

140 FERC ¶ 61,064
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.

Enterprise TE Products Pipeline Company LLC

Docket No. IS12-468-000

ORDER ACCEPTING TARIFF FILING

(Issued July 20, 2012)

1. On June 20, 2012, Enterprise TE filed FERC Tariff No. 55.17.0 in Docket No. IS12-468-000 to cancel FERC Tariff No. 55.16.0, effective July 21, 2012, add a new movement and cancel certain movements it states have not been used in recent years.¹ Specifically, Enterprise TE filed FERC Tariff No. 55.17.0 to add a new movement under Item No. 330, Non-Incentive Rates for Unfinished Gasoline, from Red Bluff (Harris Co., TX) to Princeton (Gibson Co., IN), at 186 cents per barrel. FERC Tariff No. 55.17.0 also proposes to cancel several movements under Item No. 330, which Enterprise TE states have not been used in recent years. As discussed below, we dismiss protests to Enterprise TE's filing as outside the scope of this proceeding and accept the filing, effective July 21, 2012.

Background

2. Enterprise TE Products Pipeline Company LLC (Enterprise TE) owns and operates a pipeline system spanning 4,700 miles from southeast Texas, through the central and Midwestern United States, to the northeastern United States. The company transports both refined petroleum products and liquefied petroleum gas and natural gas liquids (LPGs/NGLs), primarily propane and butane.

3. Enterprise TE has proposed several changes in the past few months. On March 16, 2012, Enterprise TE filed FERC Tariff No. 55.11.0, in Docket No. IS12-203-000, proposing to increase the non-incentive transportation rates for the transportation of motor fuel and distillates. Enterprise TE requested cost-of-service rates for certain

¹ Enterprise TE Products Pipeline Company LLC, FERC Oil Tariff, Tariffs, [Rates, Rules, & Regs, FERC No. 55.17.0, 55.17.0.](#)

origins and destinations, stating that substantial divergence between costs and revenue it can earn at indexed rates justified using a cost-of-service to establish new rates in lieu of indexation.

4. On April 13, 2012, the Commission accepted and suspended the tariff for seven months, effective November 16, 2012, subject to refund, hearing procedures, and further orders of the Commission.² Enterprise TE requested rehearing of the April 13 Suspension Order on April 26, 2012, and on July 3, 2012, withdrew its request for rehearing.

5. On June 1, 2012, Enterprise TE filed Tariff No. 55.15.0 in Docket No. IS12-438-000, to reflect the rate increases under indexing. Protesters raised two arguments: (1) that the Commission's alternatives for increasing a pipeline's rates were mutually exclusive, and so Enterprise TE forfeited the opportunity to seek an index-based rate increase when it filed for a cost-of-service rate increase in Docket No. IS12-203-000; and (2) that Enterprise TE's proposed rate increase circumvented the April 13 Suspension Order in Docket No. IS12-203-000.

6. On June 19, 2012, Enterprise TE filed FERC Tariff No. 55.16.0 in Docket No. IS12-466-000 on twelve days notice, with an effective date of July 2, 2012.³ The tariff proposed to increase the rates to those destinations for which it does not have market-based rate authority. FERC Tariff No. 55.16.0 replaced FERC Tariff No. 55.15.0, and corrected certain inadvertent clerical errors made on Enterprise TE's June 1, 2012 index filing in Docket No. IS12-438-000. The Commission accepted this tariff record on June 29, 2012.⁴

7. In its June 29 Order, the Commission accepted Tariff No. 55.15.0, as corrected in FERC Tariff No. 55.16.0, effective July 1, 2012, and noted that a rate may be changed to a level which does not exceed the ceiling level under section 342.3(a) of the Commission's Rules and Regulations.⁵ The Commission further noted that nothing prevents a pipeline from seeking an index-based rate increase on an existing rate while a

²*Enterprise TE Products Pipeline Company LLC*, 139 FERC ¶ 61,036 (2012) (April 13 Suspension Order).

³ *Enterprise TE Products Pipeline Company LLC*, FERC Oil Tariff, Tariffs, [Rates, Rules, & Regs. FERC No. 55.16.0, 55.16.0](#).

⁴ *See Enterprise TE Products Pipeline Company LLC*, 139 FERC ¶ 61,272 (2012) ("June 29 Order").

⁵ June 29 Order, 139 FERC ¶ 61,272.

filing for a cost-of-service rate increase to the existing rate is under suspension, subject to refund. The Commission therefore clarified that Enterprise TE's proposed index-based rate increase did not circumvent the April 13 Suspension Order in Docket No. IS12-203-000.

Pleadings

8. Murphy Oil filed a motion for leave to intervene and protest to FERC Tariff No. 55.17.0. Murphy reiterates its protest to Enterprise TE's indexing rate changes in Tariff No. 55.15.0 and 55.16.0. Murphy Oil requests that if the Commission allows Enterprise TE to index the rates in effect prior to making its cost-of-service filing, the Commission should clarify that the index rate change will only apply for the remainder of the suspension period. Once the suspension period ends, Murphy Oil requests that Enterprise TE's proposed cost-of-service rates would become effective subject to refund, thereby superseding the proposed indexed rates in Docket No. IS12-468-000.

9. Enterprise TE filed a response to protests regarding FERC Tariff No. 55.17.0 in Docket No. IS12-468-000. It points out that the Commission accepted Tariff No. 55.15.0, as corrected by Tariff No. 55.16.0, and therefore the Commission should dismiss Murphy Oil's protest as moot.

Discussion

10. Pursuant to Rule 214 of the Commission's Rules and Regulations, 18 C.F.R. § 385.214 (2012), all timely filed motions to intervene and any unopposed motion to intervene out of time filed before this order issues are granted.

11. Tariff No. 55.17.0 was protested on the same basis as the underlying tariff rate increases from indexing were protested. Protesters have not advanced a substantive protest to Tariff No. 55.17.0. Rather, parties renew protests to an index-based rate increase while a parallel cost-of-service proposal to those same rates is suspended. However, Tariff No. 55.17.0 added a movement and canceled non-incentive rates for unfinished gasoline—indexation was not at issue. Therefore, since no party raised a question as to the justness and reasonableness of the new movement's rate, nor the justness and reasonableness of cancelling movements, the Commission dismisses Murphy Oil's protest as outside the scope of this proceeding and accepts Enterprise TE's filing.

12. Finally, there is no basis to limit the effect of indexation by suspending the index adjustment commensurate with the cost-of-service increase suspension. The index adjustment, however, is effective only for the remainder of the suspension period, as the cost-of-service rates take effect at the end of the seven-month suspension period, subject to refund. Accordingly, the request to suspend the index adjustment is denied.

The Commission orders:

Enterprise TE's FERC Tariff No. 55.17.0 is accepted, effective July 21, 2012, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose
Secretary.