



Department of Justice

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**JUSTICE DEPARTMENT REQUIRES GRAFTECH INTERNATIONAL TO MAKE
KEY CHANGES TO SUPPLY CONTRACTS IN ORDER TO PROCEED WITH ITS
ACQUISITION OF SEADRIFT LP**

***Removal of Audit Rights and Most Favored Nation Pricing Provision Along with Reporting
And Firewall Requirements Will Preserve Competition in the Production and Sale of a
Critical Petroleum Product***

WASHINGTON – The Department of Justice announced today that it has reached a settlement that will require GrafTech International Ltd., a major producer of graphite electrodes, to make significant modifications to its supply agreement with ConocoPhillips Company, along with reporting and firewall obligations, in order to proceed with its proposed acquisition of Seadrift Coke LP.

The department said, in its current form, the GrafTech-Conoco supply agreement and intended ongoing supply arrangements could encourage the exchange of pricing and output information or enable coordination between competitors—Conoco and Seadrift—for the production and sale of a critical petroleum product used in the production of graphite electrodes. The department said that requiring GrafTech to remove certain provisions from the GrafTech-Conoco supply agreement along with providing reports on demand and capacity utilization and implementing firewalls removes the ability and incentive for GrafTech and Conoco to coordinate on price and output post-acquisition.

The Department of Justice’s Antitrust Division filed a civil antitrust lawsuit today in U.S. District Court for the District of Columbia to prevent the proposed acquisition from extending the audit and most favored nation (MFN) provisions under the Conoco supply agreement to Seadrift and imposing conditions as a result of the ongoing supply arrangement. At the same time, the department filed a proposed settlement that, if approved by the court, would resolve the competitive concerns alleged in the lawsuit.

Graphite electrodes are used by steel manufacturers to conduct electricity into electric arc furnaces, which melt steel for a variety of applications. The supply agreement involves a critical petroleum product, called petroleum needle coke, which is an important input into the production of graphite electrodes. Seadrift makes petroleum needle coke.

“The proposed settlement removes a means for potential price and output coordination

that otherwise likely would result in higher prices and reduced supply for consumers of this critical petroleum product,” said Christine Varney, Assistant Attorney General in charge of the Department of Justice’s Antitrust Division. “At the same time, the settlement will permit quality improvements by GrafTech in Seadrift’s equipment and processes, benefiting consumers.”

The department’s complaint alleges that the GrafTech-Conoco supply agreement includes provisions such as MFN pricing which, combined with a right for GrafTech to audit the books, records and documents of Conoco, could incentivize the exchange of contemporaneous, customer-specific pricing information between competitors Conoco and Seadrift post-acquisition. In this case, the MFN provision would have required that Conoco guarantee that no other customer can receive a lower price than GrafTech. Reporting and firewall obligations reduce the possibility of coordination on price or output as a result of ongoing supply arrangements.

The inclusion of reporting and firewall requirements in the terms of the proposed settlement, provides an important tool in the Antitrust Division’s efforts to ensure competition remains in this industry, Varney added.

The proposed settlement requires GrafTech to remove the audit rights and MFN pricing from its supply agreement with Conoco, and agree not to include similar provisions in future supply agreements for the 10-year term of the consent decree. During that time, GrafTech also must provide the department with copies of all supply agreements with Conoco, as well as copies of business documents relating to production, capacity and sales. The settlement also sets up firewalls that protect confidential and valuable competitor data. The reporting and firewall requirements will ensure that GrafTech will be precluded from sharing confidential Conoco information with Seadrift employees, that GrafTech will not share certain Seadrift information with Conoco, and Seadrift may not share confidential customer information with GrafTech.

GrafTech is a Delaware corporation headquartered in Parma, Ohio. GrafTech produces graphite electrodes at facilities in Mexico, Brazil, Africa, France and Spain. In 2009, GrafTech’s revenue from the sale of graphite electrodes was approximately \$483 million.

Seadrift is a Delaware limited partnership, headquartered in Port Lavaca, Texas. Seadrift produces petroleum needle coke from a manufacturing plant in Port Lavaca that ships petroleum coke internationally. In 2009, Seadrift’s revenues were approximately \$62 million.

As required by the Tunney Act, the proposed settlement, along with a competitive impact statement, will be published in the Federal Register. Any person may submit written comments concerning the proposed settlement during a 60-day comment period to Maribeth Petrizzi, Chief, Litigation II Section, 450 Fifth Street, N.W., Suite 8700, Washington, D.C. 20530. At the conclusion of the 60-day comment period, the U.S. District Court for the District of Columbia may enter the proposed settlement upon finding that it is in the public interest.

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