

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

Before Commissioners: Jon Wellinghoff, Chairman;
Suedeen G. Kelly, Marc Spitzer,
and Philip D. Moeller.

ConocoPhillips Company,
Targa Midstream Services Limited Partnership, and
Targa Louisiana Field Services LLC

Docket No. OR09-2-000

v.

Dixie Pipeline Company

ORDER DISMISSING COMPLAINT

(Issued March 25, 2009)

1. On October 3, 2008, ConocoPhillips Company, Targa Midstream Services Limited Partnership, and Targa Louisiana Field Services LLC (Joint Complainants) filed a complaint requesting fast track processing and an emergency motion for expedited action concerning actions by Dixie Pipeline Company (Dixie) relating to product to be shipped on Dixie's pipeline.
2. As discussed below, the Commission dismisses the complaint.

Background and Description of the Complaint

3. At the time Joint Complainants filed the complaint, two Dixie tariff filings were pending before the Commission. Joint Complainants had protested both proceedings.
4. On July 25, 2008, in Docket No. IS08-405-000, Dixie filed FERC Tariff No. 92 to establish new rates for the transportation of refinery grade propylene from Anse La Butte and Breaux Bridge, Louisiana, to Mont Belvieu, Texas. Dixie contended that the rates in this tariff were agreed to by a non-affiliated shipper. Dixie also filed FERC Tariff No. 93 (cancelling its FERC Tariff No. 88), which applied to the transportation of propane. Several shippers, including Joint Complainants, filed protests, arguing that the tariffs appeared to give Dixie unfettered and unjustified discretion in refusing to accept propane shipments. They also contended that they lacked storage for propane and that disrupting their shipments could require them to curtail or shut down their operations, which

ultimately would affect consumers. The Commission accepted and suspended the tariffs and established a technical conference.¹

5. On September 22, 2008, in Docket No. IS08-449-000, Dixie filed FERC Tariff No. 94 providing for emergency transportation of natural gas liquids (NGLs), including demethanized mix, ethane-propane mix, isobutene, normal butane, and natural gasoline, through February 28, 2009. Again, several shippers, including Joint Complainants, protested the filing, contending that it appeared to change the priority of existing propane shipments, contrary to Dixie's FERC Tariff No. 88. The protesting parties also contended that the tariff was vague with respect to Dixie's ability to determine which products would be shipped. On October 22, 2008, the Commission issued an order accepting FERC Tariff No. 94 to be effective as of September 22, 2008.²

6. In the instant complaint, filed October 3, 2008, Joint Complainants state that Dixie advised them on October 2, 2008, that it would shut in Joint Complainants' normal daily injections of propane for approximately 28 hours on October 5-6, 2008, apparently for purposes of transporting another NGL product. Joint Complainants contended that Dixie's threatened cessation of propane transportation violated Item 10 of its FERC Tariff No. 88:

Carrier is engaged primarily in the transportation of Propane and will not accept any other commodity for transportation except when Carrier determines that space in the pipeline is available . . . [and that] such [non-propane] service is offered on a temporary basis and may be restricted or canceled at any time after notice thereof as Carrier shall determine is necessary to permit it to properly transport Propane.

7. Joint Complainants also voiced concerns previously stated in Docket Nos. IS08-405-000 and IS08-449-000, including their lack of adequate propane storage options to accommodate the batching of other NGL products on Dixie's pipeline and their claim that they had been shipping propane daily on the Dixie pipeline for 40 years. According to Joint Complainants, Dixie appeared to be taking the position that its FERC Tariff No. 94 was effective, despite the fact that, as of the date of the complaint, the Commission had not yet taken action on FERC Tariff No. 94. Joint Complainants maintained that refunds would not be adequate to address the harm that would result if their propane injections were halted.

¹ *Dixie Pipeline Co.*, 124 FERC ¶ 61,175 (2008).

² *Dixie Pipeline Co.*, 125 FERC ¶ 61,083 (2008).

8. On October 7, 2008, Joint Complainants filed a supplemental motion in support of their complaint. They stated that Dixie did in fact cut off their propane shipments for a longer period of time than it had indicated would be the case. They also stated that Dixie had informed them that it would again cut off propane shipments later that week. Joint Complainants asserted that these disruptions were likely to benefit Dixie's marketing affiliates and reiterated their claim of potential harm to consumers. Joint Complainants asked the Commission to issue an order immediately forbidding Dixie from shutting out propane shipments. On October 17, 2008, Joint Complainants filed a second supplemental motion in support of its earlier complaint and emergency motion. Joint Complainants provided additional information concerning the lack of storage and Dixie's inability and inexperience in operating a batched system. Joint Complainants also asked the Commission to suspend Dixie's FERC Tariff No. 94 until March 2009 and to consolidate their complaint with Docket No. IS08-405-000 for purposes of the technical conference.

9. Dixie filed an answer on October 22, 2008, refuting Joint Complainants' allegations. Dixie stated that the complaint largely duplicated the relief sought by Joint Complainants in Docket No. IS08-449-000 and that Dixie had the right to take the actions it had taken under FERC Tariff No. 94, which it filed September 22, 2008, to be effective on less than one day's notice. In fact, Dixie contended that its FERC Tariff No. 88 provided for batching and that it had batched products in the past. Dixie also argued that the Joint Complainants did not accurately describe the availability of storage in the area. Dixie stated that it did not oppose consolidating the complaint with Docket No. IS08-449-000, but that it opposed consolidating the complaint with Docket No. IS08-405-000.

Commission Determination

10. During the fall of 2008, the parties engaged in negotiations concerning Docket Nos. IS08-405-000 and IS08-449-000. They also sought Commission permission to postpone the technical conference in Docket No. IS08-405-000 that originally was scheduled for October 23, 2008. The Commission granted the requested postponements. On December 12, 2008, Dixie filed a notice withdrawing FERC Tariff Nos. 92 and 93,³ and on December 15, 2008, the Commission issued a notice cancelling the technical conference.

11. The main thrust of the complaint appears to be the same concerns raised by the protesting parties, including Joint Complainants, in Docket No. IS08-449-000. In that docket, the Commission accepted FERC Tariff No. 94 to be effective as of September 22, 2008. The pleadings filed in the complaint indicate that Dixie suspended propane

³ As a result of the withdrawal of FERC Tariff Nos. 92 and 93, FERC Tariff No. 88 remains in effect.

shipments as its then-effective tariff permitted it to do. The Joint Complainants sought only prospective relief in the complaint and explicitly stated that refunds would be inadequate to remedy any damage caused by Dixie's suspension of propane shipments. By its own terms, FERC Tariff No. 94 expired on February 28, 2009. Accordingly, the Commission dismisses the complaint in this docket.

The Commission orders:

The complaint in Docket No. OR09-2 is dismissed, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary