

133 FERC ¶ 61,077
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.	IS09-348-004
BP Pipelines (Alaska) Inc.	Docket No.	IS09-395-004
ConocoPhillips Transportation Alaska Inc.	Docket No.	IS09-384-004
ExxonMobil Pipeline Company	Docket No.	IS09-391-004
ExxonMobil Pipeline Company	Docket No.	IS09-177-005
Unocal Pipeline Company	Docket No.	IS09-176-004
Unocal Pipeline Company	Docket No.	IS10-52-001
Unocal Pipeline Company	Docket No.	OR10-3-001
Koch Alaska Pipeline Company, L.L.C.	Docket No.	IS10-54-001

ORDER MODIFYING PROCEDURAL SCHEDULE AND
STAYING PREHEARING CONFERENCE

(Issued October 21, 2010)

1. On June 30, 2009, the Commission issued an order¹ establishing a consolidated hearing on a number of tariffs filed by Trans Alaska Pipeline System Carriers (TAPS).²

¹ *BP Pipelines (Alaska) Inc.*, 127 FERC ¶ 61,316, *order on rehearing*, 129 FERC ¶ 61,211 (2009). Subsequently, the Commission consolidated a number of other TAPS tariff filings with that hearing. *See, e.g., Unocal Pipeline Company*, 129 FERC ¶ 61,275 (2009).

² The TAPS Carriers, each of which owns an undivided interest in TAPS, consist of BP Pipelines (Alaska) Inc. (BP), ConocoPhillips Transportation Alaska, Inc.

(continued...)

The order addressed the challenges of the State of Alaska (the State or Alaska) and the Anadarko Petroleum Corporation (Anadarko) to the TAPS Carriers' Strategic Reconfiguration (SR) Program in their interstate rates. In their protests they asserted that the tariff included expenditures caused by the TAPS Carriers' imprudence in the planning, approval, and management of the SR Program. The TAPS Carriers described that program as a series of projects that have been undertaken by the TAPS Carriers to reduce costs and increase efficiency which included the Pipeline Electrification project, supervisory control and data acquisition (SCADA) upgrades, revisions to oil spill contingency plans, and a preliminary study of possible changes at the Valdez Marine Terminal. Four of five TAPS Carriers also have one or more dockets pending before the Regulatory Commission of Alaska (RCA) proposing new filed intrastate rates in which the State and Tesoro Alaska Company³ have challenged the inclusion and appropriate rate of SR costs.

2. On 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), and the SR phase (Docket No. IS09-348-004). Those two cases are now proceeding before separate Presiding Judges pursuant to separate scheduling orders. On January 15, 2010, the participants in this proceeding, the SR phase, filed a joint motion to establish concurrent hearings with the RCA with respect to issues relating to the SR program. They stated that they anticipate that most, if not all, of the same witnesses will testify in both and the pre-filed testimony of these witnesses will be substantially the same in both proceedings as well. No one filed in opposition to the motion.

3. The participants noted in their motion that this Commission and the RCA have recognized in the past that where identical issues are being tried before both this Commission and the RCA that it is in the interests of both Commissions and all parties to hold common or concurrent proceedings. The motion referred to a Memorandum of Understanding (MOU) entered into by this Commission and the RCA, dated January 24, 2003, to facilitate the establishment of concurrent hearings. The motion further stated that the parties intended to file a similar motion at the RCA requesting that it approve a

(ConocoPhillips), ExxonMobil Pipeline Company (Exxon), Koch Alaska Pipeline Company LLC (Koch), and Unocal Pipeline Company (Unocal).

³ Tesoro is a party to all of the RCA dockets but is not a party to the captioned FERC dockets; however, it has authorized the moving participants to state that Tesoro supports a concurrent hearing for all SR issues.

concurrent hearing with the Commission. That motion was filed with the RCA on January 29, 2010.

4. On January 20, 2010, the Commission issued an order stating that, as it has done in the past with respect to TAPS proceedings, with the agreement of the RCA, concurrent hearings be held with the RCA.⁴ The order also directed this Commission's presiding judge to confer with the RCA's presiding judge on appropriate procedures for holding the concurrent hearings consistent with the requirements of section 385.1305 of the Commission's regulations.⁵

5. On January 25, 2010, this Commission's Chief ALJ issued an order confirming a procedural schedule that contemplated a concurrent Commission/RCA hearing in Washington, DC from November 1, 2011 to December 21, 2011, and, if necessary, a five-day hearing in Anchorage, Alaska, from January 16, 2012 to January 20, 2012. The order stated that it assumed RCA approval of the concurrent hearing.

6. On August 10, 2010, the Commission ALJ held a prehearing conference to discuss procedural matters and noted that the RCA had not issued an order on the concurrent hearing, and that another prehearing conference in this proceeding was scheduled for October 27, 2010.

7. On August 17, 2010, the RCA issued an order granting the motion for a concurrent hearing with the Commission. The RCA's order accepted the dates contained in the proposed procedural schedule adopted by the Commission's Chief ALJ, provided that "this commission and the Federal Energy Regulatory Commission can work out a mutually acceptable plan for the concurrent hearing to be held in Anchorage, Alaska."⁶

⁴ *BP Pipelines (Alaska) Inc.*, 130 FERC ¶ 61,042 (2010).

⁵ 18 C.F.R. § 385.1305 (2010). The order further stated that the assigned presiding judges will be permitted to confer on matters of substance, as well as procedure, and should attempt to agree on uniform decisions. Moreover, consistent with section 385.1305(e) of the Commission's regulations, before the Commission or the RCA enters any order in the concurrent proceeding, opportunity will be afforded for conference between the Commission and the RCA.

⁶ *Conoco Phillips Transportation Alaska, Inc.*, P-08-9, Order No. 19 at 9.

8. In order to facilitate the concurrent hearings contemplated by both commissions' orders, and establish a procedural schedule and hearing dates acceptable to both commissions and consistent with the MOU, we confirm the Chief ALJ's January 25, 2010 procedural schedule, with the exception that the hearings will be divided in time equally between Washington, DC and Anchorage, Alaska. Further, as contemplated in the Chief ALJ's January 25, 2010 order, and consistent with the intent in the MOU that this Commission and the RCA coordinate their efforts and cooperate in conducting such concurrent hearings, videoconferencing of the Washington, DC portion of the concurrent hearing will be made available to the RCA commissioners.

9. In view of this change, we will stay the scheduled October 27, 2010 prehearing conference pending further order of the Chief ALJ establishing further procedures. The Chief ALJ is authorized to determine appropriate dates and procedures for the concurrent hearings, in consultation with the RCA, and to adjust the hearing schedule and hearing procedures as necessary to accommodate the needs of the RCA, as well as the parties and participants.

The Commission orders:

(A) The January 25, 2010 procedural schedule, as modified in the body of this order, is confirmed.

(B) The prehearing conference scheduled for October 27, 2010, is stayed, pending further order of the Chief ALJ.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.