

128 FERC ¶ 61,138  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;  
Sudeen G. Kelly, Marc Spitzer,  
and Philip D. Moeller.

Unocal Pipeline Company

Docket Nos. IS07-41-005  
IS08-53-005

ORDER ACCEPTING TARIFF SUBJECT TO CONDITIONS

(Issued August 5, 2009)

1. On May 29, 2009, Unocal Pipeline Company (Unocal) filed FERC No. 304 to implement its base rate of \$3.45 per barrel and its volume incentive rate of \$3.25 per barrel. As discussed below, the Commission accepts the revised tariff subject to conditions, effective January 1, 2008, for the base tariff rate, and effective May 1, 2009, for the volume incentive rate.

**Summary of the Filing**

2. Unocal states the base rate filing is to implement the Commission's April 16, 2009 order, in Docket Nos. IS07-75-001, *et al.* (the April 16 Order).<sup>1</sup> The April 16 Order accepted as an interim rate, subject to refund, the TAPS Carriers compliance filing's uniform rate of \$3.45 per barrel effective January 1, 2008. This order also established a hearing and settlement procedures for the 2008 rate. The instant filing implements Unocal's base rate of \$3.45 per barrel.

3. The volume incentive rate simply brings forward the reduced rate of \$3.25 per barrel established by Unocal's March 31, 2009 filing for transportation on Unocal's TAPS capacity. To get the rate shippers must nominate on average, 5000 or more barrels per day in a calendar month. The Commission accepted the incentive rate, effective May 1, 2009, by order issued April 28, 2009 in Docket No. IS09-176-000 (the April 28 Order).<sup>2</sup>

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<sup>1</sup> *BP Pipelines (Alaska) Inc., et al.*, 127 FERC ¶ 61,047 (2009).

<sup>2</sup> *Unocal Pipeline Co.*, 127 FERC ¶ 61,088 (2009).

### **Protest**

4. The State of Alaska (Alaska) filed a protest and a motion to hold in abeyance alleging the volume incentive rate filed by Unocal is unjust and unreasonable. Alaska raises the same issues it raised in Unocal's March 31, 2009, volume incentive rate filing in Docket No. IS09-176-000. Alaska contends it does not protest or oppose Unocal's establishing a volume incentive rate *per se*, rather it protests the costs used to derive the rate since they are the same costs used in the TAPS Carriers' 2007-2008 compliance filing. Alaska asserts the instant filing suffers from the same errors and therefore raises the same issues presented in its protest to the compliance filings.

5. Specifically, Alaska contends the incentive rate contained the following flaws: (1) includes imprudent and unlawful expenditures relating to the Strategic Reconfiguration (SR) program; (2) may include costs relating to the dismantling and removal of TAPS facilities from the right-of-way; (3) assumes an improper life of the line; (4) uses an improperly composed proxy group that is inconsistent with Commission's recent guidance; (5) uses a return on equity that is too high because Unocal failed to adjust the return to account for anomalous and aberrant conditions in the capital markets; (6) uses a return on equity that is too high because it fails to account for differences in the tax treatment of distributions to master limited partnership unit holders versus corporate dividends; (7) improperly inflates the capital structure for the oil pipeline proxy group by excluding the current portion of long term debt; and, (8) may improperly reflect an excessive continuing trend of increasing operating expenses for the TAPS Carriers, including inaccurate or inappropriate test year adjustments to those costs.

6. Alaska requests the Commission to condition Unocal's volume incentive rate by subjecting it to refund, as it did with Unocal's volume incentive rate in Docket No. IS09-176-000, and subject it to the outcome of the TAPS' 2008 compliance rate proceeding.

### **Unocal's Answer**

7. Unocal filed a response to Alaska's protest pursuant to section 343.3(b) of the Commission's regulations. Unocal agrees with Alaska that the Commission should accept the instant filing subject to refund and the outcome of final Commission action in the 2008 TAPS compliance rate proceedings. Unocal asserts the instant tariff reflect rates the Commission already approved subject to refund and the outcome of the on-going 2008 compliance rate proceedings. Unocal contends that Alaska repeats many of the arguments it previously raised against the 2008 compliance rate.

### **Discussion**

8. The April 16 Order addressed all of the substantive issues Alaska raises here. Among other things, the Commission rejected Alaska's arguments that the useful life of

the pipeline should extend beyond 2034 since the Commission ruled on that issue in a prior order. The order set the remaining issues for hearing.

9. The April 28 Order on Unocal's tariff filing accepted the volume incentive rate subject to refund and subject to Commission action in the TAPS' compliance filing proceeding. Specifically, the April 28 Order protects shippers against over-collection by making the incentive rate subject to refund. If the final maximum rate determined in the TAPS 2008 compliance rate proceeding is less than Unocal's \$3.25 per barrel rate, the refund condition would apply.

The Commission orders:

Unocal's FERC Tariff No. 304 is accepted, subject to refund and the outcome in the TAPS 2008 compliance rate proceeding, with a January 1, 2008 effective date for the base tariff rate, and a May 1, 2009 effective date for the volume incentive rate.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.