

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Nora Mead Brownell, and Suedeen G. Kelly.

SFPP, L.P.

Docket No. IS06-215-000
Docket No. IS06-229-000

ORDER ACCEPTING AND SUSPENDING TARIFF FILINGS

(Issued April 28, 2006)

1. On March 7, 2006, SFPP, L.P. (SFPP) under Docket No. IS06-215-000 filed FERC Tariff Nos. 119 – 121, canceling FERC Tariff Nos. 112, 113, and 115, respectively, with a proposed effective date of May 1, 2006. SFPP's proposed filing is made to comply with the Commission's order issued December 16, 2005, in Docket Nos. OR92-8-000, *et al.* and OR98-2-000, *et al.*,¹ as clarified by the subsequent rehearing order issued February 13, 2006.² As required by the December 16 Order, SFPP proposed a May 1, 2006 effective date. The December 16 Order expressly stated that the rates to be included in the tariff filed pursuant to that order would be interim rates. On March 27, 2006, SFPP filed under Docket No. IS06-229-000 Supplement No. 1 to FERC Tariff No. 119 (Correction Supplement) correcting FERC Tariff No. 119, with an effective date of May 1, 2006.³ Therefore the Commission accepts and suspends the tariffs, subject to refund, to become effective May 1, 2006. Any further action will require a subsequent order of the Commission.

Interventions

2. Oil pipeline tariffs are noticed by filing them with the Commission and sending a copy of the proposed tariffs to all subscribers, and in this instance, to parties of record in

¹ *SFPP, L.P.*, 113 FERC ¶ 61,277 (2005) (December 16 Order).

² *SFPP, L.P.*, 114 FERC ¶ 61,136 (2006) (February 13 Order).

³ Item 310A corrects and replaces Item 310 to correct a typographical error in the symbols used to indicate if the rate is increased or decreased. SFPP corrected the letter designation for rates from El Paso and Diamond Junction, Texas to indicate a rate decrease with the [D] symbol.

the dockets addressed by the December 16 and February 13 Orders. Interventions, initial comments, and protests were filed on March 22 by: the Airlines;⁴ Western Refining Company, L.P.; ConocoPhillips and Tosco Corporation, filing jointly; BP West Coast Products LLC, Chevron Products Company, and ExxonMobil Oil Corporation, filing jointly; Navajo Refining Company, L.P.; and Ultramar Inc. and Valero Marketing and Supply Company, filing jointly. Detailed comments were due April 21, 2006, and, except for the Airlines, these parties filed comments on that date. SFPP's reply is due on May 1. A number of these parties also filed discovery requests related to the December 16 Order in the weeks preceding their interventions in these dockets. SFPP filed replies to those requests. These related pleadings will be addressed in the compliance phase of the Docket Nos. OR92-8-000, *et al.* and OR98-2-000, *et al.* proceedings once all the comments and reply comments have been received.

Discussion

3. As mentioned above, the December 16 Order explicitly held that the rates included in the tariffs under discussion here would be interim rates. Therefore there is no need for the more extended discussion that might be included in an oil pipeline suspension order. It is sufficient to say that the protests assert that the filed rates are unjust and unreasonable for the following reasons, among others. They assert that SFPP is not entitled to an income tax allowance as a matter of law and that SFPP, in any event, calculates the income tax allowance incorrectly. The latter concerns include the inclusion of a state income tax allowance, the inclusion of certain revenues allocated to the corporate general partners in determining its income, the use of marginal rather than actual tax rates, and calculation of the income tax allowance on the basis of income allocations rather than the nominal partnership shares. They further assert that SFPP did not correctly calculate the equity cost of capital, that SFPP has failed to justify the inclusion of master limited partnerships in the proxy group used to determine the equity cost of capital, and that certain factors were improperly included in SFPP's rate base calculations, including the deferred equity component, the amortization of the rate base, and the allowance for deferred income taxes. Protestants direct other challenges to the allocation of overhead costs and the indexing of the rates to proposed effective date. Finally, the protesting parties assert that the Commission should accept and suspend the tariff filings subject to refund.

4. The Commission will consider all these matters when a complete record on the tariff filings and the compliance filing is before it. Because the matters raised are before the Commission in the context of a compliance filing, the Commission will not refer the

⁴ American West Airlines, Inc., Continental Airlines, Inc., Northwest Airlines, Inc., and Southwest Airlines Co.

matter to a settlement judge or set the tariff filings for hearing. Moreover, as the filed rates are interim rates under the terms of the December 16 Order, and as such will not be just and reasonable until a ruling on the matters presented, the Commission accepts and suspends the tariffs, subject to refund, to become effective May 1, 2006.

The Commission orders:

FERC Tariff Nos. 119 – 121 and Supplement No. 1 to FERC Tariff No. 119 are accepted and suspended, subject to refund, to be effective May 1, 2006.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.