

140 FERC ¶ 61,025
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

BP Pipelines (Alaska) Inc.	Docket No. IS12-458-000
BP Pipelines (Alaska) Inc.	Docket No. OR12-20-000
ConocoPhillips Transportation Alaska, Inc.	Docket No. IS11-306-000, <i>et al.</i> (Consolidated)

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

(Issued July 13, 2012)

1. On June 13, 2012, BP Pipelines (Alaska) Inc. (BPPA) filed in Docket No. IS12-458-000 a FERC Tariff Record¹ with rates for the transportation of petroleum on the Trans Alaska Pipeline System (TAPS) to be effective July 13, 2012. BPPA proposes an increase to the interstate rate for transportation of crude oil on BPPA's share of the TAPS capacity from \$5.05 per barrel to \$5.97 per barrel. BPPA also filed in Docket No. OR12-20-000 a petition for a partial waiver of section 346.2(a)(1)(ii) of the Commission's regulations to allow it to change its rates using base period and test period adjustments and cost, revenue and throughput data that are consistent with data reflected in ExxonMobil Pipeline Company (EMPCO) tariff filing in Docket No. IS12-397-000, which the Commission accepted by order issued June 28, 2012.² The State of Alaska (Alaska) and Anadarko Petroleum Corporation (Anadarko) filed protests to BPPA's rate filing.

2. The Commission will accept and suspend the referenced tariff records, effective July 13, 2012, subject to refund and consolidate BPPA's rate filing with the already-consolidated proceedings in Docket No. IS11-306-000, *et al.*, which are being held in

¹ BP Pipelines (Alaska) Inc., FERC Oil Tariff, Oil Pipeline Tariffs, [BPPA FERC Rate 43.2.0, FERC 43.2.0, 43.2.0](#).

² *ExxonMobil Pipeline Company*, 139 FERC ¶ 61,268 (2012) (June 28, 2012 Order).

abeyance pending the outcome of the consolidated cases in Docket No. IS09-348-000, *et al.* The Commission also will grant BPPA's waiver request in Docket No. OR12-20-000.

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. BPPA is one of the five carrier-owners of TAPS, where each owner possesses an undivided joint interest and entitlement to its percentage ownership share of TAPS capacity.³

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.*⁴ 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.⁵ 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

³ The other TAPS Carriers are EMPCO, ConocoPhillips Transportation, Alaska Inc. (Conoco), Koch Alaska Pipeline Company LLC, and Unocal Pipeline Company.

⁴ *BP Pipelines (Alaska) Inc.*, 127 FERC ¶ 61,316 (2009) (June 30 Order).

⁵ 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.

completion. Subsequently, in Docket No. IS11-306-000, *et al.*,⁶ the TAPS Carriers' rate 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 BPPA'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 related 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.* Protestors do not object to BPPA's request for a waiver in Docket No. OR12-20-000.

BPPA's Response

7. BPPA contends that the protestors make substantially the same arguments here that protestors put forward with respect to BPPA's filing in Docket No. IS11-335-000, the TAPS Carriers' various rate filings in Docket No. IS09-348-000, *et al.*, and in Docket No. IS11-306-000, *et al.* BPPA asks the Commission to accept the rate filing, subject to refund. In addition, BPPA 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

⁶ *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.

No. IS11-306-000, *et al.* An Initial Decision was issued in Docket No. IS09-348-000, *et al.*,⁷ and hearings are scheduled to commence in July in Docket No. IS09-348-004. Accordingly, the Commission will consolidate BPPA'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.*

9. The Commission finds that BPPA 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, BPPA'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. The Commission also grants BPPA's petition for a partial waiver of section 346.2(a)(1)(ii) of the Commission's regulations, in Docket No. OR12-20-000 to allow it to change its rates using base period and test period adjustments and cost, revenue and throughput data that are consistent with data reflected in EMPCO's tariff record filing in Docket No. IS12-397-000. Granting the petition will assist in achieving a uniform TAPS rate and is consistent with Commission action addressing a previous like request for waiver by BPPA.⁸

10. The Commission accepts and suspends BPPA's FERC No. 43.2.0, effective July 13, 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 BPPA'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) BPPA's FERC No. 43.2.0, is accepted and suspended and made effective July 13, 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.*

⁷ *BP Pipelines (Alaska) Inc.*, 134 FERC ¶ 63,020 (2011).

⁸ *See BP Pipelines (Alaska) Inc.*, 135 FERC ¶ 61,221 (2011).

(C) The petition for partial waiver of section 346.2(a)(1)(ii) of the Commission's regulations is granted.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.