

UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION

COMMISSIONERS: Robert Pitofsky, Chairman
 Mary L. Azcuenaga
 Janet D. Steiger
 Roscoe B. Starek, III
 Christine A. Varney

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)	
In the Matter of)	
)	Docket No. C-3697
NGC Corporation,)	DECISION AND
a corporation.)	ORDER
)	
)	

The Federal Trade Commission having initiated an investigation of the proposed acquisition by respondent of certain assets and businesses of Chevron Corporation ("Chevron"), and the respondent having been furnished thereafter with a copy of a draft of Complaint that the Bureau of Competition presented to the Commission for its consideration and which, if issued by the Commission, would charge respondent 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

Respondent, its attorneys, and counsel for the Commission having thereafter executed an Agreement containing a Consent Order, an admission by respondent of all the jurisdictional facts set forth in the aforesaid draft of Complaint, a statement that the signing of said Agreement is for settlement purposes only and does not constitute an admission by respondent 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 the respondent has violated the said Acts, and that a Complaint

should issue stating its charges in that respect, and having thereupon accepted the executed Consent Agreement and placed such Agreement on the public record for a period of sixty (60) days, now in further conformity with the procedure described in § 2.34 of its Rules, the Commission hereby issues its Complaint, makes the following jurisdictional findings and enters the following Order:

1. Respondent NGC 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 13430 Northwest Freeway, Suite 1200, Houston, Texas 77040.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent, 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. "Combination" means the transactions contemplated by the Combination Agreement and Plan of Merger, dated as of May 22, 1996, among NGC Corporation, Chevron U.S.A. Inc., and Midstream Combination Corp.

B. "Commercial Operator" means the person or entity with the legal authority to enter into contracts on behalf of a Fractionation Facility to provide third parties with the service of Fractionation for a fee and to set the prices offered to third parties for such service.

C. "Facility Operator" means any person or entity with the legal authority to engage in any activity involved in the routine management, supervision or operation of a Fractionation Facility, including, but not limited to: the receipt, measurement, handling and storage of raw natural gas liquids delivered to the Fractionation Facility; the maintenance, repair and operation of any equipment, machinery or other assets used in the course of the operation of the Fractionation Facility; the handling, storage and movement of Specification Products produced at the Fractionation Facility prior to receipt by a third party; the purchase and use of material and supplies in connection with the operation, maintenance and repair of the Fractionation Facility; the provision of accounting, billing and scheduling functions necessary for the processing of transactions with Fractionation

customers; the provision of engineering services necessary for operation of the Fractionation Facility; preparation and submission of any necessary reports to governmental authorities; the procurement of any necessary licenses and permits on behalf of the Fractionation Facility; the purchase of services necessary for the Fractionation Facility's operation; and the supervision of the implementation of any decision to expand or modify, repair or maintain the Fractionation Facility.

D. "Fractionation" means the process of separating raw natural gas liquids into specification products.

E. "Fractionation Facility" means a facility that separates raw natural gas liquids into specification products.

F. "GCF" means Gulf Coast Fractionators, a Texas general partnership.

G. "GCF Expansion Project" means any current or future project involving an expenditure for equipment or other capital assets reasonably necessary to increase the capacity of the GCF Fractionation Facility beyond its effective capacity level at the time the expenditure is undertaken.

H. "GCF Fractionation Facility" means the Fractionation Facility owned by GCF located at 1.5 miles west of Highway 146 on FM 1942, Mont Belvieu, Chambers County, Texas.

I. "GCF Partnership Agreement" means the Amended and Restated Partnership Agreement between Trident NGL, Inc. and Liquid Energy Corporation and Conoco Inc., effective December 1, 1992.

J. "MB I" means Mont Belvieu I, a Fractionation Facility, originally constructed by Cities Service Company in 1970, located at 9900 FM 1942, Mont Belvieu, Chambers County, Texas.

K. "MB I Ownership Agreement" means the Agreement for the Construction, Ownership and Operation of the Mont Belvieu I Fractionation Facility between Trident NGL, Inc. and Union Pacific Fuels, Inc., dated November 17, 1993, and any subsequent amendments thereof.

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

M. "Property to be Divested" means NGC's interest in (1) MB I; and (2) all assets, title, properties, interest, rights and privileges, of whatever nature, tangible and intangible, and other property of whatever description and location used in the business of MB I including, without limitation:

1. all buildings, machinery, fixtures, equipment, vehicles, pipelines, storage facilities, furniture,

tools, supplies, spare parts and other tangible personal property located in Mont Belvieu, Texas;

2. all rights, title and interest in and to real property located in Mont Belvieu, Texas, together with appurtenances, licenses, and permits;
3. all books, records and files;
4. all rights under warranties and guarantees for equipment, express or implied;
5. all technical information and drawings for equipment;
6. all vendor lists, catalogs, sales promotion literature, and advertising materials;
7. all inventory of finished goods, work in progress, raw materials and supplies;
8. at the option of the Acquirer all rights, title and interests in and to the contracts and leases entered into in the ordinary course of business with suppliers, measurement equipment operators, storage facility operators, transmission pipeline operators, Fractionation customers and personal property lessors and licensors, pertaining to the operation of MB I, provided that where third party consent is required to complete the transfer described in this subparagraph, NGC shall use best efforts to obtain such third party's consent.

N. "Specification products" mean ethane, propane, ethane-propane mix, iso-butane, normal-butane and natural gasoline.

II.

IT IS FURTHER ORDERED that:

A. Within six (6) months after the signing of the Agreement Containing Consent Order, NGC shall divest, absolutely and in good faith, the Property to be Divested. The Property to be Divested shall be divested 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. The purpose of the divestiture required by this Order is to ensure the continued operation of MB I in the Fractionation business in the same manner as conducted by MB I at the time of the proposed

divestiture and to remedy the lessening of competition alleged in the Commission's complaint.

B. Upon the signing of the Agreement Containing Consent Order, NGC shall immediately give the requisite six (6) month notice under the MB I Ownership Agreement of its intent to cease serving as the Commercial and Facility Operator at MB I. Within thirty (30) days after the signing of the Agreement Containing Consent Order, NGC shall cease to serve as the Commercial Operator of MB I, provided the other party to the MB I Ownership Agreement agrees to be installed as the Commercial Operator of MB I by that date. In the event that the other party to the MB I Ownership Agreement has not elected to become the Commercial Operator within said thirty (30) day period, NGC may continue to serve as the Commercial Operator of MB I, but shall do so: (i) under the provisions of Paragraph 3 of the Hold Separate Agreement ("Hold Separate"), attached hereto and made a part hereof as Appendix I; and (ii) only until the divestiture contemplated in Paragraph II.A. of this Order is achieved, provided such divestiture occurs within the six-month period described therein. If such divestiture does not occur within said six-month period, NGC shall cease to serve as the Commercial Operator of MB I by the date on which that six-month period expires and the provisions of Paragraph III.C. of this Order shall apply. NGC may continue to serve as Facility Operator of MB I until the divestiture contemplated in Paragraph II.A. of this Order is achieved, provided such divestiture occurs within the six-month period described therein. If such divestiture does not occur within that six-month period, NGC shall cease to serve as the Facility Operator of MB I by the date on which that six-month period expires and the provisions of Paragraph III.C. of this Order shall apply.

C. NGC shall do nothing to prevent, impede or interfere with the person or entity that succeeds NGC as either the Commercial Operator or the Facility Operator of MB I in undertaking reasonable efforts to offer employment to any NGC employees who assist in the performance of any activities that NGC engages in as the Commercial Operator or Facility Operator at MB I, respectively.

D. Pending divestiture of the Property to be Divested, NGC shall take no action impairing the viability and marketability of the Property to be Divested and shall not cause or permit the destruction, removal, or impairment of any assets or business of the Property to be Divested, except in the ordinary course of business and except for ordinary wear and tear.

E. NGC shall comply with the Agreement to Hold Separate attached to this Order and made a part hereof ("Hold Separate"). Said Hold Separate shall continue in effect until NGC has divested the Property to be Divested or until such other time as the Hold Separate provides.

III.

IT IS FURTHER ORDERED that:

A. If NGC has not divested, absolutely and in good faith and with the Commission's prior approval, the Property to be Divested as required by Paragraph II of this Order within six (6) months after the signing of the Agreement Containing Consent Order, the Commission may appoint a trustee to divest the Property to be Divested. In the event the Commission or the Attorney General brings an action pursuant to Section 5 (1) of the Federal Trade Commission Act, or any other statute enforced by the Commission, NGC 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 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 Section 5(1) of the Federal Trade Commission Act, or any other statute enforced by the Commission, for any failure by NGC to comply with this Order.

B. If a trustee is appointed by the Commission or a court pursuant to Paragraph III.A. of this Order, NGC shall consent to the following terms and conditions regarding the trustee's powers, authorities, duties and responsibilities:

1. The Commission shall select the trustee, subject to the consent of NGC, which consent shall not be unreasonably withheld. The trustee shall be a person with experience and expertise in acquisitions and divestitures. If NGC has not opposed, in writing, the selection of any proposed trustee within ten (10) days after notice by the staff of the Commission to NGC of the identity of any proposed trustee, NGC 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 divest the Property to be Divested.
3. Within ten (10) days after appointment of the trustee, NGC 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 required by this Order.

4. The trustee shall have twelve (12) months from the date the Commission approves the trust agreement described in Paragraph III.B.3 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 accomplished 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, that the Commission may extend the divestiture period only two (2) times.
5. NGC shall provide the trustee with full and complete access to the personnel, books, records and facilities relating to the Property to be Divested, or any other relevant information, as the trustee may request. NGC shall develop such financial or other information as such trustee may request and shall cooperate with the trustee. NGC shall take no action to interfere with or impede the trustee's accomplishment of the divestiture. Any delays in divestiture caused by NGC 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, the court.
6. The trustee shall make reasonable efforts to negotiate the most favorable price and terms available in each contract that is submitted to the Commission, subject to NGC's absolute and unconditional obligation to divest at no minimum price. The divestiture shall be made in the manner and to the acquirer or acquirers as set out in Paragraph II of this Order; 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 NGC from among those approved by the Commission.
7. The trustee shall serve, without bond or other security, at the cost and expense of NGC, on such reasonable and customary terms and conditions as the Commission or the court may set. The trustee shall have authority to employ, at the cost and expense of NGC, such consultants, accountants, attorneys, investment bankers, business brokers, appraisers, and other representatives and assistants as are reasonably 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 NGC and the trustee's power shall be terminated. The trustee's compensation shall be based at least in a significant part on a commission arrangement contingent on the trustee's divesting the Property to be Divested.

8. NGC 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 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 Paragraph III.A. of this Order.
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 divestiture required by this Order.
11. The trustee shall have no obligation or authority to operate or maintain the Property to be Divested.
12. The trustee shall report in writing to NGC and to the Commission every sixty (60) days concerning the trustee's efforts to accomplish divestiture.

C. If NGC has not divested, absolutely and in good faith and with the Commission's prior approval, the Property to be Divested as required by Paragraph II of this Order within six (6) months after the signing of the Agreement Containing Consent Order, NGC shall, by such date: (i) cease to serve as the Commercial Operator of MB I (assuming NGC is then serving as Commercial Operator under the provisions of Paragraph 3 of the

Hold Separate); (ii) cease to serve as the Facility Operator of MB I; and (iii) take all necessary steps under the MB I Ownership Agreement to install the other party to said Ownership Agreement as the Commercial Operator and the Facility Operator of MB I.

IV.

IT IS FURTHER ORDERED that:

A. Upon the signing of the Agreement Containing Consent Order, NGC shall immediately give the requisite six (6) month notice under the GCF Partnership Agreement of its intent to cease serving as the Commercial and Facility Operator at GCF. Within thirty (30) days after the signing of the Agreement Containing Consent Order, NGC shall cease to serve as the Commercial Operator of GCF, provided a replacement agrees to be installed as the Commercial Operator of GCF by that date. Within one hundred and twenty (120) days after the signing of the Agreement Containing Consent Order, NGC shall cease to serve as the Facility Operator of GCF, provided a replacement agrees to be installed as the Facility Operator of GCF by that date. In the event that a replacement has not elected to assume the activities of the Commercial Operator of GCF within the thirty (30) day period provided or that a replacement has not elected to assume the activities of the Facility Operator of GCF within the one hundred and twenty (120) day period provided, then the provisions of Paragraph 4 of the Hold Separate shall apply, but only until six (6) months after the signing of the Agreement Containing Consent Order. NGC shall, by the end of said six (6) month period: (i) cease to serve as the Commercial Operator of GCF (assuming NGC is then serving as Commercial Operator under the provisions of Paragraph 4 of the Hold Separate); (ii) cease to serve as the Facility Operator of GCF; and (iii) take all necessary steps under the GCF Partnership Agreement to install one of the other parties to said Partnership Agreement as the Commercial Operator and the Facility Operator of GCF.

B. NGC shall do nothing to prevent, impede or interfere with the person or entity that succeeds NGC as either the Commercial Operator or the Facility Operator of GCF in undertaking reasonable efforts to offer employment to any NGC employees who assist in the performance of any activities that NGC engages in as the Commercial Operator or as the Facility Operator at GCF, respectively.

C. In its capacity as a GCF partner, NGC shall sponsor and support an amendment to the GCF Partnership Agreement to allow any two partners (together holding at least a 50% ownership

interest in GCF) to commit GCF to undertake a GCF Expansion Project, while providing that a partner may choose to limit its participation in the costs and benefits of such Project. Until such time as the GCF Partnership Agreement is so amended, NGC shall vote in favor of any GCF Expansion Project proposed by another GCF partner, and furthermore NGC shall take no action to prevent, block, delay or impede in any way any GCF Expansion Project, but rather shall provide all reasonable cooperation necessary to facilitate any such Project sought by other GCF partner or partners; provided however, that this provision does not obligate NGC to accept any financial burden or legal responsibility with respect to such GCF Expansion Project to the extent that such burden or responsibility is out of proportion to NGC's ownership interest in GCF.

D. Except as permitted in the Hold Separate, NGC shall not participate in any matter or negotiations pertaining to fractionation fees or other terms pursuant to which customers other than NGC obtain fractionation services at GCF.

V.

IT IS FURTHER ORDERED that, for a period of ten (10) years from the date this Order becomes final, NGC shall not, without providing advance written notification to the Commission, directly or indirectly, through subsidiaries, partnerships, or otherwise: (i) acquire any stock, share capital, equity, or other interest in any concern, corporate or non-corporate, engaged at the time of such acquisition, or within the two years preceding such acquisition, in the Fractionation business within ten (10) miles of Mont Belvieu, Texas, or (ii) become the Commercial Operator or Facility Operator of any Fractionation Facility within ten (10) miles of Mont Belvieu, Texas, other than the Fractionation Facility currently operated by Chevron U.S.A. Inc. Said notification 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 Office of the Secretary of the Commission, notification need not be made to the United States Department of Justice, and notification is required only of NGC and not of any other party to the transaction. NGC shall provide the Notification to the Commission at least thirty (30) days prior to acquiring any such interest (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, NGC shall not consummate the

acquisition until twenty (20) days after substantially complying with such request for additional information. Early termination of the waiting periods in this paragraph may be requested and, where appropriate, granted by letter from the Commission's Bureau of Competition.

Provided, however, that prior notification shall not be required by this Paragraph V of this Order for:

- A. the construction or development by NGC of a new Fractionation Facility or the installation of NGC as the Commercial Operator or Facility Operator of any such facility; or
- B. the expansion or enhancement of an existing Fractionation Facility owned by NGC in whole or in part; or
- C. any 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.

VI.

IT IS FURTHER ORDERED that:

A. Within sixty (60) days after the date the Agreement Containing Consent Order is signed and every sixty (60) days thereafter until NGC has fully complied with the provisions of Paragraphs II or III of this Order, NGC shall submit to the Commission a verified written report setting forth in detail the manner and form in which it intends to comply, is complying, and has complied with Paragraphs II and III of this Order. NGC shall include in its compliance reports, among other things that are required from time to time, a full description of the efforts being made to comply with Paragraphs II and III of the Order, including a description of all substantive contacts or negotiations for the divestiture and the identity of all parties contacted. NGC shall include in its compliance reports, subject to any legally recognized privilege, copies of all written communications to and from such parties, all internal memoranda, and all reports and recommendations concerning divestiture.

B. One (1) year from the date this Order becomes final, annually for the next nine (9) years on the anniversary of the date this Order becomes final, and at other times as the Commission may require, NGC shall file a verified written report with the Commission setting forth in detail the manner and form in which it has complied and is complying with Paragraphs IV and V of this Order. Such reports shall include, but not be limited to, a listing by name and location of all Fractionation Facilities in Mont Belvieu, Texas, in which NGC has any ownership interest, including but not limited to ownership interest obtained due to default, foreclosure proceedings or purchases in

foreclosure, made by NGC during the twelve (12) months preceding the date of the report.

VII.

IT IS FURTHER ORDERED that, for a period of ten (10) years from the date this Order becomes final, NGC shall notify the Commission at least thirty (30) days prior to any proposed change in its organization that may affect compliance obligations under this Order, such as dissolution, assignment or sale resulting in the emergence of a successor, or the creation or dissolution of subsidiaries, or any other change that may affect compliance obligations under this Order.

VIII.

IT IS FURTHER ORDERED that, for the purpose of determining or securing compliance with this Order, subject to any legally recognized privilege, upon written request with reasonable notice to NGC made to its principal officer, NGC shall permit any duly authorized representative or representatives of the Commission:

- A. access, during the office hours of NGC and in the presence of counsel, to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of NGC relating to any matters contained in this Order; and
- B. upon five (5) days' notice to NGC and without restraint or interference therefrom, to interview officers or employees of NGC, who may have counsel present, regarding such matters.

IX.

IT IS FURTHER ORDERED that this Order shall terminate on December 12, 2016.

By the Commission.

Donald S. Clark
Secretary

SEAL

ISSUED: December 12, 1996

Whereas, NGC and Chevron both operate fractionation facilities in Mont Belvieu, Texas; and

Whereas, the Commission is now investigating the Proposed Combination to determine whether it would violate any of the statutes enforced by the Commission; and

Whereas, if the Commission accepts the Agreement Containing Consent Order ("Consent Agreement"), the Commission must place the Consent Agreement on the public record for public comment for a period of at least sixty (60) days and may subsequently withdraw such acceptance pursuant to the provisions of Section 2.34 of the Commission's Rules; and

Whereas, the Commission is concerned that if an understanding is not reached preserving competition during the period prior to the final issuance of the Consent Agreement by the Commission (after the 60-day public notice period), there may be interim competitive harm, and relief resulting from a proceeding challenging the legality of the Proposed Combination might not be possible, or might be less than an effective remedy; and

Whereas, the Commission is concerned that if the Proposed Combination is consummated, it will be necessary to preserve the Commission's ability to require the divestiture of the Properties to be Divested as described in Paragraph I of the Consent Order and the Commission's right to seek to restore the NGC and Chevron fractionation businesses at Mont Belvieu, Texas as independent, viable competitors; and

Whereas, the purpose of this Hold Separate and the Consent Agreement is to:

- (i) preserve the Property to be Divested as a viable independent business pending its divestiture as a viable and ongoing enterprise;

- (ii) remedy any anticompetitive effects of the Proposed Combination; and
- (iii) preserve the Property to be Divested as an ongoing, competitive entity engaged in the same business in which it is presently employed until divestiture is achieved; and

Whereas, NGC's entering into this Hold Separate shall in no way be construed as an admission by NGC that the Proposed Combination constitutes a violation of any statute; and

Whereas, NGC understands that no act or transaction contemplated by this Hold Separate shall be deemed immune or exempt from the provisions of the antitrust laws or the Federal Trade Commission Act by reason of anything contained in this Agreement.

NOW, THEREFORE, the parties agree, upon the understanding that the Commission has not yet determined whether the Proposed Combination will be challenged, and in consideration of the Commission's agreement that, at the time it accepts the Consent Agreement for public comment it will grant early termination of the Hart-Scott-Rodino waiting periods for any transactions that are part of the Proposed Combination and are subject to any Hart-Scott-Rodino waiting period that has not yet expired, and unless the Commission determines to reject the Consent Agreement, it will not seek further relief from NGC with respect to the Proposed Combination, except that the Commission may exercise any and all rights to enforce this Hold Separate, the Consent Agreement to which it is annexed and made a part thereof, and the Order contained therein, once it becomes final, and in the event that the required divestiture is not accomplished, to seek divestiture of the Property to be Divested, and other relief, as follows:

1. NGC agrees to execute and be bound by the Consent Agreement;

2. NGC agrees that from the date of its signing of the Consent Agreement until the earliest of the dates listed in subparagraphs 2.a - 2.c, it will comply with the provisions of paragraphs 3, 4, 5 and 6 of this Hold Separate:

- a. three business days after the Commission withdraws its acceptance of the Consent Agreement pursuant to the provisions of Section 2.34 of the Commission's Rules;
- b. 120 days after publication in the Federal Register of the Consent Agreement, unless by that date the Commission has finally accepted such Agreement;
- c. the day after the divestitures required by the Consent Agreement have been completed.

3. With respect to the Fractionation Facility located in the city of Mont Belvieu, Chambers County, Texas, partially owned by NGC and known as Mont Belvieu I ("MB I"), NGC agrees to cease serving as the Commercial Operator within thirty days (30) after signing the Consent Agreement, provided that the other party to the MB I Ownership Agreement agrees to be installed as the Commercial Operator of MB I by that date. In the event that the other party to the MB I Ownership Agreement has not elected to become the Commercial Operator within said thirty (30) day period, NGC will hold its interests in the assets and business of MB I separate and apart on the following terms and conditions:

- a. NGC's rights, obligations and duties as the Commercial Operator of MB I shall be exclusively administered by David Rook. All NGC employees who are necessary to perform, or in any way assist in the performance of, any of the activities of the Commercial Operator of MB I shall report to Mr. Rook, and NGC shall provide the Commission with a list of all such employees, together with a full description of the assigned duties of each listed employee and an explanation of how such duties are necessary for the effective functioning of the Commercial Operator of MB I, which list shall be

updated whenever its membership or any member's assigned duties change. NGC shall have no authority to remove Mr. Rook or any other NGC employee thus assigned to report to him, except for cause.

- b. Except as provided by this Hold Separate, neither Mr. Rook nor any employee of NGC named in the list required in Paragraph 3.a. above shall disclose any confidential information concerning MB I to an NGC employee not named on any such list or use confidential information for any purpose other than in the performance of that employee's assigned duties enumerated in the list required in Paragraph 3.a. above. Said employees shall enter a confidentiality agreement prohibiting disclosure of confidential information. Neither Mr. Rook nor any NGC employee assigned to report to him pursuant to this Hold Separate shall participate in any business decision or attempt to influence any such decision involving any other Fractionation Facility in which NGC has an interest. Neither Mr. Rook or any NGC employees assigned to report to him pursuant to this Hold Separate shall have access to any confidential information concerning any other Fractionation Facility in which NGC has an interest. Meetings of the MB I Management Committee during the term of this Hold Separate shall be stenographically transcribed and the transcripts retained for two (2) years after the termination of this Hold Separate; and

- c. NGC shall do nothing to prevent, impede or interfere with the person or entity that succeeds NGC as either the Commercial Operator or the Facility Operator of MB I in undertaking reasonable efforts to offer employment to any NGC employees who assist in the performance of any activities that NGC engages in as the Commercial Operator at MB I or as the Facility Operator at MB I, respectively.

4. With respect to the Fractionation Facility located in the city of Mont Belvieu, Chambers County, Texas, and owned by a partnership known as Gulf Coast Fractionators ("GCF") in which NGC is a partner, NGC agrees to cease serving as the Commercial Operator within thirty days(30) after signing the Consent Agreement, provided a replacement agrees to be installed as the Commercial Operator of GCF by that date. Within one hundred and twenty (120) days after the signing of the Consent Agreement, NGC shall cease to serve as the Facility Operator of GCF, provided a replacement agrees to be installed as the Facility Operator of GCF by that date. In the event that a replacement has not elected to assume the activities of the Commercial Operator of GCF within the thirty (30) day period provided or that a replacement has not elected to assume the activities of the Facility Operator of GCF within the one hundred and twenty (120) day period provided, NGC will hold its interests in the assets and business of GCF separate and apart on the following terms and conditions:

- a. NGC's rights, obligations and duties as the Commercial Operator of GCF, in the first instance, and as the Facility Operator of GCF, in the second instance, shall be exclusively administered by an NGC designee. In either instance, all NGC employees who are necessary to perform, or in any way assist in the performance of, any of the activities being administered by said designee shall report to said NGC designee, and NGC shall provide the Commission with a list of all such employees, together with a full description of the assigned duties of each listed employee and an explanation of how such duties are necessary for the effective functioning of, in the first instance, the Commercial Operator of GCF, and in the second instance, the Facility Operator of GCF, which list shall be updated whenever its membership or any member's assigned duties changes. NGC shall have no authority to remove its designee or any other NGC employee thus assigned to report to said designee, except for cause.

- b. Except as provided by this Hold Separate, neither the NGC designee to be identified pursuant to Paragraph 4.a. above nor any employee of NGC named in the list required by Paragraph 4.a. above shall disclose any confidential information concerning GCF to an NGC employee not named on any such list or use confidential information for any purpose other than in the performance of that employee's assigned duties enumerated in the list required in Paragraph 4.a. above. Said employees shall enter a confidentiality agreement prohibiting disclosure of confidential information. Neither the NGC designee nor any NGC employee assigned to report to this individual pursuant to this Hold Separate shall participate in any business decision or attempt to influence any such decision involving any other Fractionation Facility in which NGC has an interest. Neither the NGC designee nor any NGC employees assigned to report to him pursuant to this Hold Separate shall have access to any confidential information concerning any other Fractionation Facility in which NGC has an interest. Meetings of the GCF Management Committee during the term of this Hold Separate shall be stenographically transcribed and the transcripts retained for two (2) years after the termination of this Hold Separate.
5. With respect to GCF, NGC further agrees:
- a. to do nothing to prevent, impede or interfere with the person or entity that succeeds NGC as either the Commercial Operator or the Facility Operator of GCF in undertaking reasonable efforts to offer employment to any NGC employees who assist in the performance of any activities that NGC engages in as the Commercial Operator at GCF or as the Facility Operator at GCF, respectively; and

- b. in its capacity as a GCF partner, NGC shall sponsor and support an amendment to the GCF Partnership Agreement to allow any two partners (together holding at least a 50% ownership interest in GCF) to commit GCF to undertake a GCF Expansion Project, while providing that a partner may choose to limit its participation in the costs and benefits of such Project. Until such time as the GCF Partnership Agreement is so amended, NGC shall vote in favor of any GCF Expansion Project proposed by another GCF partner, and furthermore NGC shall take no action to prevent, block, delay or impede in any way any GCF Expansion Project, but rather shall provide all reasonable cooperation necessary to facilitate any such Project sought by other GCF partner or partners, provided however, that this provision does not obligate NGC to accept any financial burden or legal responsibility with respect to such GCF Expansion Project to the extent that such burden or responsibility is out of proportion to NGC's ownership interest in GCF; and

- c. Except as permitted in this Hold Separate, NGC shall not participate in any matter or negotiations pertaining to fractionation fees or other terms pursuant to which customers other than NGC obtain fractionation services at GCF.

6. From the date of the signing of the Consent Agreement, NGC shall take no action impairing the viability and marketability of the Property to be Divested and shall not cause or permit the destruction, removal, or impairment of any assets or business of the Property to be Divested, except in the ordinary course of business and except for ordinary wear and tear. From the date of the signing of the Consent Agreement, NGC shall take no action that would in any manner impair, impede or restrict its ability to comply with any provisions of the Consent Agreement.

7. NGC waives all rights to contest the validity of this Hold Separate.

8. For the purpose of determining or securing compliance with this Hold Separate, subject to any legally recognized privilege, and upon written request with reasonable notice to NGC made to its principal office, NGC shall permit any duly authorized representative or representatives of the Commission:

- a. access, during the office hours of NGC and in the presence of counsel, to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of NGC relating to compliance with this Hold Separate; and
- b. upon five (5) days' notice to NGC and without restraint or interference from it but in the presence of its counsel, to interview officers or employees of it regarding any such matters.

9. Should the Federal Trade Commission seek in any proceeding to compel NGC to divest itself of the Property to be Divested under the Consent Agreement, or any other assets that it may hold, or to seek any other injunctive or equitable relief, NGC shall not raise any objection based upon the expiration of the applicable Hart-Scott-Rodino Antitrust Improvements Act waiting period or the fact that the Commission has permitted the Proposed Combination. NGC also waives all rights to contest the validity of this Hold Separate.

10. This Hold Separate shall be binding upon NGC upon the signing of the Consent Agreement. NGC agrees that should it violate any of the provisions of this Hold Separate, it is subject to the payment of up to ten thousand dollars (\$10,000) for each such violation. NGC also agrees that the violation of any of the provisions of this Hold Separate may subject NGC to such other and further equitable relief as a United States district court may deem appropriate to grant.

Dated: Accepted for public comment by the Commission on August 27, 1996.

NGC CORPORATION

By: _____
C.L. Watson
President and Chief
Executive Officer

FEDERAL TRADE COMMISSION

By: _____
Stephen Calkins
General Counsel