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NEW APPLICATION



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Arizona Corporation Commission

BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

GARY PIERCE, Chairman
BOB STUMP
SANDRA D. KENNEDY
PAUL NEWMAN
BRENDA BURNS

G-20471A-11-0393

IN THE MATTER OF THE APPLICATION OF SEMSTREAM ARIZONA PROPANE, L.L.C. ON BEHALF OF SEMGROUP CORPORATION FOR A LIMITED WAIVER OF THE AFFILIATED INTEREST RULES PURSUANT TO A.A.C. R14-2-806 OR, ALTERNATIVELY, FOR APPROVAL OF THE TRANSACTION DESCRIBED HEREIN PURSUANT TO A.A.C. R14-2-803

Docket No. G-20471A-11-_____

APPLICATION

GALLAGHER & KENNEDY, P.A.
2575 E. CAMELBACK ROAD
PHOENIX, ARIZONA 85016-9225
(602) 530-8000

Pursuant to A.A.C. R14-2-801, *et seq.* (the "Affiliated Interest Rules"), this Application is filed by SemStream Arizona Propane, L.L.C., a Delaware limited liability company ("SemStream Arizona"), on behalf of SemGroup Corporation, a Delaware corporation ("SemGroup"), for the purposes of obtaining a Limited Waiver of the Affiliated Interest Rules in connection with SemGroup's formation of a master limited partnership as described herein (the "Transaction") or, alternatively, for approval of the Transaction.

SemGroup's wholly-owned subsidiary, SemStream, L.P., a Delaware limited partnership ("SemStream LP"), owns SemStream Arizona. SemStream Arizona is a "public utility," as that term is defined in R14-2-801, which provides underground propane gas utility service to the public in and around Payson and Page, Arizona. Accordingly, SemGroup, SemStream Arizona's indirect parent, is considered a "public utility holding company" under R14-2-801.4.

While SemGroup will be a party to the Transaction described below, neither SemStream LP nor SemStream Arizona will be a party to, or will in any way be involved in, the Transaction.

1 Moreover, the Transaction will have no effect on the operations of SemStream Arizona or its
2 ability to continue to provide safe, reliable and adequate service to its customers.

3 As explained further below, failure to complete certain specified steps in the Transaction
4 by November 30, 2011 will have serious negative consequences for SemGroup and its affiliates.
5 Accordingly, SemGroup seeks the Commission's expedited review of this Application for a
6 Limited Waiver pursuant to R14-2-806 or requests that the Commission take no action on this
7 request so that the waiver will become effective on November 28, 2011 pursuant to
8 R14-2-806.C.

9 **SEMGROUP AND ITS AFFILIATES**

10 SemGroup is a publicly-traded company (NYSE: "SEMG") that provides gathering,
11 transportation, processing, storage, distribution, marketing and other midstream services
12 primarily to independent oil and natural gas producers, refiners of petroleum products and other
13 market participants located in the Mid-Continent and Rocky Mountain regions of the United
14 States and in Canada, Mexico and the United Kingdom.

15 SemOperating GP, L.L.C., a Delaware limited liability company ("SemOperating"), is a
16 wholly-owned subsidiary of SemGroup that serves as the general partner of SemStream LP,
17 SemCrude, L.P., a Delaware limited partnership ("SemCrude") and various other subsidiary
18 partnerships of SemGroup.

19 SemStream LP is a wholly-owned subsidiary of SemGroup. SemOperating owns a 0.5%
20 general partner interest in SemStream LP and SemGroup is its sole limited partner, with a 99.5%
21 interest.

1 SemStream Arizona is a wholly-owned subsidiary of SemStream LP. It provides
2 underground propane gas utility service to the public in and around Payson and Page, Arizona
3 pursuant to Commission Decision Nos. 69394 (March 22, 2007) and 69579 (May 21, 2007).

4 SemCrude is a wholly-owned subsidiary of SemGroup (as with SemStream LP,
5 SemOperating owns a 0.5% general partner interest in SemCrude and SemGroup is its sole
6 limited partner, with a 99.5% interest). SemCrude conducts crude oil transportation, storage,
7 terminalling, gathering and marketing activities in Colorado, Kansas, Montana, North Dakota,
8 Oklahoma and Texas for third-party customers as well as for itself. SemCrude's business is
9 wholly unrelated to SemStream Arizona.

10 **DESCRIPTION OF THE TRANSACTION**

11 The Transaction involves the formation, by SemGroup, of a master limited partnership
12 (the "MLP") which will sell a minority of its limited partner interests to the public in an initial
13 public offering (the "IPO"). At or prior to the closing of the IPO, SemGroup will contribute
14 SemCrude (including certain SemCrude assets) to the MLP. The initial SemCrude assets to be
15 held by the MLP will include: (i) a crude oil storage terminal in Cushing, Oklahoma, (ii) a crude
16 oil gathering and transportation system in Kansas and Oklahoma, (iii) a crude oil marketing
17 business in the Bakken Shale area of North Dakota and Montana and (iv) a crude oil unloading
18 facility in Platteville, Colorado. No assets of, or ownership interests in, either SemStream LP or
19 SemStream Arizona will be transferred in the Transaction.

20 As is typical in the formation of a master limited partnership, the Transaction will be
21 effected through the consummation of a series of related transactions, or "steps," some of which
22 could be deemed to be a "reorganization" of SemGroup, as that term is defined in R14-2-801. A
23 detailed description of the multiple steps involved in the Transaction is attached hereto as

1 Exhibit A. As of the date of this filing, steps 1 through 7 described in Exhibit A have been
2 completed. Steps 8 through 17 will be accomplished prior to, or concurrently with, the closing
3 of the IPO. None of these 17 steps alter or affect the current SemGroup/SemStream
4 LP/SemStream Arizona holding company structure.

5 SemGroup currently estimates that the net proceeds it will receive from the IPO will be
6 approximately \$140 million to \$170 million. Following completion of the IPO, SemGroup
7 expects the MLP to generate any funds necessary (1) to pay its operating expenses and (2) for
8 capital expenditures through cash flow generated from operations, from borrowings under its
9 new revolving credit facility and/or from future debt or equity offerings.

10 The MLP will not be dependent on SemGroup or SemStream LP for funding. As
11 described in Exhibit A, the MLP will enter into a new revolving credit facility to fund its
12 working capital needs. In addition, neither SemGroup nor SemStream LP will be required to
13 make any capital contributions to the MLP. In the future, SemGroup may decide to contribute
14 additional assets to the MLP, but would only do so in exchange for fair value consisting of cash
15 consideration, additional equity interests in the MLP, a promissory note from the MLP or a
16 combination of some or all of the foregoing.

17 **BENEFITS OF THE TRANSACTION**

18 SemGroup believes that the Transaction will make the company stronger and better
19 capitalized, which will benefit all of its subsidiaries, including SemStream Arizona. More
20 specifically, the Transaction: (i) will enhance the value of the assets contributed to the MLP by
21 moving them to a more tax-efficient entity; (ii) will give SemGroup greater operational
22 flexibility; (iii) will allow SemGroup to reduce outstanding bank debt, which it believes will
23 lower its future cost of capital; and (iv) because the MLP intends to pay quarterly distributions of

1 its available cash, will provide a new and reliable future income stream consisting of cash
2 distributions on the general and retained limited partner interests SemGroup holds in the MLP.

3 **EFFECT OF THE TRANSACTION IN ARIZONA**

4 There will be no change in the ownership of SemStream Arizona or its immediate parent,
5 SemStream LP, as a result of the Transaction. As noted above, SemStream Arizona's ultimate
6 parent, SemGroup, will be a stronger and better capitalized entity following the Transaction.
7 None of the assets nor equity capital of SemStream LP or SemStream Arizona will be pledged,
8 encumbered or otherwise affected by the Transaction.

9 The Commission will retain all of its current regulatory authority over SemStream
10 Arizona. The Transaction will not impact SemStream Arizona's customer service, staffing levels
11 or any other operational matters, including the company's access to, and ability to obtain, its
12 needed propane supply. There will be no change in SemStream Arizona's current rates, terms
13 and conditions of service as a result of the Transaction and the Transaction will be completely
14 unnoticeable to SemStream Arizona's customers.

15 **NEED FOR EXPEDITED CONSIDERATION**

16 As noted above, as of the date of this Application, steps 1 through 7 of the Transaction
17 described in Exhibit A have already been completed. If SemGroup does not complete the
18 additional steps 8 through 13 on or before November 30, 2011, the Transaction will result in
19 SemGroup recognizing additional federal taxable gain in the amount of approximately \$27
20 million.

21 The reason why SemGroup would incur this additional federal income tax liability relates
22 to SemGroup's emergence from bankruptcy and the "reimbursement of preformation
23 expenditure" exception to the general federal income tax rules. Basically, the exception provides

1 that, in a transfer for consideration between a partnership and a partner, the consideration will
2 not be treated as sales proceeds to the extent that the transfer meets specified criteria, including
3 that the consideration received relates back to capital expenditures incurred during the two-year
4 period preceding the transfer.

5 On November 30, 2009, SemGroup emerged from bankruptcy. For federal income tax
6 purposes, the emergence from bankruptcy is treated as an acquisition by SemGroup of assets in a
7 taxable transaction, including the assets owned by its SemCrude subsidiary. In other words, all
8 of SemGroup's assets were deemed to have been acquired on November 30, 2009 for a specific
9 purchase price.

10 Accordingly, if the transfer of SemCrude to the MLP is not completed on or before the
11 expiration of the two-year period following the acquisition of the assets on November 30, 2009,
12 the "reimbursement of preformation expenditure" rule will not be available with respect to the
13 deemed purchase price for the assets for federal income tax purposes and SemGroup will
14 recognize substantially more federal taxable gain from the Transaction, when it is completed,
15 than it would if the rule were available. SemGroup currently estimates that this additional
16 taxable gain will be approximately \$27 million.

17 Non-recognition of this \$27 million taxable gain will further strengthen SemGroup's
18 financial standing to the benefit of SemStream LP and SemStream Arizona. For this reason,
19 SemGroup requests an expedited waiver or approval concerning this Transaction. Alternatively,
20 if the Commission takes no action on this Application on or before November 25, 2011, the
21 waiver will take effect on November 28, 2011 pursuant to R14-2-806.C.¹

22
23 ¹ The 31st day following filing of this Application is actually November 26, 2011. But, because that day is a
24 Saturday, the efficacy date would be extended to the following Monday, which is November 28, 2011. ARCP,
Rule 6(a)

1 **R14-2-803 INFORMATION**

2 The following information is supplied in support of this Limited Waiver Application and
3 in compliance with R14-2-803.A.1-11:

4 1. Names and Addresses of Officers and Directors: The current officers and
5 directors of SemGroup are:

6	<u>Name</u>	<u>Title</u>
7	Norman J. Szydlowski	President, Chief Executive Officer and Director
8	Robert N. Fitzgerald	Senior Vice President and Chief Financial Officer
9	Candice L. Cheeseman	General Counsel and Secretary
10	Timothy R. O'Sullivan	Vice President, Corporate Planning and Strategic Initiatives
11	Paul Largess	Vice President, Controller and Chief Accounting Officer
12	Deborah S. Fleming	Vice President and Treasurer
13	Alisa Perkins	Assistant Treasurer
14	David B. Gorte	Chief Risk Officer
15	Ronald A. Ballschmiede	Director
16	Sarah M. Barpoulis	Director
17	John F. Chlebowski	Director
18	Karl F. Kurz	Director
19	Thomas R. McDaniel	Director

20 The business address of each of the officers and directors of SemGroup is Two Warren
21 Place, 6120 South Yale Avenue, Suite 700, Tulsa, Oklahoma 74136-4216.
22
23

1 The current officers and directors of Rose Rock GP, the general partner of the MLP, are:

2	<u>Name</u>	<u>Title</u>
3	Norman J. Szydlowski	President, Chief Executive Officer and Director
4	Peter L. Schwiering	Chief Operating Officer and Director
5	Robert N. Fitzgerald	Senior Vice President, Chief Financial Officer and Director
6	Timothy R. O'Sullivan	Vice President and Director
7	Candice L. Cheeseman	General Counsel and Secretary
8	Paul Largess	Vice President, Controller and Chief Accounting Officer
9	Deborah S. Fleming	Vice President and Treasurer

10 Also, three additional directors meeting the independence requirements of the Securities
11 and Exchange Commission (the "SEC") and the New York Stock Exchange will be appointed to
12 the board of directors of Rose Rock GP within one year following the completion of the IPO.

13 The business address of each of the officers and directors of Rose Rock GP is Two
14 Warren Place, 6120 South Yale Avenue, Suite 700, Tulsa, Oklahoma 74136-4216.

15 2. Business Purposes of the Transaction: The Transaction will make better use of
16 SemGroup's assets while giving SemGroup greater operational flexibility. Additionally,
17 SemGroup will be able to use the cash proceeds from the IPO to reduce its bank debt, which will
18 improve its capital profile, lower its cost of future capital and enhance its ability to pursue
19 growth in its core business units.

20 3. Method of Financing the Holding Company and the Resultant Capital Structure:
21 The Transaction does not involve any financing commitment or requirement on the part of
22 SemGroup, SemStream LP or SemStream Arizona. Instead, SemGroup will receive cash and
23 income-producing limited and general partner interests in the MLP. By applying the net

1 proceeds from the IPO to reduce its indebtedness, SemGroup anticipates that the Transaction will
2 improve its capital structure (which was 27% debt / 73% equity as of June 30, 2011) and
3 strengthen its creditworthiness—all of which are to the benefit of SemStream Arizona.

4 4. Effect on the Capital Structure of the Arizona Utility: The Transaction will have
5 no effect on the 100% equity capital structure of SemStream Arizona.

6 5. Organizational Chart: Pre- and post-Transaction organizational charts,
7 identifying SemGroup's first-tier subsidiaries, are attached hereto as Exhibit B.

8 6. Allocation of Taxes: The Transaction will have no effect on the current method
9 of tax allocation. SemGroup will continue to file a consolidated tax return for its consolidated
10 subsidiaries, including SemStream LP and SemStream Arizona, and will allocate the tax liability
11 to each subsidiary on a separate return basis. The MLP, which is treated as a partnership for
12 federal income tax purposes, will file a partnership tax return.

13 7. Changes in Cost of Service / Cost of Capital: The Transaction will have no effect
14 on SemStream Arizona's cost of service and cost of capital. Furthermore, the Transaction will
15 not result in any change in the control, ownership or structure of SemStream LP and SemStream
16 Arizona.

17 8. Diversification Plans of Affiliates: SemGroup and its affiliates have no
18 diversification plans. Instead, as the Transaction indicates, SemGroup continues to focus on the
19 growth of its core business units, including its crude oil midstream business that will be
20 conducted through the MLP and which will be controlled by SemGroup as the owner of the
21 MLP's general partner.

22 9. Documents and Filings: Amendment No. 3 to Rose Rock Midstream's
23 registration statement on Form S-1 (the "Registration Statement"), as filed with the SEC on
24

1 October 11, 2011, is available at www.sec.gov or, alternatively, www.semgroupcorp.com (click
2 on “Investor Relations” and then “SEC Filings”). The Registration Statement was filed with the
3 SEC to register the common units to be offered and sold by Rose Rock Midstream in the IPO.

4 10. Investment in Affiliates: Given the nature of the Transaction, there is no
5 anticipated “level of investment” by either SemGroup or SemStream LP into the MLP and,
6 therefore, no increased risk for SemStream Arizona. Additionally, the Transaction will have a
7 positive impact on the financial status of SemGroup, SemStream LP and SemStream Arizona as
8 explained previously.

9 11. Access to Capital: The Transaction will have no impact on SemStream Arizona’s
10 access to, or cost of, capital. SemStream Arizona will continue to have the same access to
11 funding from SemGroup as it does now. Moreover, as described above, SemGroup will use the
12 net proceeds of the IPO that are distributed to it to pay down its outstanding bank debt, which
13 will increase its available borrowing capacity under its credit facility and, correspondingly,
14 SemStream Arizona’s access to capital through its parent.

15 Based on the foregoing, a Limited Waiver of the Affiliated Interest Rules is appropriate
16 and should be granted. Alternatively, and pursuant to R14-2-806.C, if the Commission takes no
17 action on this Application, the waiver will become effective on November 28, 2011.

18 WHEREFORE, having fully stated its Application, SemStream Arizona, on behalf of
19 SemGroup, requests that the Commission issue its Order pursuant to R14-2-806 granting a
20 Limited Waiver of the Affiliated Interest Rules in connection with SemGroup’s formation of the
21 master limited partnership as described in this Application and its Exhibit A.

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RESPECTFULLY SUBMITTED this 26th day of October, 2011.

GALLAGHER & KENNEDY, P.A.

By 

Michael M. Grant
Jennifer A. Cranston
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Attorneys for SemGroup Corporation

Original and 13 copies filed this 26th day of October, 2011, with:

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Copies of the foregoing delivered this 26th day of October, 2011, to:

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Phoenix, Arizona 85007

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Exhibit A

The following is a detailed description of the steps involved in the Transaction:

1. SemGroup forms a new wholly-owned subsidiary, Rose Rock Midstream Holdings, LLC, a Delaware limited liability company (“Rose Rock Holdings”), which will own the general partner of the MLP and hold SemGroup’s limited partner interests in the MLP;
2. Rose Rock Holdings forms a new wholly-owned subsidiary, Rose Rock Midstream GP, LLC, a Delaware limited liability company (“Rose Rock GP”), which will be the general partner of the MLP;
3. Rose Rock Holdings forms another new wholly-owned subsidiary, Rose Rock Midstream Corporation, a Delaware corporation (“Rose Rock Corporation”), to serve as an initial limited partner of the MLP;
4. Rose Rock GP, Rose Rock Holdings and Rose Rock Corporation form a new subsidiary, Rose Rock Midstream, L.P., a Delaware limited partnership (“Rose Rock Midstream”), which is intended to be the MLP;
5. Rose Rock Midstream forms a new subsidiary, Rose Rock Midstream Operating, LLC, a Delaware limited liability company (“Rose Rock Operating”), which will serve as an operating subsidiary of the MLP;
6. Rose Rock Midstream files a registration statement of Form S-1 with the Securities and Exchange Commission to register the initial public offering of its common units representing limited partner interests;
7. SemOperating, which is a wholly-owned subsidiary of SemGroup and the general partner of SemCrude, forms a new wholly-owned subsidiary, Rose Rock

Midstream Energy GP, LLC, a Delaware limited liability company (“RRME GP”), which will hold the general partner interest in SemCrude and, ultimately, be contributed to the MLP;

8. SemCrude distributes certain assets that are not intended to be a part of the MLP’s initial assets to Rose Rock Holdings;

9. SemOperating (i) contributes its general partner interest in SemCrude to RRME GP and (ii) distributes its membership interests in RRME GP to SemGroup;

10. SemGroup contributes its limited partner interest in SemCrude and its membership interests in RRME GP (together, the “Contributed Interests”) to Rose Rock Holdings;

11. Rose Rock Holdings contributes a portion of the Contributed Interests to Rose Rock GP as a capital contribution;

12. Rose Rock Holdings contributes the remainder of the Contributed Interests to Rose Rock Midstream in exchange for common and subordinated units representing limited partner interests;

13. Rose Rock GP contributes its portion of the Contributed Interests to Rose Rock Midstream in exchange for units representing a general partner interest and incentive distribution rights;

14. Rose Rock Midstream contributes the Contributed Interests to Rose Rock Operating so that, following the IPO, SemCrude will be a wholly-owned subsidiary of Rose Rock Operating;

15. Rose Rock Midstream enters into a new revolving credit facility to fund its working capital needs;

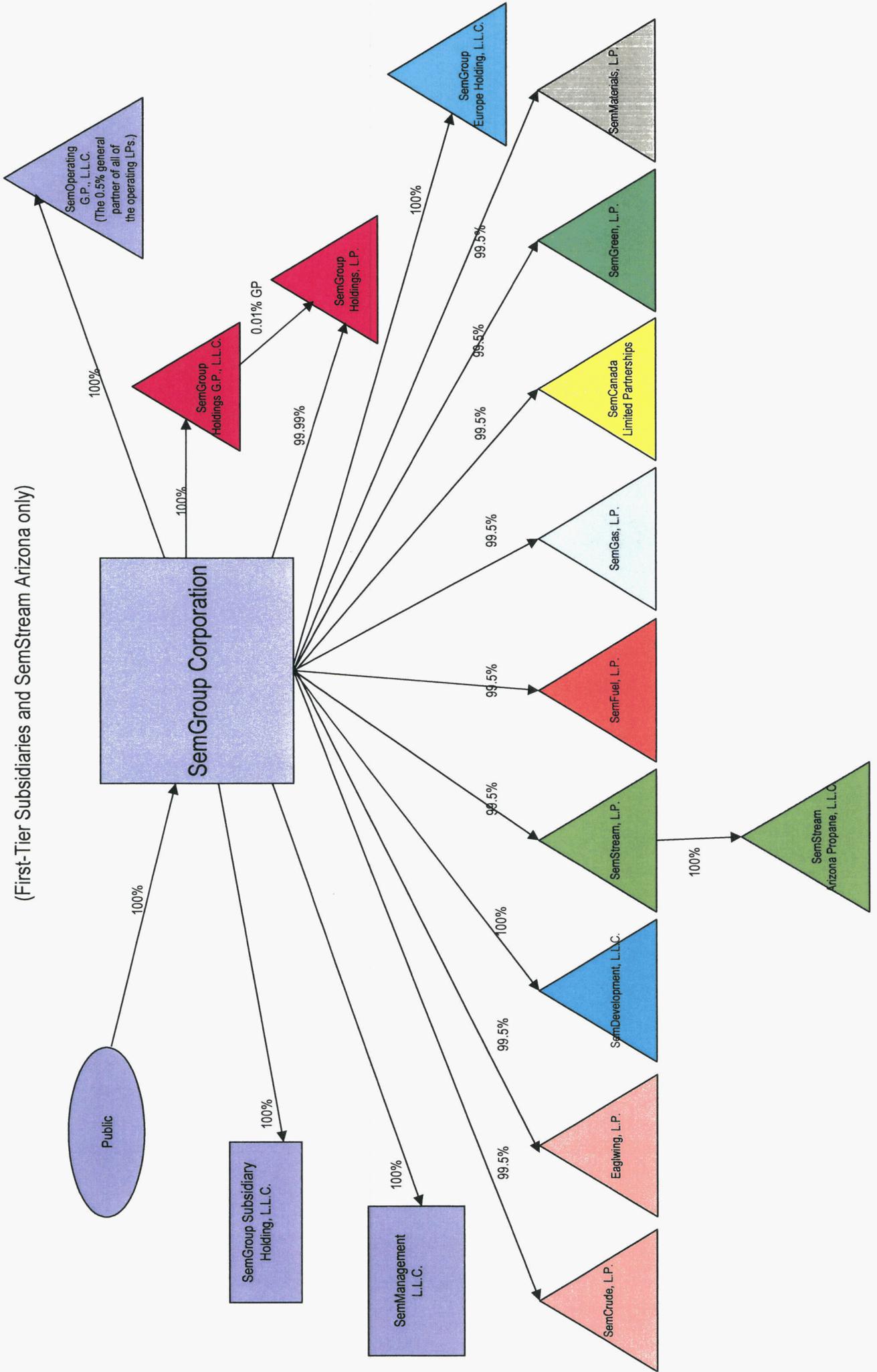
16. Rose Rock Midstream sells common units to the public in the IPO and distributes the net proceeds therefrom to SemGroup; and

17. SemGroup uses the net proceeds of the IPO distributed to it to pay down its outstanding bank debt.

Exhibit B

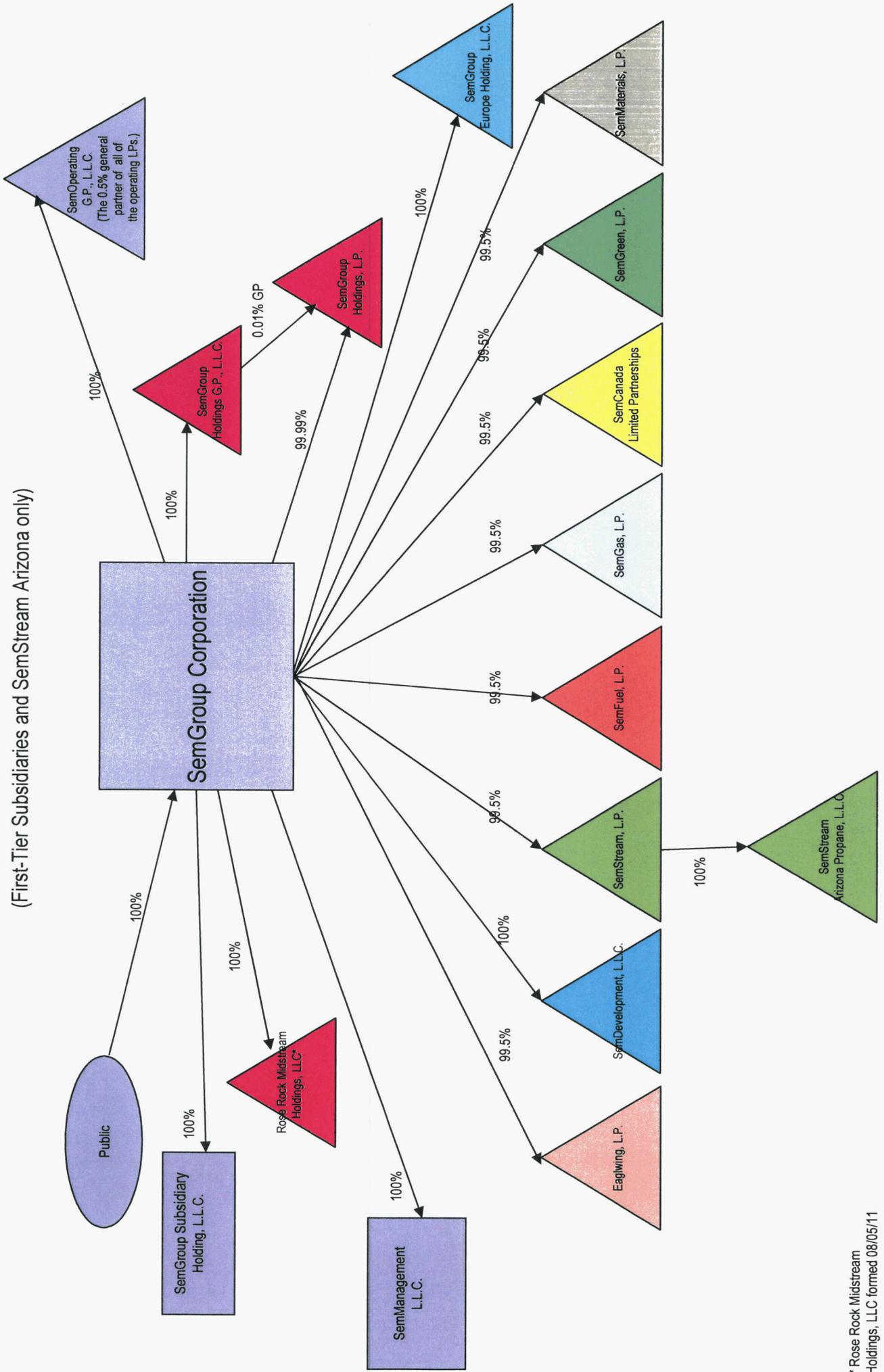
SemGroup Pre-MLP Transaction Organizational Chart

(First-Tier Subsidiaries and SemStream Arizona only)



SemGroup Post-MLP Transaction Organizational Chart

(First-Tier Subsidiaries and SemStream Arizona only)



* Rose Rock Midstream Holdings, LLC formed 08/05/11