131 FERC ¶ 61,264
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

June 24, 2010

In Reply Refer To:
Mobil Pipe Line Company
Docket No. OR10-14-000

Mobil Pipe Line Company
Post Office Box 2220
Houston, Texas 77252-2220

Attention: Tim J. Adams
Vice President – Business Development and Joint Interest

Reference: Requested Waiver of Oil Tariff Indexing Requirement

Ladies and Gentlemen:

1. On May 27, 2010, Mobil Pipe Line Company (Mobil) filed a request for waiver of the Commission's regulations requiring application of the Oil Pipeline Index Adjustment (Index) published by the Commission on May 19, 2010, to lower the Index ceiling levels applicable to Mobil's oil pipeline transportation tariff rates effective July 1, 2010.[1] The Commission denies the requested waiver.

2. Under the Commission's regulations, oil pipelines are required to compute the Index ceiling level effective July 1 of each year by multiplying the previous year's ceiling level by the most recent Index multiplier published by the Commission. The Commission calculates the Index multiplier using the annual change in the Producer Price Index for Finished Goods (PPI-FG), plus 1.3 percent (PPI+1.3). On May 19, 2010, the Commission published the 2010 Index multiplier of 0.987026,[2] meaning that the new Index multiplier will cause the rate ceiling levels for the Index year of July 1, 2010, to

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[1] 18 C.F.R. § 342.3(e) (2009).

[2] *See Revisions to Oil Pipeline Regulations Pursuant to the Energy Policy Act of 1992*, Notice of Annual Change in the Producer Price Index for Finished Goods, Docket No. RM93-11-000 (May 19, 2010).

June 30, 2011, to be less than the ceiling levels for the prior Index year of July 1, 2009, to June 30, 2010.

3. In its waiver request, Mobil included a copy of Mobil's 2009 Form 6, Page 700 (Page 700) data. Mobil asserts that based upon the Page 700 data, Mobil is under-earning its cost-of-service levels by about 54 percent or $54 million. Mobil states that with the exception of two contract rates, its remaining rates are at the ceiling levels and any rate decrease required by applying the Index only adds to its revenue gap.

4. On June 11, 2010, Suncor Energy Marketing Inc. (Suncor) filed a motion to intervene and protest. Suncor is a shipper on Mobil's Pegasus pipeline system under Tariff No A-1184 for service from Patoka, Illinois, to Sunoco's Marine Terminal, Jefferson County, Texas. Suncor asserts that Mobil's request for waiver as it pertains to the Pegasus pipeline system should be denied. Suncor asserts that the Commission's regulations do not provide for waiver of the requirement that a pipeline file lowered rates to comply with the new ceiling level.[3] In addition, Suncor avers that although section 342.4(a) permits a carrier to change an indexed rate if the carrier demonstrates a "substantial divergence," the carrier must support this claim by filing the data required by Part 346 of the Commission's regulations, including a transmittal conforming to sections 341.2(c) and 342.4(a), a proposed tariff, and the statements and supporting workpapers described in section 346.2.

5. On June 16, 2010, Mobil filed a response to Suncor's protest. Mobil avers that the Commission has the authority to waive its rules and regulations in the appropriate circumstances. Mobil adds that the Commission has granted requests by oil pipelines for waiver of the application of the Index multiplier to reduce ceiling rates based upon Page 700 information.[4] Mobil states it is merely requesting waiver of the requirement to apply the 2010 Index to its existing rates rather than to increase its rates. Thus, Mobil asserts that section 342.4(a) does not apply and there is no obligation to file a cost-of-service filing or tariff sheet.[5] Moreover, Mobil requests that if the Commission entertains Suncor's protest, the Commission should only do so to the extent that the protest relates to Mobil's tariff for the Pegasus pipeline system.

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[3] *Citing* 18 C.F.R. § 342.3(e).

[4] *Citing Black Lake Pipe Line Co.*, 103 FERC ¶ 61,381 (2003); *Arco Midcon LLC*, 103 FERC ¶ 61,382 (2003); *Amoco Cushing – Chicago Pipeline Co.*, 103 FERC ¶ 61,383 (2003); *BP Pipelines (North America) Inc.*, 103 FERC ¶ 61,379 (2003); *Unocal Pipeline Co.*, 103 FERC ¶ 61,380 (2003).

[5] Mobil acknowledges that it cited section 342.4(a) in its initial waiver request, but Mobil states that this citation was erroneous.

6. Under the light-handed regulatory approach required by the Energy Policy Act of 1992, the Commission previously granted waiver of the Index methodology under the circumstances that application of the Index methodology would reduce rates, the pipeline presented Page 700 data showing an under-recovery, and no shipper filed a protest opposing the waiver request.[6] However, in this proceeding, Suncor has filed a protest. Given the presence of the protest, which raises questions about the validity of granting a waiver in this case, the Commission denies the requested waiver.

By direction of the Commission.

Kimberly D. Bose,
Secretary.

cc: All Parties

[6] *See, e.g., BP Pipelines (North America) Inc.*, 103 FERC ¶ 61,379 (2003).