

SUNOCO INC
Form DEFM14A
August 29, 2012
Table of Contents

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

SCHEDULE 14A

Proxy Statement Pursuant to Section 14(a) of the
Securities Exchange Act of 1934

Filed by the Registrant

Filed by a Party other than the Registrant

Check the appropriate box:

Preliminary Proxy Statement

Confidential, for Use of the Commission Only (as permitted by Rule14a-6(e)(2))

Definitive Proxy Statement

Definitive Additional Materials

Soliciting Material Pursuant to §240.14a-12

SUNOCO, INC.

(Name of Registrant as Specified in its Charter)

Edgar Filing: SUNOCO INC - Form DEFM14A

(Name of Person(s) Filing Proxy Statement, if other than the Registrant)

Payment of Filing Fee (Check the appropriate box):

No fee required.

Fee computed on table below per Exchange Act Rules 14a-6(i)(1) and 0-11.

(1) Title of each class of securities to which transaction applies:

(2) Aggregate number of securities to which transaction applies:

Table of Contents

(3) Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11 (set forth the amount on which the filing fee is calculated and state how it was determined):

(4) Proposed maximum aggregate value of transaction:

(5) Total fee paid:

.. Fee paid previously with preliminary materials.

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

(1) Amount Previously Paid:

(2) Form, Schedule or Registration Statement Nos.:

(3) Filing Parties:

(4) Date Filed:

Table of Contents

MERGER PROPOSED YOUR VOTE IS VERY IMPORTANT

Dear Shareholder of Sunoco, Inc.:

Sunoco, Inc. and Energy Transfer Partners, L.P. (which we refer to as ETP) have entered into a merger agreement that provides for Sunoco to become a subsidiary of ETP. In the merger, Sunoco shareholders will receive, for each Sunoco common share they own as of immediately prior to the merger, a combination of \$25.00 in cash and 0.5245 of an ETP common unit (which we refer to as the standard mix of consideration). Instead of receiving the standard mix of consideration, Sunoco shareholders will have an opportunity to make a cash election to receive \$50.00 in cash, or a unit election to receive 1.0490 ETP common units, for each Sunoco common share they own as of immediately prior to the merger. The cash and unit elections, however, will be subject to proration to ensure that the total amount of cash paid and the total number of ETP common units issued in the merger to Sunoco shareholders as a whole are equal to the total amount of cash and number of ETP common units that would have been paid and issued if all Sunoco shareholders received the standard mix of consideration. Shares of Sunoco common stock are currently traded on the New York Stock Exchange (which we refer to as the NYSE) under the symbol SUN, and ETP common units are currently traded on the NYSE under the symbol ETP.

In connection with the merger, Sunoco will hold a special meeting of its shareholders to consider and vote on a proposal to approve and adopt the merger agreement and certain other matters. The affirmative vote of the holders of a majority of the votes cast by all Sunoco shareholders entitled to vote on the merger proposal is required to approve and adopt the merger agreement. Shareholders of record as of August 27, 2012 (which we refer to as the record date) are entitled to vote on the merger and other proposals presented at the Sunoco special meeting.

Your vote is very important. Information about the Sunoco special meeting, the merger and the other business to be considered by the Sunoco shareholders at the Sunoco special meeting is contained in the accompanying proxy statement/prospectus, which we urge you to read. **In particular, see the section titled Risk Factors beginning on page 18 of the accompanying document.**

The Sunoco board of directors has unanimously determined that the merger agreement, the merger and the other transactions contemplated by the merger agreement are in the best interests of Sunoco and its shareholders, and recommends that the Sunoco shareholders vote in favor of the proposal to approve and adopt the merger agreement and the transactions contemplated thereby.

Sincerely,

BRIAN P. MACDONALD

Chairman of the Board and

President and Chief Executive Officer

Neither the U.S. Securities and Exchange Commission nor any state securities commission has approved or disapproved of the securities to be issued under the accompanying document or determined that the accompanying document is accurate or complete. Any representation to the contrary is a criminal offense.

Edgar Filing: SUNOCO INC - Form DEFM14A

The accompanying document is dated August 28, 2012 and is first being mailed to the Sunoco shareholders on or about August 29, 2012.

Table of Contents

NOTICE OF SPECIAL MEETING OF SHAREHOLDERS

TO BE HELD ON OCTOBER 4, 2012

Dear Shareholder of Sunoco, Inc.:

On Thursday, October 4, 2012, Sunoco will hold a special meeting of shareholders (which we refer to as the special meeting) at the Detroit Athletic Club, 241 Madison Avenue, Detroit, Michigan 48226, at 2:30 p.m., local time. Only Sunoco shareholders of record at the close of business on August 27, 2012, the record date, are entitled to receive this notice and to vote at the special meeting or any adjournment or postponement of that meeting. The special meeting has been called for the following purposes:

1. To consider and vote upon a proposal to approve and adopt the Agreement and Plan of Merger dated as of April 29, 2012 as amended by Amendment No. 1 thereto dated as of June 15, 2012, (which we refer to as the merger agreement), by and among Sunoco, Energy Transfer Partners, L.P. (which we refer to as ETP), Energy Transfer Partners GP, L.P., Sam Acquisition Corporation (which we refer to as Merger Sub), and, for limited purposes set forth therein, Energy Transfer Equity, L.P. (which we refer to as ETE), pursuant to which, among other things, Merger Sub will be merged with and into Sunoco, with Sunoco surviving the merger as a subsidiary of ETP, and the transactions contemplated thereby;
2. To consider and cast an advisory (non-binding) vote on specified compensation that may be received by Sunoco's named executive officers in connection with the merger;
3. To consider and vote upon any adjournment of the special meeting, if necessary, to solicit additional proxies in favor of the proposal to approve and adopt the merger agreement and the transactions contemplated thereby; and

4. To transact such other business as may properly come before the special meeting and any adjournment or postponement thereof. The Sunoco board of directors has unanimously approved and adopted the merger agreement and is submitting the merger agreement to the Sunoco shareholders for approval and adoption at the special meeting. The merger agreement will be approved and adopted upon receiving the affirmative vote of a majority of the votes cast by all Sunoco shareholders entitled to vote thereon at the special meeting.

Whether or not you plan to attend the special meeting, please submit your proxy with voting instructions as soon as possible. If you hold shares of Sunoco common stock in your name as a shareholder of record, please complete, sign, date and return the accompanying proxy card in the enclosed self-addressed stamped envelope, use the toll-free telephone number shown on the proxy card or use the internet website shown on the proxy card. If you hold shares of Sunoco common stock through a bank or broker, please use the voting instructions you have received from your bank or broker. Submitting your proxy will not prevent you from attending the special meeting and voting in person. Please note, however, that if you hold shares of Sunoco common stock through a bank or broker, and you wish to vote in person at the special meeting, you must obtain from your bank or broker a proxy issued in your name. You may revoke your proxy by attending the special meeting and voting your shares of Sunoco common stock in person at the special meeting. You may also revoke your proxy at any time before it is voted by giving written notice of revocation to the Secretary of Sunoco at the address provided with the proxy card at or before the special meeting or by submitting a proxy with a later date.

The Sunoco board of directors recommends that the Sunoco shareholders vote:

1. **FOR** the proposal to approve and adopt the merger agreement and the transactions contemplated thereby;
2. **FOR** the proposal to approve, on an advisory (non-binding) basis, specified compensation that may be received by Sunoco's named executive officers in connection with the merger; and

Edgar Filing: SUNOCO INC - Form DEFM14A

3. **FOR** any adjournment of the special meeting, if necessary, to solicit additional proxies in favor of the proposal to approve and adopt the merger agreement and the transactions contemplated thereby.
By Order of the Board of Directors,

STACY L. FOX

Senior Vice President, General Counsel and

Corporate Secretary

August 28, 2012

Table of Contents

REFERENCES TO ADDITIONAL INFORMATION

This document, which forms part of a registration statement on Form S-4 filed with the U.S. Securities and Exchange Commission (which we refer to as the SEC), constitutes a proxy statement of Sunoco under Section 14(a) of the U.S. Securities Exchange Act of 1934, as amended (which we refer to as the Exchange Act), with respect to the solicitation of proxies for the special meeting of shareholders of Sunoco, or any adjournment or postponement thereof, to, among other things, approve and adopt the merger agreement and the transactions contemplated thereby. This document is also a prospectus of ETP under Section 5 of the U.S. Securities Act of 1933, as amended (which we refer to as the Securities Act), for ETP common units that will be issued to shareholders of Sunoco in the merger pursuant to the merger agreement.

As permitted under the rules of the SEC, this document incorporates by reference important business and financial information about ETP and Sunoco from other documents filed with the SEC that are not included in or delivered with this document. Please read the section titled "Where You Can Find More Information." You can obtain any of the documents incorporated by reference into this document from the SEC's website at www.sec.gov. This information is also available to you without charge upon your request in writing or by telephone from ETP or Sunoco at the following addresses and telephone numbers:

Energy Transfer Partners, L.P.

3738 Oak Lawn Avenue
Dallas, TX 75219
Attn: Investor Relations
Telephone: (214) 981-0795

Sunoco, Inc.

1818 Market Street, Suite 1500
Philadelphia, PA 19103-3687
Attn: Investor Relations
Telephone: (215) 977-3105

Please note that copies of the documents provided to you will not include exhibits, unless the exhibits are specifically incorporated by reference into the documents or this document.

You may obtain certain of these documents at ETP's website, www.energytransfer.com, by selecting "Investor Relations," then selecting "SEC Filings" and then selecting the tab named "ETP," and at Sunoco's website, www.sunocoinc.com, by selecting "Investors," selecting "Financial Reports" and then selecting "SEC Filings." None of the information contained on the website of ETP and Sunoco is incorporated by reference into this document.

In order to receive timely delivery of the documents in advance of the Sunoco special meeting, your request should be received no later than Thursday, September 27, 2012. In order to receive timely delivery of the documents in advance of the election deadline for the merger, your request should be received no later than four business days prior to the election deadline. If you request any documents, ETP or Sunoco will mail them to you by first class mail, or another equally prompt means, within one business day after receipt of your request.

If you have any questions about the merger or the consideration that you will receive in connection with the merger, including any questions relating to the election or transmittal of materials, or would like additional copies of the election form and letter of transmittal (which are being mailed to Sunoco shareholders separately), you may contact Sunoco's proxy solicitor at the address and telephone number listed below. You will not be charged for any additional election forms and letters of transmittal that you request.

The Solicitation Agent for the Special Meeting is:

Morrow & Co., LLC

You may obtain information regarding the Special Meeting

from the Solicitation Agent as follows:

470 West Avenue 19 Floor

Stamford, CT 06902

Banks and Brokerage Firms, please call (203) 658-9400

Edgar Filing: SUNOCO INC - Form DEFM14A

Shareholders, please call (877) 787-9239

SUN.info@morrowco.com

Table of Contents**TABLE OF CONTENTS**

	Page
<u>QUESTIONS AND ANSWERS ABOUT THE MERGER AND SPECIAL MEETING</u>	iv
<u>SUMMARY</u>	1
<u>Information About the Companies</u>	1
<u>The Merger</u>	1
<u>Merger Consideration</u>	1
<u>Treatment of Sunoco Equity Awards</u>	2
<u>Risk Factors</u>	3
<u>Special Meeting of Sunoco Shareholders</u>	3
<u>Recommendation of Sunoco's Board of Directors and Reasons for the Merger</u>	4
<u>Opinion of Sunoco's Financial Advisor</u>	5
<u>Interests of Sunoco's Directors and Executive Officers in the Merger</u>	5
<u>Regulatory Approvals Required for the Merger</u>	6
<u>Dissenters Rights</u>	6
<u>NYSE Listing of ETP Common Units</u>	6
<u>Delisting and Deregistration of Sunoco Common Stock</u>	6
<u>Conditions to Completion of the Merger</u>	6
<u>ETP Partnership Agreement Amendment</u>	7
<u>Post-Closing Structure</u>	7
<u>Non-Solicitation by Sunoco</u>	8
<u>Termination of Merger Agreement</u>	8
<u>Breakup Fee and ETP Expenses</u>	9
<u>Accounting Treatment</u>	10
<u>Material U.S. Federal Income Tax Considerations</u>	10
<u>Comparison of Rights of Sunoco Shareholders and ETP Unitholders</u>	10
<u>Expected Timing of the Merger</u>	11
<u>Litigation Related to the Merger</u>	11
<u>Advisory Vote on Specified Compensation</u>	11
<u>Energy Transfer Partners Selected Historical and Pro Forma Consolidated Financial Data</u>	12
<u>Sunoco Selected Historical Consolidated Financial Data</u>	14
<u>Unaudited Comparative Per Unit Information of ETP and Per Share Information of Sunoco</u>	16
<u>Comparative ETP and Sunoco Per Unit/Share Market Price Data</u>	17
<u>RISK FACTORS</u>	18
<u>Risks Factors Related to the Merger</u>	18
<u>Tax Risks Related to the Merger</u>	22
<u>Tax Risks Related to the Ownership and Disposition of ETP Common Units Received in the Merger</u>	23
<u>CAUTIONARY STATEMENT REGARDING FORWARD-LOOKING STATEMENTS</u>	24
<u>INFORMATION ABOUT THE COMPANIES</u>	25
<u>Energy Transfer Partners, L.P.</u>	25
<u>Sam Acquisition Corporation</u>	25
<u>Sunoco, Inc.</u>	25
<u>Southern Union Company</u>	26
<u>ETP Holdco Corporation</u>	26
<u>SPECIAL MEETING OF SUNOCO SHAREHOLDERS</u>	27
<u>Date, Time and Place of the Special Meeting</u>	27
<u>Admission to the Special Meeting</u>	27
<u>Purpose of the Special Meeting</u>	27

Table of Contents

	Page
<u>Recommendation of the Sunoco Board of Directors</u>	27
<u>Record Date; Shareholders Entitled to Vote; Outstanding Shares Held</u>	27
<u>Quorum</u>	28
<u>Abstentions</u>	28
<u>Broker Non-Votes</u>	28
<u>Required Vote</u>	28
<u>Shares Beneficially Owned by Directors and Executive Officers</u>	28
<u>Proxies</u>	29
<u>Shares Held in Street Name</u>	29
<u>Shares Held in SunCAP</u>	29
<u>How to Submit Your Proxy</u>	29
<u>Revoking Your Proxy</u>	30
<u>Adjournments and Postponements</u>	30
<u>Proxy Solicitation</u>	30
<u>Other Business</u>	30
<u>PROPOSAL 1: THE MERGER</u>	31
<u>Background of the Merger</u>	31
<u>Recommendation of Sunoco's Board of Directors and Reasons for the Merger</u>	40
<u>Opinion of Sunoco's Financial Advisor</u>	44
<u>Sunoco Unaudited Prospective Financial Information</u>	55
<u>ETP's Reasons for the Merger</u>	57
<u>Post-Closing Structure</u>	58
<u>Interests of Sunoco's Directors and Executive Officers in the Merger</u>	59
<u>Securities Ownership of Certain Beneficial Owners and Management</u>	66
<u>Merger Expenses, Fees and Costs</u>	67
<u>Expected Timing of the Merger</u>	68
<u>No ETP Unitholder Approval</u>	68
<u>Accounting Treatment of the Transactions</u>	68
<u>Regulatory Approvals</u>	68
<u>Sunoco Shareholders Making Elections</u>	69
<u>Exchange of Shares</u>	71
<u>Listing of ETP Units Issued in the Transactions; Delisting and Deregistration of Sunoco Common Stock After the Transactions</u>	72
<u>Litigation Related to the Merger</u>	72
<u>THE MERGER AGREEMENT</u>	73
<u>The Merger</u>	73
<u>Merger Closing and Effective Time</u>	73
<u>Directors and Officers</u>	73
<u>Merger Consideration</u>	74
<u>Conditions to the Merger</u>	74
<u>No Dissenters Rights</u>	76
<u>Representations and Warranties</u>	76
<u>Definition of Material Adverse Effect</u>	78
<u>Conduct of Business Pending the Merger</u>	79
<u>Mutual Access</u>	83
<u>Non-Solicitation by Sunoco</u>	83
<u>Sunoco Employee Equity-Based Awards</u>	87
<u>Employee Matters</u>	88
<u>Regulatory Approvals and Efforts to Close the Merger</u>	89

Table of Contents

	Page
<u>Indemnification and Insurance</u>	90
<u>Financing Assistance</u>	90
<u>Other Covenants and Agreements</u>	91
<u>Termination of the Merger Agreement</u>	91
<u>Effect of Termination</u>	92
<u>Breakup Fee and ETP Expenses</u>	92
<u>Other Fees and Expenses</u>	93
<u>Amendment and Waiver</u>	93
<u>Governing Law</u>	94
<u>MATERIAL U.S. FEDERAL INCOME TAX CONSIDERATIONS</u>	95
<u>Material U.S. Federal Income Tax Consequences of the Merger</u>	96
<u>Additional U.S. Federal Income Tax Considerations Relating to the Receipt and Ownership of ETP Common Units Issued Pursuant to the Merger</u>	97
<u>Potential U.S. Federal Income Tax Consequences to Holders of Sunoco Common Stock, Sunoco, ETP and its Subsidiaries Arising From Transactions Contemplated to Occur in Connection with the Merger</u>	100
<u>U.S. Federal Income Taxation of ETP and its Unitholders</u>	102
<u>UNAUDITED PRO FORMA FINANCIAL INFORMATION</u>	120
<u>DESCRIPTION OF ETP COMMON UNITS</u>	130
<u>Common Units, Class E Units, Class F Units and General Partner Interest</u>	130
<u>Issuance of Additional Securities</u>	130
<u>Unitholder Approval</u>	131
<u>Amendments to ETP's Partnership Agreement</u>	131
<u>Withdrawal or Removal of ETP's General Partner</u>	132
<u>Transfer of General Partner Interest</u>	133
<u>Liquidation and Distribution of Proceeds</u>	133
<u>Limited Call Right</u>	133
<u>Indemnification</u>	133
<u>Listing</u>	134
<u>Transfer Agent and Registrar</u>	134
<u>Transfer of Common Units</u>	134
<u>Status as Limited Partner or Assignee</u>	135
<u>Limited Liability</u>	135
<u>Meetings: Voting</u>	136
<u>Books and Reports</u>	137
<u>COMPARISON OF RIGHTS OF SUNOCO SHAREHOLDERS AND ETP UNITHOLDERS</u>	138
<u>PROPOSAL 2: ADVISORY VOTE ON SPECIFIED COMPENSATION</u>	151
<u>Vote Required for Approval</u>	151
<u>Recommendation of the Sunoco Board of Directors</u>	151
<u>LEGAL MATTERS</u>	152
<u>EXPERTS</u>	152
<u>SUNOCO SHAREHOLDER PROPOSALS</u>	153
<u>WHERE YOU CAN FIND MORE INFORMATION</u>	155
<u>ANNEX A AGREEMENT AND PLAN OF MERGER, AS AMENDED</u>	A-1
<u>ANNEX B FORM OF ETP PARTNERSHIP AGREEMENT AMENDMENT</u>	B-1
<u>ANNEX C OPINION OF CREDIT SUISSE</u>	C-1

Table of Contents

QUESTIONS AND ANSWERS ABOUT THE MERGER AND SPECIAL MEETING

*Set forth below are questions that you, as a shareholder of Sunoco, may have regarding the merger and the special meeting of Sunoco shareholders and brief answers to those questions. For a more complete description of the legal and other terms of the merger, please read this entire document, including the merger agreement, which is attached as Annex A to this proxy statement/prospectus, and the documents incorporated by reference into this document. You may obtain a list of the documents incorporated by reference into this document in the section *Where You Can Find More Information*.*

Q: Why am I receiving these materials?

A: Sunoco and ETP have entered into a merger agreement, pursuant to which they have agreed that Sunoco would become a subsidiary of ETP and Sunoco will cease to be a separate publicly traded company. In the merger, Sunoco shareholders will receive, for each Sunoco common share they own as of immediately prior to the merger, a combination of \$25.00 in cash and 0.5245 of an ETP common unit (which we refer to as the standard mix of consideration). Instead of receiving the standard mix of consideration, Sunoco shareholders will have an opportunity to make either a cash election to receive \$50.00 in cash, or a unit election to receive 1.0490 ETP common units, for each Sunoco common share they own as of immediately prior to the merger. The cash and unit elections, however, will be subject to proration to ensure that the total amount of cash paid and the total number of ETP common units issued in the merger to Sunoco shareholders as a whole are equal to the total amount of cash and number of ETP common units that would have been paid and issued if all Sunoco shareholders received the standard mix of consideration. See *The Merger Agreement Merger Consideration* on page 74.

In order to complete the merger, Sunoco shareholders must vote to approve and adopt the merger agreement and the transactions contemplated thereby. This document is being delivered to you as both a proxy statement of Sunoco and a prospectus of ETP in connection with the merger. It is the proxy statement by which the Sunoco board of directors is soliciting proxies from you to vote in favor of the proposal to approve and adopt the merger agreement at the special meeting or at any adjournment or postponement of the special meeting. It is also the prospectus for the offering by ETP of ETP common units in the merger.

Q: What am I being asked to consider and vote on?

A: Sunoco shareholders are being asked to consider and vote on the following proposals:

- (1) to approve and adopt the merger agreement (attached as Annex A to this document) and the transactions contemplated thereby;
- (2) to approve, on an advisory (non-binding) basis, specified compensation that may be received by Sunoco's named executive officers in connection with the merger;
- (3) any adjournment of the special meeting, if necessary, to solicit additional proxies in favor of the proposal to approve and adopt the merger agreement and the transactions contemplated thereby; and
- (4) to transact such other business as may properly come before the special meeting and any adjournment or postponement thereof (at the present time, Sunoco knows of no other matters that will be presented for consideration at the special meeting).

Q: How does the Sunoco board of directors recommend that I vote on the matters to be considered at the special meeting?

A: The Sunoco board of directors recommends that the shareholders of Sunoco vote:

Edgar Filing: SUNOCO INC - Form DEFM14A

FOR the proposal to approve and adopt the merger agreement and the transactions contemplated thereby;

FOR the proposal to approve, on an advisory (non-binding) basis, specified compensation that may be received by Sunoco's named executive officers in connection with the merger; and

Table of Contents

FOR any adjournment of the special meeting, if necessary,