

132 FERC ¶ 61,130
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Marc Spitzer, Philip D. Moeller,
John R. Norris, and Cheryl A. LaFleur.

BP Pipelines (Alaska), Inc.

Docket No. IS10-491-000
Docket No. OR10-18-000
Docket No. IS09-348-000
Docket No. IS09-348-004
(Consolidated)

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

(Issued August 13, 2010)

1. On July 16, 2010, BP Pipelines (Alaska) Inc. (BP) filed FERC Tariff No. 41 proposing to increase the interstate rate for transportation of crude oil on BP's share of the capacity of the Trans Alaska Pipeline System (TAPS) from \$4.08 per barrel to \$4.36 per barrel. BP states it calculated this rate in accordance with the ratemaking methodology prescribed by the Commission for TAPS in Opinion No. 502.¹ BP also filed a petition for a partial waiver of section 346.2(a)(1)(ii) of the Commission's regulations, in Docket No. OR10-18-000 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 ConocoPhillips Transportation Alaska, Inc.'s tariff filing in Docket No. IS10-476-000.² BP requests the Commission permit the proposed tariff to become effective August 16, 2010.

¹ *BP Pipelines (Alaska) Inc.*, Opinion No. 502 123 FERC ¶ 61,287, *order on reh'g*, 125 FERC ¶ 61,215 (2008).

² *ConocoPhillips Transportation Alaska, Inc.*, 132 FERC ¶ 61,084 (2010).

2. As discussed below, the Commission will accept and suspend the referenced tariff, subject to refund and consolidate it with the ongoing proceedings in Docket No. IS09-348-004, *et al.* with respect to strategic reconfiguration (SR) issues, and sever the non-strategic reconfiguration (Non-SR) issues holding them in abeyance pending the outcome of the consolidated cases in Docket No. IS09-348-0004 *et al.*, and grant BP's waiver requested in Docket No. OR10-18-000.

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. BP is one of 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 Carrier 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. The State of Alaska (Alaska) and Anadarko Petroleum Company (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. IS09-348-000.⁴ 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

³ The TAPS Carriers are BP, ConocoPhillips, ExxonMobil Pipeline Company, 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 proceeding.

uniform rate for TAPS. This order also granted a prior BP petition requesting partial waiver of section 346.2(a)(1)(ii) of the Commission's regulations to permit it to adopt the test period adjustments by the other TAPS Carriers rather than making separate test period adjustments for its filing.⁶ By order dated January 13, 2010, the Chief Judge severed the issues raised in the various filings into two phases, the Non-SR phase (Docket No. IS09-348-000)⁷, and the SR phase (Docket No. IS09-348-004). Those two cases are now proceeding before separate Presiding Judges pursuant to separate scheduling orders.

Protests

6. Alaska and Anadarko filed protests to BP'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 they raised with respect to the TAPS Carriers' rate increases filed in 2009 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 issues in this case, with the SR phase of the consolidated 2009 Taps Carriers rate proceeding currently pending in *BP Pipelines (Alaska), Inc.*, 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.*

BP's Response

7. In response, BP states the protestors make the same arguments here that they put forward with respect to BP's 2009 tariff filings⁸ and the TAPS Carriers' 2008 compliance filing in Docket No. IS07-75-001, *et al.* BP requests the Commission accept FERC No. 41, effective August 16, 2010, subject to refund.

⁶ 18 C.F.R. § 346.2 (a)(1)(ii) (2010).

⁷ The Commission will address the carrier's implementation of a uniform rate in the consolidated Non-SR phase proceeding in Docket No. IS09-348-000.

⁸ BP's FERC No. 38 became effective July 1, 2009, and BP's FERC No. 39 became effective on August 1, 2009, both subject to suspension and refund. Those filings are subject to investigation in Docket Nos. IS09-348-000 and IS09-348-004.

Discussion

8. As stated *supra*, P5, the Chief Judge severed the issues in the pending TAPS rate cases into two phases. Pursuant to the scheduling order in the SR phase, Docket No. IS09-348-004, that phase is in initial discovery with no testimony filed yet and none due in the near future. Consolidating the SR issues in the instant filing in the 004 docket would cause no significant delay or other hardship on the parties. Accordingly, the SR issues in this docket will be consolidated with the 004 docket. The same is not true for the non-SR issues. In that phase, initial discovery has been completed and direct and answering testimony has been filed. Thus, consolidating the Non-SR issues from this filing into the ongoing Non-SR phase of the consolidated 2009 TAPS rate case in Docket No. IS09-348-000 would cause delay in that proceeding with no benefit to the parties. On the other hand, resolution of the issues in the Non-SR phase would be applicable in good part to the instant filing. Accordingly, the Non-SR issues will be held in abeyance pending the resolution of the issues in the Docket No. IS09-348-000 proceeding.

9. The Commission accepts and suspends the tariff submitted by BP, subject to refund, to become effective August 16, 2010, consolidates the SR issues in this proceeding with the ongoing proceedings in Docket No. IS09-348-004, *et al.*, and holds the remaining issues in this case in abeyance pending the resolution of the relevant issues in the Non-SR phase of the consolidated 2009 TAPS rate proceeding now pending in *BP Pipelines (Alaska) Inc.*, Docket No. IS09-348-000, *et al.*

10. The Commission finds that BP has made adequate initial showings that its filing meets the requirement of a cost-of-service filing under section 346.1 of the Commission's regulations. However, this tariff 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.

11. This proceeding involves the same issues currently under consideration in both the Docket No. IS09-348-000 proceeding and the Docket No. IS09-348-004 proceeding and consolidating the current filing with respect to the SR issues with the Docket No. IS09-348-004 proceeding and holding the Non-SR issues in abeyance pending the resolution of the issues in the Docket No. IS09-348-000 proceeding ensures a single proceeding will determine a just and reasonable uniform rate for TAPS. In addition, the Commission, as it did in the June 30 Order, will grant the request filed by BP for partial waiver of section 346.2(a)(1)(ii) of the Commission's regulations because doing so furthers achieving a uniform rate.

The Commission orders:

(A) BP's FERC Tariff No. 41 is accepted and suspended, effective August 16, 2010, subject to refund and further order of this Commission.

(B) This proceeding is consolidated with the ongoing proceedings in Docket No. IS09-348-004 with respect to the SR issues, and the Non-SR issues are held in abeyance pending the resolution of the issues in the Docket No. IS09-348-000 proceeding.

(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)

Kimberly D. Bose,
Secretary.