

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of
the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): May 10, 2023



KINDER MORGAN, INC.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction
of incorporation)

001-35081
(Commission
File Number)

80-0682103
(I.R.S. Employer
Identification No.)

1001 Louisiana Street, Suite 1000
Houston, Texas 77002
(Address of principal executive offices, including zip code)

713-369-9000
(Registrant's telephone number, including area code)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- ☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- ☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- ☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- ☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Securities Registered Pursuant to Section 12(b) of the Act:

<u>Title of Each Class</u>	<u>Trading Symbol(s)</u>	<u>Name of Each Exchange on Which Registered</u>
Class P Common Stock	KMI	NYSE
2.250% Senior Notes due 2027	KMI 27A	NYSE

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter). Emerging Growth Company ☐

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act. ☐

Item 5.03 Amendments to Articles of Incorporation or Bylaws; Change in Fiscal Year.

On January 18, 2023, the Board of Directors (the “Board”) of Kinder Morgan, Inc. (“KMI”) approved, subject to approval by KMI’s stockholders, an amendment (the “Amendment”) to KMI’s Amended and Restated Certificate of Incorporation, to provide for exculpation of KMI officers as permitted by Section 102(b)(7) of the General Corporation Law of the State of Delaware.

As described under Item 5.07 of this report, KMI’s stockholders approved the Amendment at KMI’s 2023 Annual Meeting of Stockholders held on May 10, 2023. The Amendment permits exculpation of certain officers in connection with direct claims brought by stockholders, including class actions, but does not eliminate officers’ monetary liability for breach of fiduciary duty claims brought by KMI itself, or for derivative claims brought by stockholders in the name of KMI. In addition, the Amendment does not limit the liability of officers for any breach of the duty of loyalty to the corporation or its stockholders, any acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of the law, or any transaction from which the officer derived an improper personal benefit. KMI filed the Amendment with the Secretary of State of the State of Delaware on May 10, 2023.

The foregoing description of the Amendment is a summary and is qualified by the full text of the Amendment, which is filed as Exhibit 3.1 to this report.

Item 5.07 Submission of Matters to a Vote of Security Holders.

KMI held its 2023 Annual Meeting of Stockholders (the “Annual Meeting”) on May 10, 2023. At the Annual Meeting, a total of 1,936,446,970 shares of KMI’s common stock entitled to vote were present or represented by proxy, constituting a quorum for the transaction of business.

At the Annual Meeting, KMI stockholders voted on the following proposals: (1) election of fourteen nominated directors to the Board; (2) approval of an amendment to our Amended and Restated Certificate of Incorporation to limit the liability of certain officers of KMI as permitted by recent amendments to the General Corporation Law of the State of Delaware; (3) ratification of the selection of PricewaterhouseCoopers LLP as KMI’s independent registered public accounting firm for 2023; and (4) the approval, on an advisory basis, of the compensation of KMI’s named executive officers, as disclosed in the Proxy Statement.

Proposal One – Election of Directors

KMI stockholders elected fourteen directors, each to serve until KMI’s 2024 annual meeting or, if earlier, the election and qualification of his or her successor.

Nominee	For	Against	Abstain	Broker Non-Votes
Richard D. Kinder	1,498,484,612	124,126,567	2,367,540	311,468,250
Steven J. Kean	1,533,740,652	87,916,046	3,322,021	311,468,250
Kimberly A. Dang	1,514,655,237	107,795,217	2,528,265	311,468,250
Ted A. Gardner	1,113,065,729	508,793,270	3,119,719	311,468,250
Anthony W. Hall, Jr.	1,477,779,785	144,382,189	2,816,744	311,468,250
Gary L. Hultquist	1,515,650,647	106,527,247	2,800,825	311,468,250
Ronald L. Kuehn, Jr.	1,338,474,592	283,677,918	2,826,209	311,468,250
Deborah A. Macdonald	1,499,500,179	122,874,187	2,604,353	311,468,250
Michael C. Morgan	1,494,096,518	128,162,101	2,720,100	311,468,250
Arthur C. Reichstetter	1,519,799,405	102,335,571	2,843,743	311,468,250
C. Park Shaper	1,518,637,519	103,504,815	2,836,385	311,468,250

William A. Smith	1,521,325,722	100,832,436	2,820,561	311,468,250
Joel V. Staff	1,508,631,253	113,497,807	2,849,659	311,468,250
Robert F. Vagt	1,146,500,559	475,576,218	2,901,942	311,468,250

Proposal Two – Amendment to Amended and Restated Certificate of Incorporation

KMI stockholders approved an amendment to our Amended and Restated Certificate of Incorporation to limit the liability of certain officers of KMI as permitted by recent amendments to the General Corporation Law of the State of Delaware.

For	Against	Abstain	Broker Non-Votes
1,443,597,184	176,224,704	5,156,830	311,468,250

Proposal Three – Ratification of Selection of PricewaterhouseCoopers LLP

KMI stockholders ratified the selection of PricewaterhouseCoopers LLP as KMI's independent registered public accounting firm for 2023.

For	Against	Abstain	Broker Non-Votes
1,874,380,800	58,356,786	3,709,383	—

Proposal Four – Advisory Vote on Executive Compensation

KMI stockholders approved, on an advisory basis, the compensation of KMI's named executive officers, as disclosed in the Proxy Statement.

For	Against	Abstain	Broker Non-Votes
1,521,685,589	95,593,717	7,698,954	311,468,250

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits	Description
3.1	Certificate of Amendment to Amended and Restated Certificate of Incorporation of Kinder Morgan, Inc.
104	Cover Page Interactive Data File pursuant to Rule 406 of Regulation S-T formatted in iXBRL (Inline Extensible Business Reporting Language).

S I G N A T U R E

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

KINDER MORGAN, INC.

Dated: May 16, 2023

By: /s/ David P. Michels
David P. Michels
Vice President and Chief Financial Officer

**CERTIFICATE OF AMENDMENT
OF
CERTIFICATE OF INCORPORATION
OF
KINDER MORGAN, INC.**

May 10, 2023

Kinder Morgan, Inc. (the “Company”), a corporation organized and existing under the General Corporation Law of the State of Delaware (the “DGCL”), hereby certifies as follows:

1. This Certificate of Amendment (the “Certificate of Amendment”) amends the Corporation’s Amended and Restated Certificate of Incorporation filed with the Secretary of State of the State of Delaware on May 8, 2015 (the “A&R Certificate of Incorporation”).
2. The Board of Directors of the Company, acting in accordance with the provisions of Sections 141 and 242 of the DGCL, adopted resolutions to amend the A&R Certificate of Incorporation, by amending Article NINTH as set forth in paragraph 3 below.
3. Article NINTH of the A&R Certificate of Incorporation is hereby amended and restated in its entirety as follows:

“**NINTH:** A director or officer of the Company shall not be personally liable to the Company or its stockholders for monetary damages for breach of fiduciary duty as a director or officer, except for liability (a) for any breach of a director’s or officer’s duty of loyalty to the Company or its stockholders, (b) for acts or omissions not in good faith or that involve intentional misconduct or knowing violation of law, (c) of a director under Section 174 of the DGCL, (d) for any transaction from which a director or officer derived an improper personal benefit, or (e) of an officer in any action by or in the right of the Company. Neither amendment nor repeal of this Article Ninth nor the adoption of any provision of this Amended and Restated Certificate of Incorporation inconsistent with this Article Ninth shall eliminate or reduce the effect of this Article Ninth in respect of any matter occurring, or any cause of action, suit or claim that, but for this Article Ninth, would accrue or arise, prior to such amendment, repeal or adoption of any inconsistent provision. In addition to the circumstances in which a director or officer of the Company is not personally liable as set forth in the foregoing provisions of this Article Ninth, a director or officer shall not be liable to the Company or its stockholders to such further extent as permitted by any law hereafter enacted, including without limitation any subsequent amendment to the DGCL.”

4. This Certificate of Amendment was submitted to the stockholders of the Company and was approved by the stockholders of the Company in accordance with Sections 222 and 242 of the DGCL.
5. All other provisions of the A&R Certificate of Incorporation shall remain in full force and effect.
6. This Certificate of Amendment shall become effective immediately upon filing with the Secretary of State of the State of Delaware.

[Signature Page Follows]

IN WITNESS WHEREOF, the undersigned has duly executed this Certificate of Amendment of the Certificate of Incorporation as of the date first written above.

KINDER MORGAN, INC.

By: /s/ Adam S. Forman
Name: Adam S. Forman
Title: Vice President