

## MONITOR AGREEMENT

MONITOR AGREEMENT (the "Agreement"), dated as of December 12, 2006, between TC Group, L.L.C., Riverstone Holdings LLC, Carlyle/Riverstone Global Energy and Power Fund II, L.P., Carlyle/Riverstone Global Energy and Power Fund III, L.P. (collectively, "Respondents") and Kevin Sudy of Navigant Consulting, Inc. ("Monitor").

### PRELIMINARY STATEMENT

WHEREAS, the Federal Trade Commission (the "Commission") will accept for public comment an Agreement Containing Consent Orders, a Decision and Order, and an Order to Maintain Assets (collectively, the "Order") relating to the planned acquisition by the Respondents of equity interests in Kinder Morgan, Inc. The Order to Maintain Assets (the "OMA") will be issued by the Commission and provides that the Respondents agree that from the date that the Order is accepted by the Commission for public comment until the earlier of the applicable dates listed in Paragraph VIII of the OMA ("OMA Period"), Respondents will comply with the provisions of the OMA.

WHEREAS, all capitalized words or phrases appearing in this Agreement and not otherwise defined herein are deemed to have the defined meanings assigned to them in the Order, a draft of said Order being attached hereto as Exhibit "C" and incorporated herein for purposes of defining capitalized words or phrases not otherwise defined herein.

WHEREAS, the OMA and the Proposed Decision and Order require Respondents to appoint a Monitor, Respondents have nominated Kevin Sudy of Navigant Consulting, Inc as the Monitor and he has agreed to be the Monitor, subject to Commission approval.

### ARTICLE I

Section 1.1 *Powers of the Monitor.* The Monitor shall have the rights, duties, powers and authority conferred upon the Monitor by the Order that are necessary for the Monitor to monitor Respondents' implementation of the firewall procedures under Paragraphs II.B. and II.C. of the Order. No later than one day after the OMA becomes final, Respondents hereby transfer to the Monitor all rights, powers, and authorities necessary to permit the Monitor to monitor Respondents' implementation of the firewall procedures under Paragraphs II.B. and II.C. of the Order in a manner consistent with the Order. Any descriptions thereof contained in this Agreement in no way modify the Monitor's powers and authority or Respondents' obligations under the Order.

Section 1.2 *Monitor's Duties.* The Monitor shall monitor Respondents' implementation of the firewall procedures under Paragraphs II.B. and II.C. of the Order in a manner consistent with the Order, including but not limited to:

(a) Assuring that Respondents expeditiously comply with all of their obligations and perform all of their responsibilities to assure that Non-Public Information is protected as required by the Order and the Amendment; and

(b) Assuring that Non-Public Information is not received or used by Respondents except as allowed in the Order and the Amendment.

The Monitor shall act in a fiduciary capacity for the benefit of the Commission.

Section 1.3 *Duration of Monitor's Authority.* The Monitor shall have all powers and duties described above and consistent with the Order until the Monitor reports to the Commission that Respondents have put in place adequate procedures in accordance with Paragraphs II.B. and II.C. of the Order, and that those procedures provide the appropriate firewall protections, and the Commission staff notifies Respondents that such procedures are acceptable.

Section 1.4 *Confidential and Proprietary Information.* The Monitor shall retain and maintain all information it receives from or on behalf of Respondents, including Non-Public Information, on a confidential basis. The Monitor may disclose such information only to (a) persons employed by or working with the Monitor under this Agreement or (b) to persons employed at the Commission. Such information shall be used by the Monitor only in connection with the performance of the Monitor's duties pursuant to this Agreement. The Monitor shall require any person retained by the Monitor to assist in carrying out the duties and responsibilities of the Monitor to execute a confidentiality agreement that requires the same standard of care and obligations of confidentiality to which the Monitor must adhere under this Agreement. The Monitor shall maintain the confidentiality, for a period of five (5) years after the termination of this Agreement, of all other aspects of the performance of his duties under this Agreement and shall not disclose any confidential or proprietary information relating thereto.

Upon termination of the Monitor's duties under this Agreement, the Monitor shall promptly return to Respondents all material provided to the Monitor by or on behalf of Respondents and shall destroy any material prepared by the Monitor that contains or reflects any confidential or proprietary information of Respondents. Compliance with this paragraph shall not abrogate the Monitor's duties of confidentiality hereunder.

For the purposes of this Section, information shall not be considered confidential or proprietary to the extent that it is or becomes part of the public domain (other than as the result of any action by the Monitor or by any employee, agent, affiliate or consultant of the Monitor).

Section 1.5 *Reports.* Monitor shall report to the Commission pursuant to the terms of the Order and as otherwise requested by the Commission.

Section 1.6 *Access to Records, Documents and Facilities.* Subject to any demonstrated legally recognized privilege, the Monitor shall have full and complete access to Respondents' personnel, books, documents, records kept in the ordinary course of business, facilities and technical information, and such other relevant information as the Monitor may reasonably request, related to Respondents' compliance with their obligations under Paragraphs II.B and II.C of the Order, and the Amendment. Respondents shall cooperate with any reasonable request of the Monitor and shall take no action to interfere with or impede the Monitor's ability to monitor Respondents' compliance with the Order and the Amendment.

## ARTICLE II

Section 2.1 *Retention and Payment of Counsel, Consultants, and Other Assistants.* The Monitor shall have the authority to employ, at the expense of the Respondents, such attorneys, consultants, accountants, and other representatives and assistants as are reasonably necessary to carry out the Monitor's duties and responsibilities.

Section 2.2 *Compensation.* The Monitor shall be compensated by Respondents for his services under this Agreement pursuant to the terms provided in Confidential Exhibit A. Such compensation shall be paid one half by Respondent Carlyle and one half by Respondent Riverstone.

## ARTICLE III

Section 3.1 *Monitor's Liabilities and Indemnification.* Respondents shall indemnify the Monitor and hold the Monitor harmless against any losses, claims, damages, liabilities, or expenses arising out of, or in connection with, the performance of the Monitor's duties, including all reasonable fees of counsel and other expenses incurred in connection with the preparations 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 misfeasance, gross negligence, willful or wanton acts, or bad faith by the Monitor. Respondent Carlyle and Respondent Riverstone shall each be liable for one half of any indemnification pursuant to this Section 3.1.

Section 3.2 *Monitor's Removal.* If the Commission determines that the Monitor has ceased to act or failed to act diligently, the Commission may appoint a substitute Monitor in the manner described in Paragraph IV.C. of the Order.

Section 3.3 *Approval by the Commission.* This Agreement shall terminate immediately if not approved by the Commission, except that the confidentiality provisions herein shall survive.

Section 3.4 *Termination.* This Agreement shall terminate the earlier of: (a) Respondents' receipt of written notice from the Commission that the Commission has not approved this Agreement or has determined that the Monitor has ceased to act or failed to act diligently; (b) with at least thirty (30) days advance notice to be provided by the Monitor to Respondents and to the Commission, upon resignation of the Monitor; or (c) at the end of the time period described in Section 1.3 hereof; provided, however, that the Commission may require that Respondents extend this Monitor Agreement or enter into an additional agreement with the Monitor as may be necessary or appropriate to accomplish the purposes of the Order. If this Monitor Agreement is terminated for any reason, the confidentiality obligations set forth in this Agreement will remain in force.

Section 3.5 *Conflicts of Interest.* If the Monitor becomes aware during the term of this Agreement that he has or may have a conflict of interest that may affect or could have the appearance of affecting performance by the Monitor of any of his duties under this Agreement, the Monitor shall promptly inform Respondents and the Commission of any such conflict.

## ARTICLE IV

Section 4.1 *Notice.* Any notice, request, instruction, correspondence or other document to be given hereunder by any party to another party (each, a "Notice") shall be in writing and delivered in person or by courier service requiring acknowledgement of receipt of delivery or mailed by U.S. registered or certified mail, postage prepaid and return receipt requested, or by telecopier, as follows:

If to the Monitor, addressed to:

Navigant Consulting, Inc.  
615 North Wabash  
Chicago, IL 60611  
Attention: Richard X. Fischer, Vice President and General Counsel  
Telecopy to: 312-573-5676

Navigant Consulting, Inc.  
11501 Sunset Hills Road  
Reston, VA 20190  
Attention: Joseph Tedesco and Kevin Sudy  
Telecopy to: 703-224-0199

If to Respondents, addressed to:

Riverstone Holdings LLC  
712 Fifth Avenue, 51st Floor  
New York, NY 10019  
Attention: David M. Leuschen and Pierre F. Lapeyre, Jr.  
Telecopy: 212.993.0077

and to:

The Carlyle Group  
1001 Pennsylvania Avenue N.W.  
Suite 220 South  
Washington DC 20004-2505  
Attention: Jeffrey Ferguson  
Telecopy: 202.347.9250

Notice given by personal delivery, courier service or mail shall be effective upon actual receipt. Notice given by telecopier shall be confirmed by appropriate answer back and shall be effective upon actual receipt if received during the recipient's normal business hours, or at the beginning of the recipient's next business day after receipt if not received during the recipient's normal business hours. All Notices by telecopier shall be confirmed promptly after transmission in writing by certified mail or personal delivery. Any party may change any address to which Notice is to be given to it by giving Notice as provided above of such change of address.

Section 4.2 *Governing Law.* To the maximum extent permitted by applicable law, the provisions of this Agreement shall be governed by and construed and enforced in accordance with the laws of the State of New York, without regard to principles of conflicts of law.

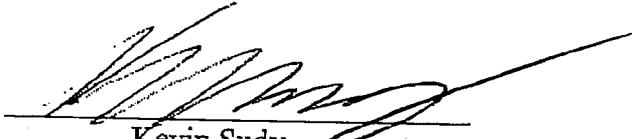
Section 4.3 *Severability.* If any term or other provision of this Agreement is invalid, illegal, or incapable of being enforced by any rule of applicable law, or public policy, then such term or provision shall be severed from the remaining terms and provisions of this Agreement, and such remaining terms and provisions shall nevertheless remain in full force and effect.

Section 4.4 *Execution.* This Agreement may be executed in multiple counterparts each of which shall be deemed an original and all of which shall constitute one instrument.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first above written.

MONITOR:

  
Kevin Sudy

RESPONDENTS:

TC GROUP, L.L.C

\_\_\_\_\_  
By: Jeffrey W. Ferguson  
Title: General Counsel and Managing Director

RIVERSTONE HOLDINGS LLC

\_\_\_\_\_  
By: Pierre F. Lapeyre, Jr.  
Title: Senior Managing Director

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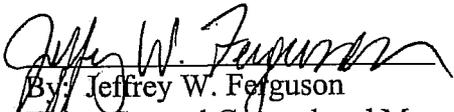
MONITOR:

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Kevin Sudy

RESPONDENTS:

TC GROUP, L.L.C.

  
By: Jeffrey W. Ferguson  
Title: General Counsel and Managing Director

RIVERSTONE HOLDINGS LLC

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By: Pierre F. Lapeyre, Jr.  
Title: Senior Managing Director

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Kevin Sudy

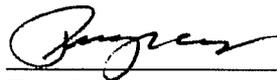
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Title: General Counsel and Managing Director

RIVERSTONE HOLDINGS LLC



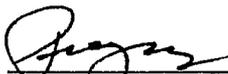
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By: Pierre F. Lapeyre, Jr.  
Title: Senior Managing Director

CARLYLE/RIVERSTONE GLOBAL ENERGY AND POWER FUND II, L.P.

By:   
\_\_\_\_\_  
Carlyle/Riverstone Energy Partners  
II, L.P., its General Partner  
By: C/R Energy GP II, LLC, its  
General Partner  
By: Pierre F. Lapeyre, Jr.,  
Member of the  
Management Committee  
and Authorized Person

CARLYLE/RIVERSTONE GLOBAL ENERGY AND POWER FUND III, L.P.

By:   
\_\_\_\_\_  
Carlyle/Riverstone Energy Partners  
III, L.P., its General Partner  
By: C/R Energy GP III, LLC, its  
General Partner  
By: Pierre F. Lapeyre, Jr.,  
Member of the  
Management Committee  
and Authorized Person

**CONFIDENTIAL EXHIBIT A**

**[REDACTED]**