ANALYSIS OF AGREEMENT CONTAINING CONSENT ORDERS TO AID PUBLIC COMMENT
In the Matter of Energy Transfer Equity, L.P. and The Williams Companies, Inc.
File No. 151-0172

I. Introduction

The Federal Trade Commission ("Commission") has accepted, subject to final approval, an Agreement Containing Consent Orders ("Consent Agreement") with Energy Transfer Equity, L.P. ("ETE") and The Williams Company, Inc. ("Williams"). The Consent Agreement is designed to remedy the anticompetitive effects that would likely result from ETE's proposed acquisition of Williams.

Under the terms of the proposed Decision and Order ("Order") contained in the Consent Agreement, ETE must divest to a Commission-approved buyer Williams' ownership interest in Gulfstream Natural Gas System L.L.C. ("Gulfstream"), an interstate natural gas pipeline serving peninsular (central and southern) Florida. The Order also addresses competitive concerns arising from ETE's post-merger control over a Williams pipeline segment that serves as the origin for a new interstate pipeline that will begin serving Florida in 2017. The Order maintains the premerger bargaining position of the new pipeline to negotiate future capacity expansions over the Williams pipeline segment.

The Commission has placed the Consent Agreement on the public record for 30 days to solicit comments from interested persons. Comments received during this period will become part of the public record. After 30 days, the Commission will again review the Consent Agreement and the comments received, and will decide whether it should withdraw from the Consent Agreement, modify it, or make the Order final.

II. The Parties and Other Entities

A. ETE

ETE is a master limited partnership controlling a family of companies that own and operate approximately 71,000 miles of natural gas, natural gas liquids, refined products, and crude oil pipelines. ETE has a 50 percent ownership interest in Florida Gas Transmission LLC ("FGT"), one of two interstate pipelines currently transporting natural gas to peninsular Florida.

B. Williams

Williams is an energy infrastructure company focusing primarily on natural gas and natural gas liquids infrastructure assets in North America. Its major holdings include natural gas transportation, gathering, treating, and processing assets in multiple natural gas-producing areas. Williams has a 50 percent ownership interest in Gulfstream, which is the other interstate pipeline currently transporting natural gas to peninsular Florida. Williams is also the sole owner of Transcontinental Gas Pipe Line Company, LLC ("Transco"), a large interstate pipeline system

that extends from Texas, Louisiana, and the offshore Gulf of Mexico through the Atlantic seaboard and into the New York metropolitan area.

C. Sabal Trail

Sabal Trail Transmission, LLC ("Sabal Trail") is a new interstate pipeline that will begin transporting natural gas to parts of peninsular Florida in May 2017. Sabal Trail's sole access to natural gas sources will be via a leased segment on the Williams-owned Transco system. Sabal Trail and Transco are parties to a capacity lease agreement whereby Transco has agreed to expand the leased segment on its system in several phases – with each phase to provide a specific amount of new pipeline capacity – to support Sabal Trail's operations in peninsular Florida.

III. The Proposed Acquisition

ETE and several affiliates under its control entered into a merger agreement with Williams, dated September 28, 2015, pursuant to which Williams will be merged with and into Energy Transfer Corp LP, a newly created ETE affiliate that will survive the merger (the "Acquisition"). The combined entity will become the third largest energy company in North America, with a geographically diverse asset portfolio used in the transportation, processing, and storage of natural gas and natural gas liquids.

The Commission's Complaint alleges that the 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, by substantially lessening competition for the firm transportation of natural gas by interstate pipeline to locations in peninsular Florida.

IV. The Relevant Markets

Florida's largest natural gas shippers are electric power generation utilities, which use natural gas to generate electricity for distribution to Florida consumers and businesses. These shippers depend on the efficient, reliable, and cost-effective transportation of natural gas via interstate pipelines because Florida has virtually no in-state natural gas production and no natural gas storage.

The Commission's Complaint alleges that the relevant product market within which to analyze the Acquisition is the firm transportation of natural gas by interstate pipeline. Firm pipeline transportation guarantees shippers the right to a certain amount of pipeline capacity, which generally is not subject to interruption or curtailment by the pipeline. Because Florida natural gas shippers, especially electric utilities, require a constant and reliable source of natural gas, they could not meaningfully substitute non-firm transportation services even if the cost of firm pipeline transportation were to increase.

The Commission's Complaint alleges that the relevant geographic market in which to assess the competitive effects of the Acquisition is peninsular Florida, which includes pipeline delivery points in central and southern Florida.

Market concentration will significantly increase because of the Acquisition. Many natural gas delivery points in peninsular Florida are connected to (or reasonably can connect to) both FGT and Gulfstream. For shippers located at these delivery points, the Acquisition results in a pipeline monopoly. A small number of delivery points connect to (or reasonably can connect to) FGT, Gulfstream, and – by May 2017 – Sabal Trail. For shippers located at these delivery points, the merger reduces competitive alternatives from three to two.

V. Effects of the Acquisition

The Acquisition likely would substantially lessen competition for the provision of firm natural gas pipeline transportation to delivery points in peninsular Florida. The Acquisition would eliminate competition between FGT and Gulfstream that historically has enabled Florida shippers to obtain lower transportation rates and better terms of service. Absent the Acquisition, competition between FGT and Gulfstream likely would continue to allow Florida shippers to negotiate better rates and non-price terms.

In addition, the Acquisition likely will change the incentives of Transco's owner to accommodate future capacity expansions of Sabal Trail via Transco. FGT can add relatively small amounts of capacity to its system more cost-effectively than can Gulfstream. Moreover, FGT's pipeline system overlaps with the proposed Sabal Trail system more extensively than does Gulfstream's system. If Sabal Trail cannot expand its capacity, shippers who cannot obtain new capacity on Sabal Trail will more likely turn to FGT for that capacity than to Gulfstream. Thus, unlike Williams, which had little or no incentive to deny Sabal Trail additional volumes on Transco, ETE will have an incentive to forestall expansions on Sabal Trail in order to capture those expansions on FGT.

VI. Entry Conditions

Entry into the relevant markets would not be timely, likely, or sufficient to deter or counteract the anticompetitive effects arising from the Acquisition. Barriers to entry are significant and include the high capital costs of constructing a new interstate pipeline and the substantial time needed to design, permit, and construct a new pipeline system. Moreover, constructing a new pipeline system would require commitments from shippers based on significant new market demand for natural gas. Such market demand is unlikely to accumulate for the foreseeable future.

VII. The Agreement Containing Consent Order

The proposed Order resolves the anticompetitive concerns described above by requiring ETE to divest Williams' ownership interest in Gulfstream and by restoring Sabal Trail's premerger bargaining power to negotiate future capacity expansions on Transco.

To preserve competition between FGT and Gulfstream, the proposed Order requires that, within 180 days of closing the Acquisition, ETE must divest Williams' 50 percent interest in Gulfstream to a Commission-approved buyer. Post-closing divestiture is appropriate because this ownership interest is a high-value, low-risk asset likely to generate substantial interest

among more than one potentially acceptable buyer. Under the terms of the Order to Maintain Assets contained in the Consent Agreement, ETE must maintain Gulfstream in substantially similar condition until the divestiture process is complete, thereby preserving Gulfstream as a viable, competitive, and marketable asset.

Any acquirer of Williams' ownership interest in Gulfstream must receive prior approval from the Commission. The Commission's goal in evaluating possible purchasers of divested assets is to maintain the competitive environment that existed prior to the acquisition. A proposed acquirer of divested assets must not itself present competitive problems.

The proposed Order also preserves Sabal Trail's future competitiveness by ensuring Sabal Trail's ability to negotiate additional Transco expansions. First, the proposed Order incorporates the capacity lease agreement between Transco and Sabal Trail, which reflects terms Transco and Sabal Trail reached when an independent and motivated commercial partner owned Transco. The proposed Order gives Sabal Trail additional flexibility and optionality in obtaining the phased capacity expansions already contemplated by the capacity lease agreement. The proposed Order terminates twelve years after it issues, in order to cover the entirety of ETE's obligations for the expansions currently outlined in the capacity lease agreement.

Second, the Order requires that, within one year of the closing of the Acquisition, ETE offer to amend the capacity lease agreement to allow Sabal Trail to request expansions for as long as an additional eight years after the last expansion currently in the capacity lease agreement. These provisions ensure that Sabal Trail has the same future expansion opportunities as would have existed if an independent Williams continued to own Transco.

ETE must offer future expansions on the same terms and conditions that Transco negotiated as an independent entity. For each requested expansion, ETE must inform Sabal Trail of the estimated expansion cost, using the same methodology for each that Transco uses in its normal course of business. ETE then is obligated to expand Transco as requested by Sabal Trail. However, to prevent Sabal Trail from requesting cost-prohibitive expansions – expansions that an independent Williams would not have agreed to – ETE retains the right to require Sabal Trail to pay for the capital costs of the expansion, in which case ETE would not charge Sabal Trail a lease fee for that particular expanded capacity.

The proposed Order does not obligate ETE to expand Transco if Sabal Trail does not have (or has not secured pre-construction commitments from shippers for) sufficient capacity to use the expansion to serve Florida. The Acquisition does not change the incentives of Transco's owner to deny capacity expansions to serve areas outside of Florida. Thus, without this limitation, the proposed Order could give Sabal Trail expansion rights it would have been unable to negotiate from an independent Transco.

The Commission does not intend this analysis to constitute an official interpretation of the proposed Order or to modify its terms in any way.