

135 FERC ¶ 61,235  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;  
Marc Spitzer, Philip D. Moeller,  
John R. Norris, and Cheryl A. LaFleur.

SFPP, L.P.

Docket No. IS11-338-000

ORDER ACCEPTING AND SUSPENDING TARIFFS SUBJECT  
TO REFUND AND CONDITIONS

(Issued June 15, 2011)

1. This order addresses SFPP, L.P.'s (SFPP) tariff filing dated May 16, 2011 (May 16 filing) in the captioned docket.<sup>1</sup> SFPP proposes to modify its current West Line rates in compliance with Opinion No. 511, issued on February 17, 2011.<sup>2</sup> The instant filing also replaces a prior filing submitted on April 25, 2011 (April 25 filing) under Docket No. IS11-304-000, which SFPP withdrew on May 16, 2011.<sup>3</sup> In addition, SFPP requests a waiver of the notice period and proposes an effective date of June 1, 2011. As is discussed below, the May 16 filing modifies in two ways the proposed tariffs contained in the initial April 25 filing. The Commission accepts the tariffs filed May 16, to be effective June 1, 2011, subject to suspension and refund, and to the outcome of the related cost-of-service compliance filing in Docket No. IS08-390-006.
2. Opinion No. 511 reviewed an initial decision in Docket No. IS08-390-002 and made numerous determinations regarding the reasonableness of rates that SFPP had

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<sup>1</sup> F.E.R.C. Tariff No. 196.2.0 (Cancels F.E.R.C. Tariff No. 196.0.0) and F.E.R.C. Tariff No. 198.2.0 (Cancels F.E.R.C. Tariff No. 198.0.0).

<sup>2</sup> *SFPP, L.P.*, Opinion No. 511, 134 FERC ¶ 61,121 (2011) in Docket No. IS08-390-002.

<sup>3</sup> F.E.R.C. Tariff No. 196.1.0 (Cancels F.E.R.C. Tariff No. 196.0.0) and F.E.R.C. Tariff No. 198.1.0 (Cancels F.E.R.C. Tariff No. 198.0.0), filed April 25, 2011, which was withdrawn by letter filed May 16, 2011 pursuant to 18 C.F.R. § 341.113 (2011). Therefore Docket No. IS11-304-000 has been terminated and is not before the Commission.

previously filed in Docket No. IS08-390-000 on June 30, 2008. Opinion No. 511 also directed SFPP to make a compliance filing consistent with that Opinion, including revised tariffs and estimated refunds.<sup>4</sup> SFPP filed supporting compliance documentation on April 25, 2011 in Docket No. IS08-390-002, together with the compliance tariffs filed in the Docket No. IS11-304-000. This documentation also supports the rates contained in the instant filing in Docket No. IS11-338-000.

3. In its April 25 filing, SFPP concluded that the West Line rates in effect on July 31, 2008 constituted a rate floor. For this reason, SFPP limited the reduction of the rates in effect on April 25, 2011 to (1) the level of the West Line rates in effect when SFPP when made its rate filing on June 30, 2008 plus (2) the indexing SFPP claims was available to it for the period July 31, 2008 through June 1, 2011. SFPP also calculated estimated refunds for the period August 1, 2008 through May 31, 2011, as required by Opinion No. 511.

4. On May 10, 2011, ConocoPhillips Company (ConocoPhillips) and Tesoro Refining and Marketing Company (Tesoro) protested SFPP's April 25 filing. ConocoPhillips asserted that the tariff rates SFPP calculated in response to Opinion No. 511 were not subject to a rate floor for two reasons. First, the West Line rates in effect on July 31, 2008 were subject to refund, and therefore a rate floor applies only to the last rate in effect that is not subject to refund. Second, the West Line rates in effect on July 31, 2008 are not subject to a rate floor pursuant to two global settlements with effective dates of April 16, 2010 and February 2, 2011, respectively. ConocoPhillips thus concludes that the West Line rates in effect on July 31, 2008 are subject to refund for the period after the settlement dates.

5. ConocoPhillips further asserted that SFPP improperly applied the Commission's indexing regulations for the period after June 30, 2008. It asserted that the West Line rates in effect on that date already incorporate the costs of the prior year and therefore could not be indexed. Finally, ConocoPhillips asserted that the rates calculated pursuant to Opinion No. 511 are subject to rehearing and should arguably be lower. Tesoro advanced the latter position, asserting that the proposed tariffs are based on rate design components that it believes were incorrectly determined by Opinion No. 511. However, as the filed rates are lower than those in effect on April 25, 2011, the protesting parties urged the Commission to accept the proposed tariffs subject to suspension and refund, to order SFPP to file reduced rates, and to set the proposed rates for investigation and hearing.

6. SFPP's May 16 filing addresses some, but not all of these concerns. First, SFPP concedes that the April 25 filing was not subject to the last clean rate doctrine. SFPP

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<sup>4</sup> *Id.* P 1.

therefore states that it should not have used the rates in effect July 31, 2011 as the basis for its prior tariff filing. Since no rate floor is involved, the May 16 filing contains rates that are based on the cost-of-service contained in the documentation filed in Docket No. IS08-390-006. For this reason, SFPP states that the index calculations used to develop the rates in the April 25 filing were incorrect because they were calculated on the incorrect base. Thus, the index calculations for the period July 1, 2009 through June 30, 2011 were also incorrect. SFPP states it has therefore recalculated the indexing adjustments to reflect the rates that it is now filing in response to Opinion No. 511. However, for reasons of administrative efficiency, SFPP requests that the recalculation of the refunds due be deferred until the Commission completes its review of the cost-of-service compliance filed in Docket No. IS08-390-006.

7. On May 20, 2011, ConocoPhillips, ExxonMobil Oil Corporation, and BP West Coast Products LLC filed to intervene and to protest SFPP's May 16 filing. The VSC Shippers<sup>5</sup> filed for intervention and to protest on May 25, 2011. The interventions are granted. All of these parties acknowledge that SFPP correctly abandoned its reliance on the last clean rate doctrine and, therefore, was correct to modify the rate levels contained in its prior filing. However, they continue to maintain that even the revised tariffs should be lower because the revised tariffs do not properly implement Opinion No. 511, and that Opinion No. 511 should be modified on rehearing to provide for lower rates. In addition, they again argue that SFPP improperly applied the Commission's indexing regulations in designing its revised tariff filing, by applying the index to a cost-of-service rate increase already applicable to the period July 1, 2009 to June 30, 2010. They therefore ask the Commission to accept and suspend SFPP's May 16 filing on short notice, to be effective June 1, 2011, subject to refund and the outcome of the compliance filing submitted under Docket No. IS08-390-006. They also request a hearing on the May 16 filing. SFPP answered on May 25, 2011, asserting that it had correctly calculated its filing, including the index-based elements, and that there was no need for a further hearing.

8. The Commission finds the instant tariffs have not been shown to be just and reasonable, but it is not yet necessary or appropriate to set the instant tariffs for settlement negotiations or a hearing at this time because the Commission has yet to review SFPP's compliance filing in Docket No. IS08-390-002. Accordingly, the Commission will accept and suspend the tariffs listed in footnote 1 to be effective June 1, 2011, subject to refund and to the outcome of the compliance filing submitted in Docket No. IS08-390-006. Permitting the instant tariffs to become effective on short notice will result in lower rates for all West Line shippers beginning June 1, 2011, and still ensure those rates

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<sup>5</sup> The VCS Shippers consist of Valero Marketing and Supply Company, Continental Airlines, Inc., Northwest Airlines, Inc., Southwest Airlines Co., US Airways, Inc., and Chevron Products Company.

remain subject to refund and the outcome of the Docket No. IS08-390-006 process. The Commission's conditional acceptance of these tariffs is subject to further order, and any additional process that may subsequently be required upon review of the compliance filing in Docket No. IS08-390-006.

The Commission orders:

The tariffs listed in footnote one are accepted and suspended, effective June 1, 2011, subject to refund and the outcome of the compliance filing submitted in Docket No. IS08-390-006, as discussed in the body of this order.

By the Commission.

( S E A L )

Kimberly D. Bose,  
Secretary.