

130 FERC ¶ 61,138
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

February 25, 2010

In Reply Refer To:
Unocal Pipeline Company
Docket No. IS10-122-000
ConocoPhillips Transportation Alaska, Inc.
Docket No. IS10-128-000
BP Pipelines (Alaska) Inc.
Docket No. IS10-129-000
ExxonMobil Pipeline Company
Docket No. IS10-130-000
Koch Alaska Pipeline Company
Docket No. IS10-131-000

Attention: John E. Kennedy, Counsel
First City Tower, 1001 Fannin Street, Suite 2500
Houston, TX 77002-6760

Reference: TAPS Carriers¹

Ladies and Gentlemen:

1. On January 29, 2010, the TAPS Carriers filed identical tariffs² to adjust the reference prices for Light Distillate, Heavy Distillate and Resid crude oil components pursuant to the TAPS Quality Bank tariff. The TAPS Quality Bank is a mechanism for making monetary adjustments among shippers to compensate for

¹ The TAPS Carriers are the owners of the Trans Alaska Pipeline System (TAPS). They consist of BP Pipelines (Alaska) Inc., ConocoPhillips Transportation Alaska, Inc., ExxonMobil Pipeline Company, Koch Alaska Pipeline Company, L.L.C., and Unocal Pipeline Company.

² BP Pipelines (Alaska) Inc. FERC No. 37, ConocoPhillips Transportation Alaska, Inc. FERC No. 14, ExxonMobil Pipeline Company FERC No. 332, Koch Alaska Pipeline Company, L.L.C. FERC No. 12, and Unocal Pipeline Company FERC No. 299.

the different qualities of crude oils shipped in the TAPS common stream. The Quality Bank involves valuing components, or cuts, of the streams transported on TAPS, and these valuations are combined to determine the value of each entering stream. Item III.G.6. of the TAPS tariffs requires the Quality Bank Administrator (QBA) to revise these adjustments each year in accordance with a specified formula. The filed tariffs set forth the current valuations of these components.

2. The TAPS Carriers request the Commission permit the tariffs to become effective February 1, 2010. The Commission accepts the filed tariffs February 1, 2010, as proposed.

3. The Commission determined the method for valuing the Quality Bank cuts in Opinion No. 481.³ On July 3, 2006, the TAPS Carriers filed tariffs to comply with Opinion No. 481. Protests were filed objecting to the “two step” method that the QBA⁴ used to calculate the processing costs adjustments for the Heavy Distillate and Resid cuts whose value depends upon the amount of the processing cost adjustment. In two prior orders in Docket No. IS06-466-000, the Commission accepted the protested July 3, 2006 tariffs. After appeal of those two orders was filed, the proceeding came before the Commission on voluntary remand from the United States Court of Appeals for the District of Columbia Circuit. On August 8, 2008 the Commission issued an order in Docket No. IS06-466-000, *BP Pipelines (Alaska) Inc.*, 124 FERC ¶ 61,153 (2008) (Remand Order), which reversed the prior two orders and directed the TAPS Carriers to use an alternate method instead of the QBA’s and submit a compliance filing consistent with the Remand Order. On September 8, 2008, the TAPS Carriers made the compliance filing which changed the tariffs the Commission had accepted previously. Requests for rehearing of the Remand Order were filed.

4. On January 26, 2009, the Carriers filed tariff supplements in Docket Nos. IS09-114-000, IS09-116-000, IS09-118-000, IS09-119-000, and IS09-120-000 that continued the methodology the Commission initially approved in Docket No. IS06-466-000, and differed from the tariffs filed on September 8, 2008. Protests were filed asserting that the filings ignored the Commission’s August 8, 2008 Remand Order in Docket No. IS06-466-000. On

³ *Trans Alaska Pipeline System*, 113 FERC ¶ 61,062 (2005) (Opinion No. 481); 114 FERC ¶ 61,323 (2006) (Opinion No. 481-A); 115 FERC ¶ 61,287 (2006) (Opinion No. 481-B), *aff’d sub nom. Petro Star Inc. v. FERC*, No. 06-1166, 2008 U.S. App. LEXIS 5328 (D.C. Cir., Mar. 6, 2008) (*Petro Star*), *cert. denied*, 2009 U.S. Lexis 220, January 12, 2009.

⁴ The QBA is an independent expert who administers the Quality Bank.

February 25, 2009, the FERC issued an order which accepted and suspended these filings subject to refund and subject to the outcome of Docket No. IS06-466-000, *BP Pipelines (Alaska) Inc.*, 126 FERC ¶ 61, 170 (2009).

5. On April 14, 2009, the Commission issued an order in Docket Nos. IS06-466-000 which reversed the Remand Order and accepted the tariff sheets filed July 3, 2006, and rejected the tariffs filed on September 8, 2008, *BP Pipelines (Alaska) Inc.*, 127 FERC ¶ 61,039 (2009) (Rehearing Order). The order re-imposed the calculation filed originally by the TAPS Carriers in the July 3, 2006 filings, and those calculations are reflected in the instant filings. No requests for rehearing of the Rehearing Order were filed
6. On February 5, 2010, Chevron U.S.A. Inc. and Union Oil Company of California (Chevron) filed a protest to the instant filings. Chevron argues the tariffs submitted by the TAPS Carriers have not been shown to be just and reasonable, and may be unjust, unreasonable, and unduly preferential or discriminatory because they reflect a double counting of inflation for 16 months in 1999-2000. Chevron states that a Petition for Review of the Remand Order is pending in the Court of Appeals, and was consolidated with the prior appeals of the Commission's orders accepting the July 3, 2006 tariffs, citing *Flint Hills Resources Alaska LLC v. FERC*, No. 06-1361 (Consolidated) (*Flint Hills*). Chevron states it filed this protest for the sole purpose of preserving here the outcome of the proceedings in Docket No. IS06-466-000, currently on appeal in *Flint Hills*. Chevron states if the Court of Appeals remands the Commission's rulings in Docket No. IS06-466-000, *et al.* and orders the elimination of the double counting of inflation for the 16 months in 1999-2000, then the Commission should carry forward any relief to the Tariff Supplements at issue here.
7. On February 10, 2010, the TAPS Carriers filed an answer to Chevron's protest. TAPS Carriers state it is undisputed that the processing cost adjustments reflected in the instant Tariff Supplements at issue were computed in compliance with the methodology previously approved by the Commission. TAPS Carriers state the Commission rejected similar arguments by Chevron in its May 2009 protest in Docket Nos. IS09-208, *et al.*, against a prior TAPS Quality Bank filing, *BP Pipelines (Alaska) Inc.*, 127 FERC ¶ 61,194 (2009). TAPS Carriers state the Commission dismissed Chevron's May 2009 protest and should do the same here.
8. The Commission agrees. The Rehearing Order in Docket No. IS06-466-005 is the Commission's final order in that docket since no request for rehearing of that order was filed. That there is a pending court appeal of the order does not change the status of that order. The filings here are consistent with the

Commission's orders on the Quality Bank. Accordingly, the Commission accepts the filed tariffs as proposed. The Commission will, of course, abide by any court rulings in the future that may affect these tariffs.

By direction of the Commission.

Kimberly D. Bose,
Secretary.