

KINDER MORGAN ENERGY PARTNERS L P
Form SC 13E3/A
December 02, 2014

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

Amendment No. 3

to

SCHEDULE 13E-3

RULE 13e-3 TRANSACTION STATEMENT

(Under Section 13(e) of the Securities Exchange Act of 1934)

KINDER MORGAN ENERGY PARTNERS, L.P.

(Name of the Issuer)

KINDER MORGAN, INC.

KINDER MORGAN G.P., INC.

KINDER MORGAN MANAGEMENT, LLC

P MERGER SUB LLC

RICHARD D. KINDER

(Name of Person(s) Filing Statement)

Common Units Representing Limited Partner Interests

(Title of Class of Securities)

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494550106

(CUSIP Number of Class of Securities)

**Kinder Morgan, Inc.
Kinder Morgan Energy Partners, L.P.
Kinder Morgan G.P., Inc.**

**Richard D. Kinder
1001 Louisiana Street, Suite 1000**

**Kinder Morgan Management, LLC
c/o David R. DeVeau**

Houston, Texas 77002

(713) 369-9000

Vice President and General Counsel

1001 Louisiana Street, Suite 1000

Houston, Texas 77002

(713) 369-9000

(Name, Address and Telephone Number of Person Authorized to Receive

Notices and Communications on Behalf of Person(s) Filing Statement)

Copies to:

**Gary W. Orloff
R. Daniel Witschey, Jr.
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711 Louisiana Street, Suite 2300
Houston, Texas 77002
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**Michael J. Aiello
Weil, Gotshal & Manges LLP
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New York, New York 10153
(212) 310-8000**

**Joshua Davidson
Tull R. Florey
Baker Botts L.L.P.
910 Louisiana Street
Houston, Texas 77002
(713) 229-1234**

This statement is filed in connection with (check the appropriate box):

- (a) ☒ The filing of solicitation materials or an information statement subject to Regulation 14A, Regulation 14C or Rule 13e-3(c) under the Securities Exchange Act of 1934.
- (b) ☒ The filing of a registration statement under the Securities Act of 1933.
- (c) ☐ A tender offer.
- (d) ☐ None of the above.

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Check the following box if the soliciting materials or information statement referred to in checking box (a) are preliminary copies: ☒ x

Check the following box if the filing is a final amendment reporting the results of the transaction: ☐ o

Calculation of Filing Fee

Transaction Valuation*
\$24,987,143,125

Amount of Filing Fee**
\$2,903,506

* **Calculated solely for the purpose of determining the filing fee.** The transaction valuation was calculated by multiplying (a) 305,952,530, the estimated maximum number of KMP common units that may be exchanged for the merger consideration, by (b) \$92.44, the average of the high and low prices of the KMP common unit as reported on the New York Stock Exchange on September 26, 2014, minus \$3,295,108,748, the estimated aggregate amount of cash consideration to be paid to former holders of KMP common units.

** In accordance with Rule 0-11(c)(1), the filing fee was calculated by multiplying 0.0001162 by the Transaction Valuation.

x Check box if any part of the fee is offset as provided by Exchange Act Rule 0-11(a)(2) and identify the filing with which the offsetting fee was previously paid. Identify the previous filing by registration statement number, or the Form or Schedule and date of its filing.

Amount Previously Paid: \$3,400,215

Form or Registration No.: Form S-4 (Registration No. 333-198411)

Filing Party: Kinder Morgan, Inc.

Date Filed: August 27, 2014

INTRODUCTION

This Rule 13e-3 Transaction Statement on Schedule 13E-3 (this Schedule) is being filed by (i) Kinder Morgan Energy Partners, L.P., a Delaware limited partnership (KMP), and the issuer of the common units which are the subject of the Rule 13e-3 transaction, (ii) Kinder Morgan, Inc., a Delaware corporation (KMI), (iii) Kinder Morgan G.P., Inc., a Delaware corporation (KMGP), (iv) Kinder Morgan Management, LLC, a Delaware limited liability company (KMR), and (v) P Merger Sub LLC, a Delaware limited liability company (P Merger Sub) and (vi) Richard D. Kinder. This Schedule relates to the Agreement and Plan of Merger, dated as of August 9, 2014, by and among KMP, KMI, KMGP, KMR and P Merger Sub (the KMP merger agreement).

KMI has filed with the Securities and Exchange Commission (the SEC) a registration statement on Form S-4 (Registration No. 333-198411) (as amended by Amendments No. 1, 2 and 3 thereto, the Form S-4), which contains a proxy statement/prospectus (the KMP proxy statement/prospectus), which constitutes (i) a prospectus of KMI under Section 5 of the Securities Act of 1933, as amended (the Securities Act), with respect to the KMI common stock to be issued pursuant to the KMP merger agreement and (ii) a notice of meeting and a proxy statement of KMP under Section 14(a) of the Securities Exchange Act of 1934, as amended (the Exchange Act), with respect to the special meeting of KMP unitholders, at which KMP unitholders were asked to consider and vote on, among other matters, a proposal to approve the KMP merger agreement. The Form S-4 was declared effective by the SEC on October 22, 2014, and the KMP proxy statement/prospectus was mailed to KMP unitholders on or about October 22, 2014. A copy of the KMP proxy statement/prospectus is attached hereto as Exhibit (a)(3) and a copy of the KMP merger agreement is attached as Annex A to the KMP proxy statement/prospectus. All references in this Schedule to Items numbered 1001 to 1016 are references to Items contained in Regulation M-A under the Exchange Act.

This Amendment No. 3 to the Schedule is being filed pursuant to Rule 13e-3(d)(3) to report the results of the transaction that is the subject of this Schedule.

The cross references below are being supplied pursuant to General Instruction G to Schedule 13E-3 and show the location in the KMP proxy statement/prospectus of the information required to be included in response to the items of Schedule 13E-3. The information contained in the KMP proxy statement/prospectus, including all annexes thereto and documents incorporated by reference therein, is hereby expressly incorporated herein by reference. Terms used but not defined in this Schedule shall have the meanings given to them in the KMP proxy statement/prospectus.

Item 15. Additional Information.

Regulation M-A Item 1011

Item 15 is hereby amended and supplemented as follows:

On November 20, 2014, KMP held a special meeting of its unitholders in order to vote upon proposals relating to the proposed KMP merger. At the meeting, the KMP unitholders voted to approve the KMP merger agreement.

On November 26, 2014, the parties filed a Certificate of Merger with the Secretary of State of the State of Delaware, pursuant to which P Merger Sub was merged with and into KMP, with KMP continuing as the surviving limited partnership. As a result of the KMP merger, KMP became an indirect wholly owned subsidiary of KMI.

As a result of the KMP merger, the registration of KMP's common units under the Exchange Act will be terminated upon application to the SEC, and KMP's common units will no longer be listed on any quotation system or exchange, including the New York Stock Exchange.

Item 16. Exhibits.

Regulation M-A Item 1016

Item 16 is hereby amended and supplemented as follows:

(a)(1) Letter to Unitholders of Kinder Morgan Energy Partners, L.P., incorporated herein by reference to the KMP proxy statement/prospectus filed by KMP with the SEC on October 22, 2014

(a)(2) Notice of Special Meeting of Unitholders of Kinder Morgan Energy Partners, L.P., incorporated herein by reference to the KMP proxy statement/prospectus filed by KMP with the SEC on October 22, 2014

(a)(3) Proxy Statement of Kinder Morgan Energy Partners, L.P., incorporated herein by reference to the KMP proxy statement/prospectus filed by KMP with the SEC on October 22, 2014

(a)(4) Press release, dated November 26, 2014

(c)(1) Fairness Opinion of Jefferies LLC, dated August 9, 2014, incorporated herein by reference to the KMP proxy statement/prospectus filed by KMP with the SEC on October 22, 2014

(c)(5) Fairness Opinion of Barclays Capital Inc., dated August 9, 2014, incorporated herein by reference to the KMP proxy statement/prospectus filed by KMP with the SEC on October 22, 2014

(d)(1) Agreement and Plan of Merger, dated August 9, 2014, among Kinder Morgan, Inc., Kinder Morgan Energy Partners, L.P., Kinder Morgan Management, LLC, Kinder Morgan G.P., Inc. and P Merger Sub LLC, incorporated herein by reference to the KMP proxy statement/prospectus filed by KMP with the SEC on October 22, 2014

SIGNATURES

After due inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement is true, complete and correct.

Dated: December 1, 2014

KINDER MORGAN, INC.

By: /s/ David R. DeVeau
Name: David R. DeVeau
Title: Vice President

Dated: December 1, 2014

KINDER MORGAN ENERGY PARTNERS, L.P.

By: Kinder Morgan G.P., Inc., its general partner

By: Kinder Morgan Management, LLC, its delegate

By: /s/ David R. DeVeau
Name: David R. DeVeau
Title: Vice President

Dated: December 1, 2014

KINDER MORGAN G.P., INC.

By: /s/ David R. DeVeau
Name: David R. DeVeau
Title: Vice President

Dated: December 1, 2014

KINDER MORGAN MANAGEMENT, LLC

By: /s/ David R. DeVeau
Name: David R. DeVeau
Title: Vice President

Dated: December 1, 2014

P MERGER SUB LLC

By: /s/ David R. DeVeau
Name: David R. DeVeau
Title: Vice President

Dated: December 1, 2014

/s/ Richard D. Kinder
RICHARD D. KINDER

EXHIBIT INDEX

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(a)(3) Proxy Statement of Kinder Morgan Energy Partners, L.P., incorporated herein by reference to the KMP proxy statement/prospectus filed by KMP with the SEC on October 22, 2014

(a)(4) Press release, dated November 26, 2014

(b)(1) Bridge Facility Commitment Letter, dated as of August 9, 2014, among Barclays Bank PLC, Kinder Morgan, Inc., incorporated herein by reference to Exhibit 10.2 to the Current Report on Form 8-K filed by Kinder Morgan Energy Partners, L.P. with the Securities and Exchange Commission on August 12, 2014

(b)(2) Bridge Credit Agreement, dated September 19, 2014 among Kinder Morgan, Inc., as borrower, Barclays Bank PLC, as administrative agent, and the lenders party thereto, incorporated herein by reference to Exhibit 10.1 to the Current Report on Form 8-K filed by Kinder Morgan, Inc. with the Securities and Exchange Commission on September 25, 2014

(c)(1) Fairness Opinion of Jefferies LLC, dated August 9, 2014, incorporated herein by reference to the KMP proxy statement/prospectus filed by KMP with the SEC on October 22, 2014

(c)(2)* Presentation of Jefferies LLC to the Conflicts and Audit Committee of the Board of Directors of Kinder Morgan G.P., Inc. and the Special Committee of the Board of Directors of Kinder Morgan Management, LLC dated July 30, 2014

(c)(3)* Presentation of Jefferies LLC to the Conflicts and Audit Committee of the Board of Directors of Kinder Morgan G.P., Inc. and the Special Committee of the Board of Directors of Kinder Morgan Management, LLC dated August 7, 2014

(c)(4)* Presentation of Jefferies LLC to the Conflicts and Audit Committee of the Board of Directors of Kinder Morgan G.P., Inc. and the Special Committee of the Board of Directors of Kinder Morgan Management, LLC dated August 8, 2014

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(c)(5) Fairness Opinion of Barclays Capital Inc., dated August 9, 2014, incorporated herein by reference to the KMP proxy statement/prospectus filed by KMP with the SEC on October 22, 2014

(c)(6)* Presentation of Barclays Capital Inc. to the Board of Directors of Kinder Morgan, Inc., dated July 16, 2014

(c)(7)* Presentation of Barclays Capital Inc. to the Independent Members of the Board of Directors of Kinder Morgan G.P., Inc. and the Independent Members of the Board of Directors of Kinder Morgan Management, LLC, dated July 17, 2014

(c)(8)* Presentation of Barclays Capital Inc. to the Independent Members of the Board of Directors of Kinder Morgan G.P., Inc. and the Independent Members of the Board of Directors of Kinder Morgan Management, LLC, dated July 17, 2014

(c)(9)* Presentation of Barclays Capital Inc. to the Board of Directors of Kinder Morgan, Inc. dated August 9, 2014

(c)(10)* Preliminary Discussion Materials of Citigroup Global Markets Inc. to the Board of Directors of Kinder Morgan, Inc., dated July 16, 2014

(c)(11)* Presentation of Citigroup Global Markets Inc. to the Board of Directors of Kinder Morgan, Inc., dated August 9, 2014

(d)(1) Agreement and Plan of Merger, dated August 9, 2014, among Kinder Morgan, Inc., Kinder Morgan Energy Partners, L.P., Kinder Morgan Management, LLC, Kinder Morgan G.P., Inc. and P Merger Sub LLC, incorporated herein by

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reference to the KMP proxy statement/prospectus filed by KMP with the SEC on October 22, 2014

(d)(2) Support Agreement, dated August 9, 2014, among Richard D. Kinder, Kinder Morgan Energy Partners, L.P., and the other parties thereto, incorporated herein by reference to Exhibit 10.1 to the Current Report on Form 8-K filed by Kinder Morgan Energy Partners, L.P. on August 12, 2014

(f)(1) Third Amended and Restated Agreement of Limited Partnership of Kinder Morgan Energy Partners, L.P., incorporated herein by reference to Exhibit 3.1 to the Quarterly Report on Form 10-Q for the quarter ended June 30, 2001 filed by Kinder Morgan Energy Partners, L.P. on August 9, 2001

(f)(2) Amendment No. 1 dated November 19, 2004 to Third Amended and Restated Agreement of Limited Partnership of Kinder Morgan Energy Partners, L.P., incorporated herein by reference to Exhibit 99.1 to the Current Report on Form 8-K filed by Kinder Morgan Energy Partners, L.P. on November 22, 2004

(f)(3) Amendment No. 2 to Third Amended and Restated Agreement of Limited Partnership of Kinder Morgan Energy Partners, L.P., incorporated herein by reference to Exhibit 99.1 to the Current Report on Form 8-K filed by Kinder Morgan Energy Partners, L.P. on May 5, 2005

(f)(4) Amendment No. 3 to Third Amended and Restated Agreement of Limited Partnership of Kinder Morgan Energy Partners, L.P., incorporated herein by reference to Exhibit 3.1 to the Current Report on Form 8-K filed by Kinder Morgan Energy Partners, L.P. on April 21, 2008

(f)(5) Amendment No. 4 to Third Amended and Restated Agreement of Limited Partnership of Kinder Morgan Energy Partners, L.P., incorporated herein by reference to Exhibit 3.5 to the Annual Report on Form 10-K for the fiscal year ended December 31, 2012 filed by Kinder Morgan Energy Partners, L.P.

(f)(6) Amendment No. 5 to Third Amended and Restated Agreement of Limited Partnership of Kinder Morgan Energy Partners, L.P., incorporated herein by reference to Exhibit 3.1 to the Quarterly Report on Form 10-Q filed by Kinder Morgan Energy Partners, L.P. on April 30, 2013

(f)(7)* Delaware Code Title 6 § 17-212

(g) None

(h) None

* Previously filed on August 27, 2014.
