

139 FERC ¶ 61,268
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

ExxonMobil Pipeline Company
ConocoPhillips Transportation Alaska, Inc.

Docket No. IS12-397-000
Docket No. IS11-306-000, *et al.*
(Consolidated)

ORDER ACCEPTING AND SUSPENDING TARIFF, SUBJECT TO REFUND,
CONSOLIDATING PROCEEDINGS, AND HOLDING PROCEEDINGS
IN ABEYANCE

(Issued June 28, 2012)

1. On May 31, 2012, ExxonMobil Pipeline Company (EMPCO) filed a FERC Tariff Record¹ for the transportation of petroleum on the Trans Alaska Pipeline System (TAPS) to be effective July 1, 2012. EMPCO proposes an increase to the interstate rate for transportation of crude oil on share of the capacity of the Trans Alaska Pipeline System (TAPS) from \$5.07 per barrel to \$5.97 per barrel. The State of Alaska (Alaska) and Anadarko Petroleum Corporation (Anadarko) filed protests to EMPCO's rate filing.
2. The Commission will accept and suspend the referenced tariff, effective July 1, 2012, subject to refund and consolidate EMPCO's Filing with the already-consolidated proceedings in Docket No. IS11-306-000, *et al.*, which are being held in abeyance pending the outcome of the consolidated cases in Docket No. IS09-348-000, *et al.*

Background

3. Crude oil streams produced from different fields on the Alaska North Slope are commingled into a common stream and shipped to market on TAPS. EMPCO is one of

¹ FERC Oil Tariff, CRUDE AND PRODUCT TARIFFS, [Purdue Bay-Valdez AK, FERC 402.2.0.](#)

the five carrier-owners of TAPS, where each owner possesses an undivided joint interest and entitlement to its percentage ownership share of TAPS capacity.²

4. Prior to Opinion No. 502, each TAPS Carriers charged individual rates for interstate service that varied significantly between them. In Opinion No. 502, the Commission directed the TAPS Carriers to charge a uniform rate for interstate transportation service. The Commission explained that it is just and reasonable for the TAPS Carriers to charge one rate because they all provide identical interstate transportation service to shippers, regardless of whose capacity is used, and they all basically have the same cost of service.

5. Following issuance of Opinion No. 502, the TAPS Carriers filed tariffs to comply with Opinion No. 502. Alaska and Anadarko filed protests to these filings. On June 30, 2009, the Commission issued an order addressing the various tariff filings of the TAPS Carriers in Docket No. IS09-348-000, *et al.*³ The order stated that while the Commission established a clear policy in Opinion No. 502 that a uniform rate should apply for transportation service on TAPS, the individual rates filed by the TAPS Carriers vary and cover different periods of time. To implement its directive that the TAPS Carriers must charge a uniform rate, the Commission consolidated the rate filings with the pending TAPS' rate proceedings since all the proceedings involve the same issues.⁴ The June 30 Order stated that the consolidation ensures that the one proceeding will determine a just and reasonable uniform rate for TAPS. By order dated January 13, 2010, the Chief Judge severed the issues raised in the various filings into two phases, the Non-Strategic Reconfiguration (SR) phase (Docket No. IS09-348-000), and the SR phase (Docket No. IS09-348-004). Those two cases are now proceeding before separate Presiding Judges pursuant to separate scheduling orders, and are in varying stages of completion. Subsequently, in Docket No. IS11-306-000, *et al.*,⁵ the TAPS Carriers' rate

² The other TAPS Carriers are BP Pipelines (Alaska) Inc., Conoco Philips Transportation, Alaska Inc. (Conoco), Koch Alaska Pipeline Company LLC, and Unocal Pipeline Company.

³ *BP Pipelines (Alaska) Inc.*, 127 FERC ¶ 61,316 (2009) (June 30 Order).

⁴ Certain TAPS Carriers made rate filings after June 30, 2010, which the Commission consolidated with the ongoing Docket No. IS09-348-000, *et al.* proceeding.

⁵ *Unocal Pipeline Co.*, 136 FERC ¶ 61,144 (2011). Unocal Pipeline Co. filed its 2011 TAPS rate increase in Docket No. IS11-546-000, which the Commission accepted and suspended, and consolidated into *Conoco*, Docket No. IS11-306-000, *et al.* The parties treat Docket No. IS11-306-000, filed by Conoco, as the lead proceeding for the consolidated TAPS 2011 rate filings.

increases filed in 2011 were consolidated, set for hearing, and held in abeyance pending the outcome of the proceedings in Docket No. IS09-348-000, *et al.*

Protests

6. Alaska and Anadarko filed protests to EMPCO's rate filing. They argue that the proposed rate increase has not been shown to be just and reasonable, and the protests raise numerous issues similar to the issues raised with respect to the TAPS Carriers' rate increases filed in 2009 and 2010 that were set for hearing in Docket No. IS09-348-000, *et al.* They urge the Commission to suspend the tariff, subject to refund and consolidate the SR issues in this case with the SR phase of the consolidated 2009 TAPS Carriers rate proceeding currently pending in Docket No. IS09-348-004, *et al.*, and otherwise hold the remaining issues in abeyance pending the resolution of the relevant issues in the Non-SR phase of the consolidated proceeding now pending in *BP Pipelines (Alaska) Inc.*, Docket No. IS09-348-000, *et al.*

ExxonMobil Pipeline Company's Response

7. EMPCO filed responses to the protests. EMPCO contends that the protestors in the instant filing make substantially the same arguments here that protestors put forward with respect to EMPCO's Filing in Docket No. IS11-336-000, the TAPS Carriers' various rate filings in Docket No. IS09-348-000, *et al.*, and in Docket No. IS11-306-000, *et al.* The protesting parties, Anadarko and Alaska, and EMPCO ask the Commission to accept the rate filing, subject to refund. In addition, EMPCO does not object to protestors' requests to consolidate the SR issues in these proceedings with the SR phase of the consolidated 2009 TAPS Carriers rate proceeding currently pending in Docket No. IS09-348-004, *et al.*, and also does not object to the request holding the remaining issues in abeyance pending the resolution of the relevant issues in the Non-SR phase of the consolidated proceeding now pending in Docket No. IS09-348-000, *et al.*

Discussion

8. As stated *supra*, P 5 the Chief Judge severed the issues in the pending TAPS rate cases into two phases. The allegations in the protests raise many of the same issues being litigated in Docket No. IS09-348-000, *et al.*, and are being held in abeyance in Docket No. IS11-306-000, *et al.* An Initial decision was issued in Docket No. IS09-348-000, *et al.*,⁶ and hearings are scheduled to commence in July in Docket No. IS09-348-004. Accordingly, the Commission will consolidate EMPCO's Filing with the consolidated proceedings in Docket No. IS11-306-000, *et al.*, which are being held in abeyance pending resolution of the ongoing SR and Non-SR proceedings in Docket No. IS09-348-000, *et al.*

⁶ *BP Pipelines (Alaska) Inc.*, 134 FERC ¶ 63,020 (2011).

9. The Commission finds that EMPCO made adequate initial showing and its immediate filing meets the requirement of a cost-of-service filing under section 346.1 of the Commission's regulations. However, EMPCO's Filing raises a number of issues of material fact that cannot be resolved on the record before us and are more appropriately addressed through hearing procedures.

10. The Commission accepts and suspends EMPCO's FERC No. 402.2.0, effective July 1, 2012, subject to refund, and the instant filing for hearing. These proceedings involve the same cost of service issues currently under consideration in both the Docket No. IS09-348-000, *et al.* proceeding and the Docket No. IS09-348-004, *et al.* proceeding. Consolidating EMPCO's Filing with the consolidated proceedings in Docket No. IS11-306-000, *et al.*, which are being held in abeyance pending resolution of the ongoing SR and Non-SR proceedings in Docket No. IS09-348-000, *et al.* and IS09-348-004, *et al.* ensures a single proceeding will determine a just and reasonable uniform rate for TAPS.

The Commission orders:

(A) EMPCO's FERC No. 402.2.0, is accepted and suspended and made effective July 1, 2012, subject to refund and further order of this Commission.

(B) These proceedings are consolidated with the consolidated proceedings in Docket No. IS11-306-000, *et al.*, which are being held in abeyance pending resolution of the ongoing SR and Non-SR proceedings in Docket No. IS09-348-000, *et al.* and IS09-348-004, *et al.*

By the Commission. Commissioner Clark is not participating.

(S E A L)

Kimberly D. Bose,
Secretary.