105, South Marsh Island 89, South Marsh Island 86);

h. the area around the central part of the Bluewater Header (the area bounded by the following blocks: Eugene Island 267, Eugene Island 201, Eugene Island 211, Eugene Island 257);

i. the area around the eastern part of the Bluewater Header (the area bounded by the following blocks: Ship Shoal 127, Ship Shoal 128, Ship Shoal 207, Ship Shoal 231, Ship Shoal 224); and

j. the central Gulf deepwater (the area bounded by the following blocks: Garden Banks 26, Garden Banks 35, Garden Banks 79, Garden Banks 80, Garden Banks 85, Green Canyon 49, Green Canyon 5, Green Canyon 35, Green Canyon 1003, Green Canyon 969, Garden Banks 994).

The central part of the Gulf of Mexico is off the coast of Louisiana in or around portions of the areas known by the Department of Interior assigned names of Ewing Bank, Ship Shoal, Ship Shoal South Addition, Eugene Island, Eugene Island South Addition, South Marsh Island, South Marsh Island South Addition, Vermilion, Vermilion South Addition, Garden Banks and Green Canyon.

50. Consumption of natural gas in each Central Gulf Section is well below natural gas production levels. Most production is transported to areas in the Midwestern and Eastern United States.

51. Central Gulf of Mexico producers either contract directly with natural gas consumers or sell the natural gas to marketers who resell the natural gas. Neither the producers nor the marketers of Central Gulf of Mexico natural gas have an alternative to using the natural gas pipelines located in each Central Gulf Section to transport natural gas out that Section.

52. El Paso, through its subsidiaries, owns all or part of the Bluewater, TTT, Green Canyon, Tarpon, Manta Ray and Nautilus pipelines and related facilities. El Paso is one of the major transporters of natural gas out of each Central Gulf Section.

53. Coastal, through its subsidiaries, owns the ANR (Patterson) pipeline and related facilities. Coastal is one of the major transporters of natural gas out of each Central Gulf Section.

54. Together Respondents own or control a significant share of all pipeline capacity out of each Central Gulf Section. For some natural gas producers, Respondents' pipelines are the only alternatives.

55. El Paso and Coastal are ongoing, actual potential and perceived potential competitors in each Central Gulf Section. Competition between the El Paso and Coastal pipeline systems has resulted in significant competition to transport natural gas from each Central Gulf Section.

56. There are substantial barriers to entering any Central Gulf Section. Building additional pipelines to transport natural gas out of each Central Gulf Section would be unlikely, take over two years and not prevent Respondents from raising prices above pre-Acquisition levels.

West Central Gulf of Mexico

57. Sections of the country in which to analyze the effect of the Acquisition are the following offshore natural gas producing areas in the West Central Gulf of Mexico (collectively and individually referred to as "West Central Gulf Sections"):

a. northern West Cameron (the area bounded by the following blocks: West Cameron 148; West Cameron 144, West Cameron 248, West Cameron 244);

b. northwestern West Cameron and Northern West Cameron West Addition (the area bounded by the following blocks: West Cameron 53, West Cameron 56, West Cameron 168, West Cameron 185, West Cameron West Addition 288, West Cameron West Addition 161); and

c. West Cameron 167 (the area consisting of block West Cameron 167).

The west central part of the Gulf of Mexico is off the coast of Louisiana in or around portions of the areas known by the Department of Interior assigned names of West Cameron, West Cameron West Addition, West Cameron South Addition, East Cameron, East Cameron South Addition, Vermilion South Addition, High Island South Addition, High Island East Addition South Extension, East Breaks, Alaminos Canyon, Keathley Canyon and Garden Banks.

58. Consumption of natural gas in each West Central Gulf Section is well below natural gas production levels. Most production is transported to areas in the Midwestern and Eastern United States.

59. West Central Gulf of Mexico producers either contract directly with natural gas consumers or sell the natural gas to marketers who resell the natural gas. Neither the producers nor the marketers of West Central Gulf of Mexico natural gas have an alternative to using the natural gas pipelines located in each West Central Gulf Section to transport natural gas out that Section.

60. El Paso, through its subsidiaries or 50% ownership of Deepwater Holdings L.L.C. (50% owned by Coastal), owns all or part of the Bluewater (southwest leg), High Island Offshore System, U-T Offshore System, Stingray and East Breaks Gathering System pipelines and related facilities. El Paso is one of the major transporters of natural gas out of each West Central Gulf Section.

61. Coastal, through its subsidiaries or 50% ownership of Deepwater Holdings L.L.C., owns all or part of the ANR (Grand Chenier), High Island Offshore System, U-T Offshore System, Stingray and the East Breaks Gathering System pipelines and related facilities. Coastal is one of the major transporters of natural gas out of each West Central Gulf Section.

62. Together Respondents own or control a significant share of all pipeline capacity out of each West Central Gulf Section. For some natural gas producers, Respondents' pipelines are the only alternatives.

63. El Paso and Coastal are ongoing, actual potential, and perceived potential competitors in each West Central Gulf Section. Competition between the El Paso and Coastal pipeline systems has resulted in significant competition to transport natural gas from each West Central Gulf Section.

64. There are substantial barriers to entering any West Central Gulf Section. Building additional pipelines to transport natural gas out of each West Central Gulf Section would be unlikely, take over two years and not prevent Respondents from raising prices above pre-Acquisition levels.

COUNT I:
LOSS OF COMPETITION IN CENTRAL FLORIDA

65. Paragraphs 1 - 64 are incorporated by reference as if fully set forth herein.

66. One relevant product market in which to assess the effect of the Acquisition is long term firm transportation of natural gas.

67. One relevant geographic market in which to assess the effect of the Acquisition is Central Florida.

68. Central Florida is a highly concentrated market and the Acquisition, if consummated, will substantially increase that concentration.

69. Entry into the Central Florida market would not be timely, likely or sufficient to prevent likely anticompetitive effects arising from the Acquisition.

70. The Acquisition will eliminate ongoing competition, actual potential competition and perceived potential competition between Respondents with the likely result of maintaining prices and reducing output of natural gas transportation in Central Florida, and thereby increasing the cost of natural gas service, electricity and industrial products.

COUNT II:
LOSS OF COMPETITION IN THE BUFFALO-NIAGARA FALLS, ROCHESTER, SYRACUSE, AND ALBANY-SCHENECTADY-TROY MSAs

71. Paragraphs 1 - 64 are incorporated by reference as if fully set forth herein.

72. One relevant product market in which to assess the effect of the Acquisition is long term firm transportation of natural gas.

73. Relevant geographic markets in which to assess the effect of the Acquisition are the Buffalo-Niagara Falls, Rochester, Syracuse and Albany-Schenectady-Troy MSAs.

74. These relevant markets are highly concentrated and the Acquisition, if consummated, will substantially increase that concentration.

75. Entry into any of the Buffalo-Niagara Falls, Rochester, Syracuse and Albany-Schenectady-Troy MSA markets would not be timely, likely or sufficient to prevent likely anticompetitive effects arising from the Acquisition.

76. The Acquisition will eliminate ongoing competition in each relevant market between Respondents with the likely result of raising rates and reducing output of natural gas transportation in each relevant market, and thereby increasing the cost of natural gas service, electricity and industrial products.

COUNT III:
LOSS OF COMPETITION IN THE MILWAUKEE-WAUKESHA PMSA

77. Paragraphs 1 - 64 are incorporated by reference as if fully set forth herein.

78. One relevant product market in which to assess the effect of the Acquisition is the provision of tailored services.

79. One relevant geographic market in which to assess the effect of the Acquisition is the Milwaukee-Waukesha PMSA.

80. The Milwaukee-Waukesha PMSA market is highly concentrated and the Acquisition, if consummated, will substantially increase that concentration.

81. Entry into the Milwaukee-Waukesha PMSA market would not be timely, likely or sufficient to prevent likely anticompetitive effects arising from the Acquisition.

82. The Acquisition will threaten ongoing competition, actual potential competition and perceived potential competition by permitting the Respondents to deny the rival Guardian pipeline and any potential rivals of Coastal's ANR pipeline timely access to tailored services or competitive prices for tailored services across El Paso's MGT pipeline with the likely result of maintaining rates and reducing output of tailored services in the relevant market, and thereby increasing the cost of natural gas service.

COUNT IV:
LOSS OF COMPETITION IN THE EVANSVILLE AREA

83. Paragraphs 1 - 64 are incorporated by reference as if fully set forth herein.

84. One relevant product market in which to assess the effect of the Acquisition is long term firm transportation of natural gas.

85. One relevant geographic market in which to assess the effect of the Acquisition is the Evansville Area.

86. The Evansville Area market is highly concentrated and the Acquisition, if consummated, will substantially increase that concentration.

87. Entry into the Evansville Area market would not be timely, likely or sufficient to prevent likely anticompetitive effects arising from the Acquisition.

88. The Acquisition will eliminate ongoing competition between Respondents with the likely result of raising rates and reducing output of natural gas transportation in the Evansville Area market and thereby increasing the cost of natural gas service, electricity and industrial products.

COUNT V:
LOSS OF COMPETITION IN THE CENTRAL GULF OF MEXICO

89. Paragraphs 1 - 64 are incorporated by reference as if fully set forth herein.

90. One relevant product market in which to assess the effect of the Acquisition is transportation of natural gas.

91. Relevant geographic markets in which to assess the effect of the Acquisition are the Central Gulf Sections identified in Paragraph 49.

92. The Central Gulf Sections are highly concentrated markets and the Acquisition, if consummated, will substantially increase that concentration.

93. Entry into any Central Gulf Section would not be timely, likely or sufficient to prevent likely anticompetitive effects arising from the Acquisition.

94. The Acquisition will eliminate ongoing, actual potential and perceived potential competition between Respondents with the likely result of raising rates and reducing output of natural gas transportation in each Central Gulf Section, and diminishing production of natural gas in each Central Gulf Section.

COUNT VI:
LOSS OF COMPETITION IN THE WEST CENTRAL GULF OF MEXICO

95. Paragraphs 1 - 64 are incorporated by reference as if fully set forth herein.

96. One relevant product market in which to assess the effect of the Acquisition is transportation of natural gas.

97. Relevant geographic markets in which to assess the effect of the Acquisition are the West Central Gulf Sections identified in Paragraph 57.

98. Each West Central Gulf Section is a highly concentrated market and the Acquisition, if consummated, will substantially increase that concentration.

99. Entry into any West Central Gulf Section would not be timely, likely or sufficient to prevent likely anticompetitive effects arising from the Acquisition.

100. The Acquisition will eliminate ongoing and potential competition between Respondents with the likely result of raising rates and reducing output of natural gas transportation in each West Central Gulf Section, and diminishing production of natural gas in each West Central Gulf Section.

IV. VIOLATIONS CHARGED

101. The merger agreement entered into by Respondents El Paso and Coastal constitutes a violation of Section 5 of the FTC Act, as amended, 15 U.S.C. § 45.

102. The Acquisition, if consummated, would violate Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 5 of the FTC Act, as amended, 15 U.S.C. § 45.

IN WITNESS WHEREOF, the Federal Trade Commission, having caused this Complaint to be signed by the Secretary and its official seal affixed, at Washington, D.C., this twenty-ninth day of January, 2001, issues its complaint against respondent.

By the Commission.

SEAL

Benjamin I. Berman
Acting Secretary

EXHIBIT 3

EXHIBIT 4
Redacted

EXHIBIT 5
Redacted

EXHIBIT 6

EXHIBIT 6

PROFILES OF THE PIPELINES OPERATING
IN OR NEAR THE DEVELOPMENT AREA

1. El Paso: El Paso is a multi-billion dollar company with revenues of $4.6 billion and assets of $22.5 billion.[1] It owns one pipeline system that serves the Development Area, which is the Tennessee Gas Pipeline (TGP). Bluewater is part of the TGP system, as is the former TTT Pipeline system.
    a. TGP extends across the northern part of the Development Area from South Marsh Island 71 to Ship Shoal 172. El Paso often uses that part of TGP to transport gas between onshore points. Several lines extend south from this part of TGP into the Development Area. The longest of these, the TTT pipeline, runs from Ship Shoal 198 to Eugene Island South 349. This pipeline carries relatively little gas today (it is currently flowing less than 25MMcfd). A further southward extension of this line into Eugene Island South 371 is out of order due to hurricane damage. El Paso does not plan to put that segment back in service and will likely abandon it.
    b. Producers may nominate and inject gas from any TGP receipt point in Zone L (including offshore receipt points) for delivery to the TGP zone L pool (either 500 or 800 leg pools) at no charge. Parties nominating gas from the pool to a physical delivery point pay TGP a rate (based on the zones utilized) to transport the gas from the pool to the physical delivery point. All TGP receipt points in the Development Area are TGP 500 receipt points.

2. TransCanada: TransCanada is a multi-billion dollar company, with revenues of $9 billion and assets of $43.8 billion.[2] Through the February 2007 purchase of the ANR pipeline, TransCanada became a major competitor in the Development Area. ANR is a significant competitor that has substantial capacity to receive gas from the

[1] Data are for 2009. El Paso Corporation 10-K for 2009.
[2] Data are for 2009. TransCanada Annual Report 2009.

Development Area and take it to shore. From onshore, ANR can take gas through the Midwest to the Great Lakes region.

a. ANR runs through the Development Area from Eugene Island 209 south to Eugene Island South 371 and southwest to Eugene Island 267. Another part of ANR crosses the northern edge of the Development area from South Marsh Island 58 to South Marsh Island 63.
b. It has deepwater connections with the Anaconda, Tarpon, and Manta Ray pipelines.
c. ANR has excess capacity in the Gulf of Mexico. Capacity varies on different offshore legs of ANR (240 MMcfd to 1000 MMcfd).[3] In 2000, the Patterson System (which is south of the Patterson Compressor Station on the ANR mainline and goes offshore) had capacity of approximately 1400 MMcfd but was flowing at around 850 MMcfd. Capacity in the Eugene Island block 188. is about 1.2 Bcfd.
d. ANR charges a "postage stamp" rate to 79 receipt points and multiple delivery points. In addition, the Southeast Area operates as a "pooling area" that permits producers and marketers to pool gas from receipt points in the SE Area without incurring a transportation fee. Shippers nominating gas from the pool to a physical delivery point or to the Southeast Headstation at Eunice pay ANR a rate.[4]

3. Enbridge: Enbridge is a multi-billion dollar company, with revenues of $5.7 billion and assets of $9.0 billion.[5] It owns all or part of five pipelines in or near the Development Area: Garden Banks,[6] Manta Ray,[7] Nautilus,[8] Nemo,[9] and Stingray.[10]
   a. Garden Banks gathers gas from the Garden Banks and Green Canyon areas and delivers it to South Marsh Island 76, which is in the Development Area.[11]

[3] *See* July 24, 2000 Coastal submission to FTC
[4] A shipper can leave the ANR system at these pooling points.
[5] Data are for 2009. Enbridge Energy Partners 10-K for 2009.
[6] In 2000, Garden Banks was owned by Shell.
[7] In 2000, Manta Ray was 25.7% El Paso, 50% Coral (Shell), and 24.3% Marathon.
[8] In 2000, Nautilus was 25.7% El Paso, 50% Coral (Shell), and 24.3% Marathon.
[9] In 2000, Nemo was 33.92% El Paso and 66.08% Tejas.
[10] In 2000, Stingray was 50% El Paso and 50% ANR.

i. It connects to Williams' Transco Pipeline, TransCanada's ANR Pipelines,[12] and TGP. It also has a delivery point into South Union's Sea Robin Pipeline at South Marsh 128. These 4 downstream pipelines can all take the gas to shore.

ii. Garden Banks has a capacity of 1 Bcfd, and is 100% owned by Enbridge.[13]

iii. Producers pay a rate to transport from the receipt point offshore to any of the offshore delivery points.

b. Manta Ray is to the east of the Development Area. It extends from Ship Shoal 207 into the South Timbalier area, Ewing Banks, Grand Isle and Green Canyon Areas.

i. It is a joint venture pipeline owned with Enterprise[14] that gathers gas from several areas and delivers it to the ANR, Nautilus, Transco and Trunkline pipelines in or near Ship Shoal 207, which is near the development area.

ii. It has capacity of 800 MMcfd, is MMS regulated.[15] Manta Ray includes about 250 miles of 14-24" diameter pipe.

iii. Producers pay a rate to transport from the receipt point offshore to any of the offshore delivery points.

c. Nautilus is just east of the northeastern edge of the Development Area that transports gas from a platform located in Ship Shoal 207 (where it connects with Manta Ray) to onshore connections with 4 interstate and 3 intrastate pipelines.[16] These pipelines are the Cypress Pipeline (owned by Enterprise), Texas Gas, Gulf South, Acadian, LIG, ANR, and Tennessee Gas.

---

[11] For example, it transports production "from the Auger platform in Garden Banks Block 426, the Enchilada platform in Garden Banks Block 128, the Baldpate platform in Garden Banks Block 260, the platform in South Marsh Island (SMI192) and the Magnolia Platform in Garden Banks 783." (www.enbridgeus.com/Main.aspx?id=405&tmi=153&tmt=4)

[12] The Auger line (part of the Garden Banks Pipeline system) is only connected to ANR in Vermilion Block 397.

[13] www.enbridgeus.com/Main.aspx?id=242&tmi=348&tmt=4,

[14] Enbridge is reported to own 74.33%. (http://www.enbridgeus.com/Main.aspx?id=242)

[15] http://www.enbridgeus.com/Main.aspx?id=242

[16] www.enbridgeus.com/Main.aspx?id=557&tmi=154&tmt=4. In particular, it transports production from sources tied to the Boxer platform in Green Canyon 19 and the Bullwinkle platform in Green Canyon Block 65.

i. It is a joint venture pipeline owned with Enterprise.[17]

ii. It is a FERC regulated pipeline that has a capacity of 600 MMcfd.[18] It consists of about 100 miles of 30" diameter pipe from SS 207 to onshore Louisiana.

iii. Producers pay a rate to transport from the receipt point offshore to any of the offshore delivery points.

d. Nemo is an offshore Louisiana natural gas gathering pipeline that connects certain Shell offshore platform assets to Manta Ray.

i. It is a 24 mile pipeline operated by Shell.[19]

ii. It has capacity of 102 MMcfd.[20]

iii. The pipeline is believed to be jointly owned with Enterprise.[21]

e. Stingray lies slightly to the West of the Development Area, reaching into Vermillion South Addition. It transports natural gas and injected condensate from approximately 53 fields in the High Island, West Cameron, East Cameron, Vermillion and Garden Banks Offshore Gulf areas.

i. It runs from the Gulf of Mexico Offshore areas of High Island, West Cameron, East Cameron, Vermillion and Garden Banks north to onshore southern Louisiana connections with the West Cameron Dehydration Plant, the Targa-owned Barracuda and Stingray gas processing plants, and 3 interstate and 1 intrastate pipelines.[22]

ii. It is a 36" pipeline with a capacity of 650 MMcfd.[23]

iii. It is owned by Starfish Pipeline, which is 100% owned by Enbridge.

4. Williams: The Williams Companies (Williams) is a multi-billion dollar company, with revenues of $8.3 billion and assets of $25.3 billion.[24] Williams' pipeline assets

---

[17] Enbridge owns 74.33%. http://www.enbridgeus.com/Main.aspx?id=242.
[18] Enterprise owns the remaining share. www.enbridgeus.com/Main.aspx?id=242&tmi=348&tmt=4
[19] www.epplp.com/operations/offshoreNatGasPipelines.htm..
[20] www.epplp.com/operations/offshoreNatGasPipelines.htm..
[21] Enterprise owns 33.9% of Nemo. www.epplp.com/operations/offshoreNatGasPipelines.htm.
[22] http://www.enbridgeus.com/Main.aspx?id 558&tmi-152&tmt=4.
[23] http://www.enbridgeus.com/Main.aspx?id-558&tmi-152&tmt-4.

include several pipelines that serve the Development Area (Transco, Tarpon/Green Canyon, and Discovery).

a. Transco is a major interstate pipeline that takes gas from the offshore Gulf through eastern states to New York. It connects onshore to Upper Midwest pipelines (ANR, NGPL, Texas Gas, and Trunkline) and northeastern pipelines (Tennessee, Columbia, and Texas Eastern). It is also connected to Koch, LRC, and Bridgeline (for more local markets).
   i. Transco runs though the western part of the Development Area from South Marsh Island 62 to South Marsh Island South 81. It also has lines into Eugene Island 206, 208, and 215, and a segment that terminates near the eastern edge of the Development Area in Ship Shoal 223 and 224. It can take gas from South Marsh Island, Eugene Island, and Ship Shoal.
   ii. It has a capacity of about 1.3 Bcfd.
   iii. Producers and shippers delivering gas into Transco's offshore pipeline pay Transco an IT Feeder rate to get their gas to Transco's Mainline (Station 65), where they can either transport it further downstream for an additional tariff or sell to an existing Transco customer typically holding firm transportation capacity rights on Transco's mainline system (the mainline traverses from Texas to New York).

b. Tarpon crosses the Development Area, running from Eugene Island South 380 to Ship Shoal South 274.
   i. It then terminates into the Trunkline Pipeline System at Ship Shoal 273. Trunkline can bring its product onshore.
   ii. Tarpon is a 16" pipeline with a capacity of 0.3 Bcf/d.

c. Green Canyon runs through the south west corner of the Development Area in Green Canyon 8 (the line starts in SMI 174 and terminates in GC 52). From that area it runs north and west through the area west of the Development Area and connects to Transco.
   i. Transco can take gas that flows on Green Canyon to shore.

[24] Data are for 2009. The Williams Companies Inc., 10-K for 2009.

ii. Green Canyon is a 16" pipeline with a capacity of 0.3 Bcf/d.

iii. Tarpon and Green Canyon cross in Eugene Island South 371, which is west of the Development Area.)

d. The Discovery Pipeline, which is 105 miles long and has 168 miles of gathering laterals,[25] lies to the east of the Development Area.

i. It takes gas from Green Canyon and other offshore areas to onshore locations where it connects with a large number of other pipelines.

ii. Producers pay a rate to transport from the receipt point offshore to any of the offshore delivery points.

iii. Williams Partners owns 60% of the Discovery Pipeline.[26]

5. <u>Enterprise:</u> Enterprise is a multi-billion dollar company, with revenues of $25.5 billion and assets of $26.2 billion.[27] It owns all or part of six pipelines in or near the Development Area: Anaconda, Constitution, Green Canyon Gathering, Manta Ray, Nautilus, and Nemo.

a. Anaconda connects the Marco Polo and Constitution platforms to ANR at Eugene Island 371.[28] In the Development Area, it runs from Green Canyon 57 to Eugene Island South 371, where it connects to ANR, which can bring its product onshore.

i. Anaconda has connections with other Enterprise Pipelines that transport gas from Constitution and Marco Polo Fields to ANR at Eugene Island 371.

ii. Anadarko and Enterprise are now funding construction of a new connection between the Anaconda System and the Enterprise Nautilus System.

iii. Anaconda is a 20" pipeline with a capacity of 0.3 Bcfd.

iv. Anaconda charges a gathering rate to move through the system to the interconnect with ANR.

---

[25] www.williams.com/gulfcoastprofile/#.

[26] Williams Partners 10-K for 2009. The Williams Companies own 84% of Williams Partners.

[27] Data are for 2009. Enterprise Products Partners L.P., 10-K for 2009.

[28] Anaconda once also connected the Typhoon platform, but that flipped over during Hurricane Katrina and was never rebuilt or repaired.

b. The Constitution Pipeline gathers gas and brings it to the Anaconda pipeline.[29]

i. This pipeline is 32 miles long and has a 16 inch diameter.

ii. It gathers product from the Constitution and Ticonderoga fields and can serve other blocks in the south Green Canyon Area. It first received product in 2006.[30]

iii. Producers pay a rate to use the system for delivery to the ANR

c. The Green Canyon gathering lines (which are different from the Green Canyon/Tarpon system owned by Williams) are a group of 28 lateral extensions of natural gas pipelines.

i. Enterprise's shares of these lines range from 2.7% to 100%.[31]

d. Enterprise also owns part of the Manta Ray, Nautilus, and Nemo Pipelines, which are described under Enbridge. [See above] Specifically, it owns 25.7% of Manta Ray, 25.7% of Nautilus, and 33.9% of Nemo.[32]

6. Southern Union: Southern Union is a multi-billion dollar company, with revenues of $2.2 billion and assets of $21.9 billion.[33] It owns the Sea Robin and Trunkline pipelines.[34]

a. Sea Robin Pipeline includes about 450 miles of interstate pipeline reaching into the Gulf Coast deepwater supplies, cutting though the Development Area. (Specifically it stretches from the Ship Shoal area in the central Gulf of Mexico to the East Cameron area in the western Gulf.)

i. Sea Robin can deliver gas to a variety of onshore national and regional markets. In particular, Sea Robin provides access to the Sabine Henry Hub as well as direct connects with Columbia Gulf, Southern Natural, LRC, Sabine, Koch Gateway, and Jefferson Island Storage.

ii. Sea Robin's capacity to move gas from Offshore GOM to the Terminus of its system at the Henry Hub is about 1.25 Bcfd.

[29] http://phx.corporate-ir.net/phoenix.zhtml?c 80547&p= irol-newsArticle&ID=841955&highlight=.
[30] *Id.*
[31] www.epplp.com/operations/offshoreNatGasPipelines.htm.
[32] *Id.*.
[33] Data are for 2009. Southern Union Co., 10-K for 2009.
[34] In 2000, Sea Robin and Trunkline were operated by CMS Energy, which owned CMS Panhandle. Today, they are 100% owned by Southern Union.

iii. Sea Robin also interconnects with Southern Union's Trunkline onshore system to provide customers with access to the Gulf Coast and Midwest. Sea Robin runs though the Development Area from Eugene Island 205 to Eugene Island South 256.

iv. Producers pay a rate to transport from the receipt point offshore to any of the onshore delivery points.

b. Trunkline is a 3,500-mile pipeline system that lies just east of the Development Area.

   i. It has the capacity to transport approximately 1.5 BCFD of gas from offshore GOM sources to shore in Terrebone Parish.

   ii. Its Midwest customer base includes some of the nation's largest utility and industrial gas users in Chicago, Michigan, Memphis and St. Louis. Trunkline terminates in Ship Shoal 274, which is immediately next to the eastern edge of the Development Area.

   iii. Trunkline connects to Tarpon.

   iv. There is free pooling at the Trunkline receipt point, where producers may sell their gas to a Trunkline shipper that pays the rate for the zones utilized. Alternately producers may transport gas on Trunkline for a fee.

EXHIBIT 7

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

In the Matter of El Paso Energy Corporation, a corporation, and The Coastal Corporation, a corporation	Docket No. C-3996

AFFIDAVIT IN SUPPORT OF PETITION

TO REOPEN AND MODIFY ORDER

David M. Leland, President and Chief Executive Officer, El Paso Midstream Group, Inc., a wholly owned subsidiary of El Paso Corporation ("El Paso"), the successor to El Paso Energy Corporation and present parent company of The Coastal Corporation ("Coastal"), the named Respondents in the above-captioned matter, hereby states as follows:

1. My name is David M. Leland and I am President and Chief Executive Officer of El Paso. I am familiar with El Paso's operations and the competitive environment in which it operates.

2. I have read and am familiar with the Commission's Decision and Order, dated March 19, 2001 in the above-captioned matter (hereinafter the "Order") and El Paso's Petition to Reopen and Modify filed with the Commission (hereinafter the "Petition").

3. The information in this Affidavit is based on my personal knowledge and information conveyed to me by other senior executives at El Paso.

4. I affirm that to the best of my knowledge, understanding, and belief, all facts and statements contained in the Petition are true.

5. Pursuant to an Agreement and Plan of Merger between El Paso and Coastal dated January 17, 2000, El Paso agreed to acquire all of Coastal's common stock in exchange for shares in El Paso and other consideration totaling approximately $16 billion.

6. The Federal Trade Commission (the "Commission") initiated an investigation of the proposed merger. On January 29, 2001 the Commission and El Paso entered into an Agreement Containing Consent Orders. The Commission voted 5-0 to accept the consent order and place a copy on the public record. On March 19, 2001, the Commission voted 5-0 to issue the order.

7. In order to remedy what the FTC perceived as a lessening of competition in the Central Gulf Sections of the Gulf of Mexico caused by El Paso's acquisition of the ANR pipeline, the Order required El Paso to, *inter alia*, divest several Central Gulf pipelines, including the Tarpon and Green Canyon pipeline systems, and fund a $40-million Development Fund (the "Fund"), available to the Tarpon and Green Canyon purchaser to fund pipeline construction in the Development Area portion of the Central Gulf.

8. The Fund is only available for certain restricted projects in the Development Area.

9. Any unused Fund monies will be returned to El Paso when the Order expires on March 19, 2021.

10. To the best of my knowledge, understanding, and belief, El Paso has complied with all of the provisions of the Order, including divesting the Tarpon and Green Canyon pipelines to Williams Field Services ("Williams") and providing the Commission with $40 million to fund the Development Fund.

11. To the best of my knowledge, understanding, and belief, the Fund has never been used.

12. On February 22, 2007, El Paso sold the ANR pipeline in its entirety to TransCanada, which continues to own and operate it today, thus restoring an independent competitor to the Central Gulf and Development Area. El Paso currently has no ownership, operating interest, or controlling influence in ANR or TransCanada.

13. In 2004, El Paso sold all of its deepwater pipeline ownership interests in the Central Gulf Sections, including the Constitution and Anaconda Pipelines, which serve wells in and just south of the Development Area, to Enterprise Products Partners.

14. It is my belief that these pipeline sales constitute changed conditions of fact rendering the Development Fund unnecessary.

15. It is my belief that the Development Fund could be used more productively by returning the monies to El Paso now instead of waiting for the Fund to expire in 2021.

16. Due to the foregoing, I respectfully request the Commission to requests that the Commission reopen its Order and eliminate Section V.(D) in its entirety, along with corresponding definitions in Sections I.(F), (I), and (YY).

SHARON MAINARICH
MY COMMISSION EXPIRES
August 23, 2010

David M. Leland
President and Chief Executive Officer
El Paso Midstream Group, Inc

Subscribed and sworn to before me
this 8th day of June, 2010
Harris County, Texas

Sharon Mainarich

Notary Public
My commission expires 8-23-2010

EXHIBIT 8

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

In the Matter of El Paso Energy Corporation, a corporation, and The Coastal Corporation, a corporation	Docket No. C-3996

AFFIDAVIT IN SUPPORT OF PETITION

TO REOPEN AND MODIFY ORDER

Joseph J. Wyzik, Director, Marketing, Tennessee Gas Pipeline Company, a subsidiary of of El Paso Corporation ("El Paso"), the successor to El Paso Energy Corporation and present parent company of The Coastal Corporation ("Coastal"), the named Respondents in the above-captioned matter, hereby states as follows:

1. My name is Joseph J. Wyzik and I am Director of Marketing for the Tennessee Gas Pipeline Company, a subsidiary of El Paso. I am familiar with El Paso's operations and the competitive environment in which it operates.

2. I have read and am familiar with the Commission's Decision and Order, dated March 19, 2001 in the above-captioned matter (hereinafter the "Order") and El Paso's Petition to Reopen and Modify filed with the Commission today (hereinafter the "Petition").

3. The information in this Affidavit is based on my personal knowledge, understanding, and belief and on information conveyed to me by other senior executives

at El Paso and by consultants with Economists, Inc., an outside firm hired by El Paso to evaluate the competitive landscape for natural gas exploration and production.

4. I affirm that to the best of my knowledge, understanding, and belief, all facts and statements contained in the Petition are true.

5. I have reviewed "Table 1: Pipelines In Or Near The Development Area" in the petition and to the best of my knowledge, understanding, and belief, the information contained thereto is correct.

6. I have reviewed the profiles of pipeline operators in and around the Central Gulf Sections of the Gulf of Mexico (the "Central Gulf") and the Development Area section of the Central Gulf (the "Development Area") and to the best of my knowledge, understanding, and belief, the information contained thereto is correct.

7. I am familiar with the markets for transportation of natural gas and long term firm transportation of natural gas in the Central Gulf and Development Area and it is my informed opinion that they are competitive.

8. I am familiar with natural gas production and capacity levels in the Central Gulf and Development Area and affirm that to the best of my knowledge, understanding, and belief, natural gas production in the Central Gulf and Development Area has declined significantly since 2001, leading to a reduction in pipeline flows out of the Central Gulf and Development Area. This has increased the available unutilized offshore natural gas pipeline capacity for El Paso and other pipeline owners and operators.

9. I am familiar with natural gas production and capacity levels in the Central Gulf and Development Area and affirm that to the best of my knowledge, understanding, and belief, no pipeline that serves this market is approaching full capacity, and that El Paso's TGP is currently receiving approximately 252 MMcf/d from wells in the Central Gulf, roughly one-eighth of its pipeline capacity.

10. I am familiar with gas production and capacity levels in the Central Gulf and Development Area and affirm that to the best of my knowledge, understanding, and belief, low capacity utilization levels mean that bottlenecks cannot limit the ability of pipelines in the Development Area to compete for new wells, should any such wells be discovered.

11. I am familiar with the exploration and discovery markets for natural gas in America and affirm that to the best of my knowledge, understanding, and belief, there has been a clear shift in focus away from drilling in the Gulf of Mexico and toward inland shale plays. It is my informed opinion that the advancement of onshore shale gas has put offshore natural gas development at a competitive disadvantage, both from an economic and risk perspective, and that it is unlikely drillers will refocus on offshore exploration and production in the next 11 years.

12. I am familiar with the costs of exploration and development of new natural gas wells and pipelines and it is my informed opinion that current market prices for natural gas are too low to justify significant offshore exploration and development; that in general, shale gas can be produced for approximately half the cost of offshore production for the equivalent return; and that based on foreseeable supply and demand relationships, it is unlikely that the price will return to a level that makes it economically feasible to drill enough wells to support construction of new pipeline infrastructure in the Development Area in the foreseeable future.

13. Due to the foregoing, it is my informed opinion that it is extremely unlikely the Development Fund money will be accessed by Williams Field Services for a permissible project in the Development Area before the Consent Order expires on March 19, 2021.

14. Due to the foregoing, it is my informed opinion that the Development Fund could be used more productively by returning the money to El Paso now instead of waiting for the Fund to expire.

15. For all of the foregoing, I respectfully request the Commission to reopen its Order and eliminate Section V.(D) in its entirety, along with corresponding definitions in Sections I.(F), (I), and (YY).

SHARON MAINARICH
MY COMMISSION EXPIRES
August 23, 2010

Joseph J. Wyzik
Director, Marketing
Tennessee Gas Pipeline Company

Subscribed and sworn to before me
this 11th day of June, 2010
Harris County, Texas

Sharon Mainarich
Notary Public
My commission expires 8-23-2010

EXHIBIT 9

ANALYSIS OF THE COMPLAINT AND PROPOSED CONSENT ORDER TO AID PUBLIC COMMENT

I. Introduction

The Federal Trade Commission ("Commission") has accepted for public comment an Agreement Containing Consent Orders and a proposed Decision and Order ("proposed Order") with El Paso Energy Corporation ("El Paso"), The Coastal Corporation ("Coastal"), and Dominion Resources, Inc. ("Dominion"). The proposed Order seeks to remedy the anticompetitive effects of El Paso's acquisition of Coastal by requiring El Paso and Coastal ("Respondents") to divest their interests in ten pipelines and one pipeline yet to be constructed. The divestitures are in locations where the Respondents already own additional pipelines and their ownership of the pipelines to be divested would likely injure competition. Additionally, the proposed Order seeks to remedy competition by establishing a development fund to be made available to the purchaser of the Green Canyon and Tarpon pipelines for the purpose of paying to construct pipelines into a defined area of competitive concern.

II. Description of the Parties and the Proposed Acquisition

El Paso, a Delaware corporation, is engaged in the transportation, gathering, processing, and storage of natural gas; the marketing of natural gas, power, and other energy-related commodities; power generation; the development and operation of energy infrastructure facilities worldwide; and the domestic exploration and production of natural gas and oil. El Paso owns or has interests in more than 38,000 miles of interstate and intrastate natural gas pipelines connecting the nation's principal natural gas supply to consuming regions. In 1999, El Paso had revenues of $10.6 billion and earnings of $191 million, before interest and taxes.

Coastal, a Delaware corporation, is a diversified energy and petroleum products company. Coastal explores for, produces, gathers, processes, transports, stores, markets and sells natural gas throughout the United States. It is also engaged in refining, marketing, and distributing petroleum products; coal mining; and marketing power. Coastal owns or has interest in more than 18,000 miles of natural gas pipelines that serve the Rocky Mountain area, the Midwest, the south central United States, New York State, and other areas of the northeastern United States. In 1999, Coastal reported revenues of $8.2 billion, and earnings of $996.1 million before interest and taxes.

El Paso will acquire all of Coastal's common stock and the former Coastal shareholders will, as a result, own approximately 53% of El Paso's voting securities ("proposed Acquisition"). The total dollar value of the transaction (which includes about $6 billion in debt and preferred securities) is estimated to be $16 billion. The Respondents will have an asset base of approximately $31.5 billion.

III. The Complaint

The Complaint alleges that the relevant line of commerce (*i.e.*, the product market) in which to analyze the proposed Acquisition is the transportation of natural gas via pipeline. For many end users, there are no substitutes for natural gas, and there is no practical alternative to pipeline transportation. The relevant market can be further delineated by focusing on long term firm transportation, which is a type of natural gas transportation service requiring the pipeline company to guarantee for one year or more that it will transport a specified daily quantity of natural gas from one destination to another, without interruption. Many natural gas users cannot bear the risk of interruption and, in areas where pipeline capacity is constrained periodically, these users must purchase long term firm transportation. For these customers, other pipeline services and periodic resales of transportation by holders of long term transportation rights are not reasonably interchangeable. Another relevant market in which to analyze the effects of the proposed Acquisition is the provision of tailored services. Tailored services allow users of natural gas to balance their changes in natural gas demand with their supply of natural gas and transportation. Tailored services include limited notice and no notice service, and are typically sold in conjunction with natural gas storage services.

The Complaint further alleges that the proposed Acquisition, if consummated, will eliminate actual and direct competition between the two companies in violation of Section 5 of the FTC Act, as amended, 15 U.S.C. § 45, and Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, in the following 20 sections of the country (*i.e.*, the geographic markets): (a) Central Florida, (b) metropolitan areas of Buffalo, Rochester, Syracuse, and Albany, New York; (c) the metropolitan area of Milwaukee, Wisconsin; (d) the metropolitan area of Evansville, Indiana; and (e) 13 areas in the Gulf of Mexico. The Complaint alleges that each of these markets is highly concentrated, and the acquisition would substantially increase that concentration. In each of the relevant markets, pipelines owned by El Paso and Coastal are two of the most significant competitors. In some instances, El Paso and Coastal are the only two options available to customers, and in other instances, they represent two of three options. The merger not only eliminates existing competition between El Paso and Coastal pipelines but also threatens to forestall potential new competition as well. After the proposed acquisition, with the elimination of competition between El Paso and Coastal, it is likely that prices of transportation will increase and output of transportation will be reduced in the relevant markets, thereby increasing the cost of electricity and natural gas service.

The Complaint further alleges that new entry into the relevant geographic markets would not be likely, timely, or sufficient to prevent or counteract these anticompetitive effects and to prevent the Respondents from maintaining a price increase above pre-acquisition levels. There are substantial barriers to entering these markets, as building additional pipelines to natural gas production areas, to natural gas consuming areas, to natural gas storage fields, or outside the geographic market is expensive and would take more than two years. Major pipeline projects require approval from the Federal Energy Regulatory Commission, which is likely to take three or four years. In addition, it requires considerable time for a new entrant to secure rights of way, overcome landowner and environmental hurdles, secure sufficient advance commitments from customers, and obtain regulatory approvals in the face of opposition from competition.

IV. Terms of the Proposed Order

The proposed Order is designed to remedy the alleged anticompetitive effects of the proposed Acquisition. Under the terms of the proposed Order, the Respondents must, within twenty days from the date upon which the Commission places the proposed Order on the public record, divest their interests in: Gulfstream Natural Gas System to Duke Energy and Williams Gas Pipeline; the Empire pipeline to Westcoast Energy; the Green Canyon and Tarpon pipelines to Williams Field Services; the Manta Ray, Nautilus, and Nemo pipelines to Enterprise Products; and the Stingray pipeline to Shell Gas Transmission and Enterprise Products. The Respondents must also divest their interests in the Midwestern Gas Transmission pipeline ("MGT") within 120 days of the date upon which the Commission places the proposed Order on the public record, UTOS by April 1, 2001, and the Iroquois pipeline within 90 days of the date upon which the Commission places the proposed Order on the public record.

The Commission is satisfied that the acquirers identified in the proposed Order are well-qualified acquirers and will compete vigorously with the Respondents. The Commission will evaluate additional proposed acquirers for assets to be divested under the proposed Order to make certain that such acquirers will not present competitive problems.

In connection with the divestiture of their interests in the Empire, MGT, Stingray, and UTOS pipelines, the proposed Order requires the Respondents to provide transitional services to the purchaser of these pipelines, at a reasonable fee, sufficient to operate the assets. The Respondents must provide these services for a period of up to nine months. Also, in connection with the divestiture of these assets, the Order requires the Respondents to give the acquirers an opportunity to transfer applicable employment relationships from either Coastal or El Paso to each acquirer. These provisions of the proposed Order help assure that there will be a successful and reasonably short transition of the pipelines to the new owners.

The proposed Order also contains additional provisions with respect to the divestiture of Gulfstream Natural Gas System. Gulfstream Natural Gas System is beginning to construct a 140-mile natural gas pipeline that will originate near Mobile Bay, Alabama; extend across the Gulf of Mexico to the west coast of Florida near Tampa; and extend inland to various destinations in the Florida peninsula. To ensure that the pipeline meets its scheduled in-service date of June 1, 2002, the proposed Order requires Respondents to provide consulting services, at a reasonable fee, to the buyer of Gulfstream until June 2002. The proposed Order prohibits the Respondents from acquiring any long term firm capacity on Gulfstream (except for their own end use) and from disclosing or making available any Gulfstream confidential information to any person. The Respondents are further prohibited from using any Gulfstream confidential information, except to provide consulting services to the buyer of Gulfstream.

In connection with the divestiture of the MGT pipeline, the proposed Order requires the Respondents to include and enforce a provision in the MGT purchase and sale agreement that requires the MGT acquirer to connect MGT to the Guardian pipeline ("Guardian Interconnection"). The Respondents are prohibited by the proposed Order from engaging in any action, or failing to take any action, the result of which would prevent, hinder, or delay completion of the Guardian Interconnection. Furthermore, the proposed Order prohibits the Respondents from engaging in any unfair or deceptive practice that would prevent, hinder, or delay construction of the Guardian pipeline; and requires Respondents to notify publicly the Federal Energy Regulatory Commission and the Public Service Commission of Wisconsin if Respondents fund any third-party effort to oppose the Guardian pipeline. These provisions are designed to ensure the effectiveness of the Commission's remedy. With regard to the MGT divestiture, the Respondents must divest MGT to a buyer approved by the Commission within 120 days from the date upon which the Commission places the proposed Order on the public record.

In connection with the divestiture of its interests in the Iroquois pipeline, the proposed Order prohibits Respondents from divesting more than 8.72% of their partnership interest in Iroquois pipeline to Dominion Resources. This limitation prevents Dominion Resources from acquiring additional control or influence over the Iroquois pipeline that could be used to thwart competition. The proposed Order also prohibits Respondents from serving on any committee of the Iroquois pipeline, attending any meeting of any such committee, or receiving any information from the Iroquois pipeline not made available to all shippers or to the public at large. Furthermore, until the Respondents are removed from the Iroquois Management Committee, the proposed Order requires that the Respondents' vote be cast in favor of expansion, if such a vote should arise. The Respondents are also deemed, by the proposed Order, to vote to create unanimity when unanimous action is required within a voting bloc in order to cast that bloc's vote. These provisions prevent the Respondents from gaining access to competitively sensitive information that could be used to prevent competition between Respondents and the Iroquois pipeline, and keep the Respondents from limiting the ability of the Iroquois pipeline to expand in the Albany market.

The proposed Order also requires that the Respondents to create a fund to encourage expansions of the Tarpon and Green Canyon pipelines by providing $40 million, within ten days from the date of the divestiture of the Tarpon and Green Canyon pipelines, to be deposited in an interest-bearing account. The Tarpon and Green Canyon pipelines will be permitted to use the fund to pay the direct costs of constructing a natural gas pipeline or related facility that originates at any pipeline owned by the Green Canyon and Tarpon acquirer, and which extends to a location within a specified area. The fund will ensure that competition is maintained by allowing the Tarpon and Green Canyon acquirer to extend its pipelines into an area of competitive concern and to compete against the Respondents in that area. Without this fund competition would be reduced and the Tarpon and Green Canyon acquirer would be at a competitive disadvantage due to the longer distance between the acquiring firm's pipelines and the areas of concern. Any money remaining in the fund after twenty years will be paid to Respondent El Paso.

The proposed Order further requires that the Respondents assist the acquirers of the Gulfstream, Empire, Iroquois, MGT, Green Canyon, Tarpon, Nautilus, Manta Ray, Nemo, Stingray, and UTOS pipelines in obtaining any approval, consent, ratification, waiver, or other authorization (including governmental) that is or will become necessary to complete the divestitures required by the proposed Order.

Additionally, for a period of 10 years after the proposed Order becomes final, the Respondents must provide written notice to the Commission prior to acquiring any interest in any of the assets which are required to be divested by the proposed Order. The proposed Order also prohibits the Respondents from entering into any agreement to acquire any rights to long term firm transportation on the Gulfstream, Empire, or MGT pipelines from the date Respondents sign the Agreement Containing Consent Orders until Respondents have divested the applicable pipeline. After that date, and for a period of ten years, Respondents must provide advance written notification before entering into an agreement to purchase long term firm transportation greater than 100,000 dekatherms per day on either the Empire or MGT pipeline. There is an exception to these restrictions where the purchase of the transportation is for the Respondents' own end use. Furthermore, the Respondents must provide the Commission with a report of compliance with the proposed Order within 60 days after the proposed Order becomes final, annually thereafter until the order terminates, and at other times as the Commission may require.

The parties will also be subject to an "Order to Maintain Assets," to be issued by the Commission. Under the Order to Maintain Assets, between the date the Respondents sign the Agreement Containing Consent Orders and the date of divestiture of the applicable asset, the Respondents must maintain the assets to be divested in substantially the same condition as existing on the date the Respondents signed the Agreement Containing Consent Orders; use their best efforts to keep available the services of current personnel relating to the assets to be divested and to maintain the relations and good will of those entities which have business relationships with the assets to be divested; and preserve the assets to be divested intact as an ongoing business. Under the Order to Maintain Assets, the Respondents must also provide the acquirers of the assets to be divested an opportunity to transfer employment relationships from the Respondents to the acquirers. In addition, the Order to Maintain Assets imposes several obligations on the Respondents which are also imposed by the proposed Order and which are mentioned earlier in this notice.

Further, Dominion Resources, which already owns 16% of the Iroquois pipeline, has been made a party to the proposed Order for the purposes of requiring it to provide the Commission with advance written notification before increasing its interest in the Iroquois pipeline.

Finally, under the terms of the proposed Order, in the event that El Paso does not divest the assets required to be divested under the terms and time constraints of the proposed Order, the Commission may appoint a trustee to divest those assets, expeditiously, and at no minimum price. The proposed Order also authorizes the Commission to appoint a Monitor Trustee to oversee the Development Fund by ensuring that those funds are used in a manner consistent with the terms of the proposed Order.

V. Opportunity for Public Comment

The proposed Order has been placed on the public record for 30 days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After 30 days, the Commission will again review the proposed Order and the comments received and will decide whether it should withdraw from the proposed Order or make it final. By accepting the proposed Order subject to final approval, the Commission anticipates that the competitive problems alleged in the Complaint will be resolved. The purpose of this analysis is to invite public comment on the proposed Order, including the proposed divestitures, to aid the Commission in its determination of whether to make the proposed Order final. This analysis is not intended to constitute an official interpretation of the proposed Order, nor is it intended to modify the terms of the proposed Order in any way.