

**STATEMENT OF CHAIRMAN JOSEPH J. SIMONS AND
COMMISSIONERS NOAH JOSHUA PHILLIPS AND CHRISTINE S. WILSON**

*Regarding a Petition for Modification
in the Matter of Linde AG et al., C-4660*

November 13, 2020

The Commission has approved minor modifications of two confidential agreements between Linde AG and Messer Group that are designed to effectuate the divestitures ordered by the Commission in *Linde AG et al., C-4660*, Decision and Order (issued February 26, 2019).

The parties requested one extension due to the unforeseen effects of economic disrupt TJ 0 Tc 0 Tw 0 -1.15 Td

Chopra's unsupported concerns, the Commission's Rule 2.41(f) procedures are a strength of the divestiture process, not a weakness; they enable the Commission to react to changed circumstances and address requests such as these in order to preserve the efficacy of the ordered relief. Considering the large number of Commission-approved divestitures and the overall dearth of 2.41(f) modifications, we do not agree with Commissioner Chopra's view that the Commission has been relegated to a regulatory micromanager.

Finally, as Commissioner Chopra noted in 2018, "[w]hile the divestitures go a long way to address the anticompetitive concerns, the decision to approve this remedy was still a close call."³ Although this case was difficult and involved complex divestitures, there has been no suggestion that the divestitures have failed. In fact, the very small number of order modification requests in such a complex case suggests the opposite: that Messer is performing as anticipated. The Commission should focus on ensuring the ongoing success of these divestitures, rather than re-litigating past Commission decisions.

³ *Id.*