127 FERC ¶ 61,088
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Unocal Pipeline Company — Docket No. IS09-176-000

ORDER ACCEPTING TARIFF SUBJECT TO REFUND AND CONDITIONS

(Issued April 28, 2009)

1. On March 31, 2009, Unocal Pipeline Company (UPC) filed FERC Tariff No. 298 to establish a volume incentive rate for shipments on UPC's capacity on the Trans Alaska Pipeline System (TAPS). As discussed below, the Commission accepts the revised tariff to be effective May l, 2009, subject to refund and further Commission action.

A. Summary of the Filing

2. UPC proposes to offer a reduced rate of $3.25 per barrel to shippers that transport volumes on UPC capacity on average of 5,000 barrels per day or more in a calendar month. A shipper that nominates an average of 5,000 or more barrels per day in a calendar month, but is only permitted to ship a lesser quantity due to proration will still be considered eligible for the volume incentive rate. UPC has made no changes to its base rate of $3.45 per barrel, which was accepted, as an interim rate subject to refund until all challenges to the 2008 compliance filing are resolved through either settlement or hearing procedures.[1]

B. Protest

3. The State of Alaska (State) filed a protest and complaint alleging the volume incentive rate filed by UPC is unjust and unreasonable. The State contends the rate contained in UPC's tariff is based on costs from the TAPS Carriers' 2007-2008 compliance filing. The State believes the instant filing suffers from the same errors as the compliance filing and therefore raises the same issues as the State's protest to the compliance filings.

[1] BP Pipelines (Alaska) Inc., et al., 127 FERC ¶ 61,047 (2009).

4. Specifically, the State contends the rate contained in the tariff: (1) includes imprudent and unlawful expenditures relating to the Strategic Reconfiguration (SR) program; (2) may include costs relating to the dismantling and removal of TAPS facilities from the right-of-way; (3) assumes a life of the line that is significantly shorter than the actual life of the line; (4) utilizes an improperly composed proxy group that artificially inflates the rate of return on equity; and (5) improperly calculates the capital structure for the oil pipeline proxy group by excluding the current portion of long term debt.

C. UPC's Answer

5. UPC filed an answer to the State's protest. UPC states the protest raises issues concerning the base rate that were previously raised by the State in the TAPS compliance filing proceedings, and explains it will revise its maximum rate at the appropriate time in accordance with future Commission orders in the on-going TAPS compliance filing proceedings. In addition, UPC states its interim maximum base rate remains $3.45 per barrel, notwithstanding the lower volume incentive rate of $3.25 filed in this proceeding.

6. Moreover, UPC believes no further regulatory process is required in this case since neither the State nor any party raised an issue that is not already present in the TAPS compliance filing proceedings. However, UPC recognizes that future Commission action might affect collections under its volume incentive rate. Thus, UPC suggests that the Commission should accept its volume incentive rate subject to the outcome of the TAPS compliance filing proceedings to allow for refunds if the Commission ultimately establishes a maximum rate that is less then the volume incentive rate. Under this scenario, refunds would be appropriate for the difference between the ultimately determined maximum rate and the higher volume incentive rate charged.

D. Discussion

7. In the Commission's recent April 16, 2009 Order on TAPS, all of the State's substantive issues raised here were addressed. Specifically, the Commission rejected the State's arguments that the useful life of the pipeline should exceed 2034. The order sets the remaining issues for hearing. Therefore, we reject the State's suggestion that the Commission should investigate UPC's volume incentive rate and impose the maximum 7 months suspension on the tariff.

8. However, to protect shippers against over-collection, the Commission will condition the incentive rate by making it subject to refund. If the final maximum rate determined in the TAPS 2008 compliance rate proceeding is less than UPC's $3.25 per barrel rate, the refund condition would apply. Therefore, the Commission accepts UPC's tariff, effective May 1, 2009, subject to refund and subject to the outcome of final Commission action in the TAPS compliance filing proceeding.

<u>The Commission orders:</u>

UPC's tariff is hereby accepted, effective May 1, 2009, subject to refund and the outcome of final Commission action in the TAPS 2008 compliance rate proceeding.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.