

135FERC ¶ 61,221
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. IS11-335-000
BP Pipelines (Alaska) Inc.	Docket No. OR11-10-000
ExxonMobil Pipeline Company	Docket No. IS11-336-000
Conoco Phillips Transportation Alaska, Inc	Docket No. IS11-306-000
Koch Alaska Pipeline Company, L.L.C.	Docket No. IS11-328-000

(Consolidated)

ORDER ACCEPTING AND SUSPENDING TARIFFS, SUBJECT TO REFUND,
REVERSING CONSOLIDATION IN PRIOR ORDER, CONSOLIDATING
CAPTIONED PROCEEDINGS, AND HOLDING PROCEEDINGS
IN ABEYANCE

(Issued June 10, 2011)

1. On May 13, 2011, BP Pipelines (Alaska) Inc. (BPPA) filed FERC Tariff No. 43.1.0 for transportation of petroleum on the Trans Alaska Pipeline System (TAPS). BPPA proposes an increase to the interstate rate for transportation of crude oil on BPPA's share of the capacity of the Trans Alaska Pipeline System (TAPS) from \$4.36 per barrel to \$5.05 per barrel. BPPA also filed a petition for a partial waiver of section 346.2(a)(1)(ii) of the Commission's regulations, in Docket No. OR11-10-000 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 (CPTAI) tariff filing in Docket No. IS11-306-000, which the Commission accepted by order issued May 26, 2011.¹ On May 16, 2011, ExxonMobil Pipeline Company

¹ *ConocoPhillips Transportation Alaska, Inc. et al.*, 135 FERC ¶ 61,184 (2011) (May 26, 2011 Order).

(EMPCo) also filed FERC Tariff 402.1.0 for transportation of petroleum on the TAPS pipeline proposing an increase to the interstate rate for transportation of crude oil on EMPCo's share of capacity raising its per barrel price from \$4.39 to \$5.07. BPPA and EMPCo state that each calculated their respective rates in accordance with the ratemaking methodology prescribed by the Commission for TAPS in Opinion No. 502.² BPPA requests the Commission permit FERC No. 43.1.0 to be effective on June 13, 2011. EMPCo requests the Commission permit FERC No. 402.1.0 to be effective on July 1, 2011.

2. As discussed below, the Commission will accept and suspend the referenced tariffs, effective June 13, 2011, and July 1, 2011 respectively, subject to refund, and consolidate them with Docket Nos. IS11-306-000 and IS11-328-000, and hold them in abeyance pending the outcome of the consolidated cases in both Docket No. IS09-348-000, *et al.*, and in Docket No. IS09-348-004, *et al.* The Commission also will grant BPPA's waiver request in Docket No. OR11-10-000.

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. BPPA and EMPCO are two of the 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 by carrier. 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,

² *BP Pipelines (Alaska) Inc. et al.*, Opinion No. 502, 123 FERC ¶ 61,287, *order on reh'g*, 125 FERC ¶ 61,215 (2008).

³ The TAPS Carriers are BPPA, EMPCo, ConocoPhillips Transportation Alaska, Inc., Koch Alaska Pipeline Company LLC, and Unocal Pipeline Company.

the Commission issued an order addressing the various tariff filings of the TAPS Carriers in Docket No. IS09-348-000, *et al.*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 uniform rate for TAPS. By order dated January 13, 2010, the Chief Judge severed the issues raised in the various filings into two phases, the Non-Strategic Reconfiguration (Non-SR phase) (Docket No. IS09-348-000), and the Strategic Reconfiguration (SR phase) (Docket No. IS09-348-004). Those two cases are now proceeding before separate Presiding Judges pursuant to separate scheduling orders and are in varying stages of completion.

Protest

6. The State of Alaska (Alaska) and Anadarko Petroleum Corporation (Anadarko) filed protests to BPPA's and EMPCo's rate filings. They argue that the proposed rate increases have not been shown to be just and reasonable and raise numerous issues similar to the issues raised with respect to the TAPS Carriers' rate increases filed in 2009 and 2010 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 two dockets and otherwise hold them in abeyance pending the resolution of the relevant issues in *BP Pipelines (Alaska) Inc.*, Docket No. IS09-348-000, *et al.*

BPPA's and EMPCo's Response

7. BPPA and EMPCo filed responses to the protests. They contend that the protestors make substantially the same arguments here that protestors put forward with respect to the 2009 and 2010 tariff filings by the TAPS carriers, and both ask the Commission to accept their rate filings, subject to refund.

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, *et al.* proceeding.

Discussion

8. As stated *supra*, P 5 the Chief Judge severed the issues in the pending TAPS rate cases into two phases. In prior TAPS rate filing orders, the Commission treated the SR issues and the Non-SR issues differently because the proceedings addressing those issues were at different stages of completion, and the SR issues could be consolidated with the ongoing proceeding since it would not cause any significant delay. This no longer is true, and accordingly we will consolidate the instant filings and hold both in abeyance pending the resolution of the issues in the Docket Nos. IS09-348-000, *et al.* and IS09-348-004, *et al.* proceedings.

9. The Commission finds that BPPA and EMPCo made adequate initial showings and each Company's filing meets the requirements of a cost-of-service filing under section 346.1 of the Commission's regulations. However, these tariffs by BPPA and EMPCo raise a number of issues of material fact that cannot be resolved on the record before us and are more appropriately addressed through hearing procedures. The Commission also grants BPPA's petition for a partial waiver of section 346.2(a)(1)(ii) of the Commission's regulations, in Docket No. OR11-10-000 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 (CPTAI) tariff filing in Docket No. IS11-306-000. Granting the petition will assist in achieving a uniform TAPS rate and is consistent with Commission action addressing a previous like request for waiver by BPPA.⁶

10. The Commission accepts and suspends BPPA's FERC No. 43.1.0, effective June 13, 2011, and accepts and suspends EMPCo's FERC No. 402.1.0, effective July 1, 2011, both subject to refund, and sets them for hearing. These proceedings involve the same cost of service issues currently under consideration in both the Docket No. IS09-348-000 proceeding and the Docket No. IS09-348-004, *et al.* proceeding. Our holding these filings in abeyance pending the resolution of the issues in the Docket No. IS09-348-000, *et al.* proceeding ensures a single proceeding will determine a just and reasonable uniform rate for TAPS.

11. The Commission also here clarifies its May 26, 2011 Order regarding the order's consolidation of the SR issues in CPTAI's Docket No. IS11-306-000 tariff filing and Koch Alaska Pipeline Company LLC's (KAPCO) tariff filing in Docket No. IS11-328-000 with the SR issues in the ongoing proceedings in Docket No. IS09-348-004, *et al.* The May 26, 2011 Order incorrectly stated that

⁶ See June 30 Order, 127 FERC ¶ 61,316.

protesters asked the Commission to consolidate the SR issues with the SR issues in the ongoing proceeding and that consolidation would not unduly delay that proceeding. Accordingly, the Commission in this order will reverse the prior order's consolidation of the SR issues in Docket Nos. IS11-306-000 and IS11-328-000 with those in the ongoing proceeding in Docket No. IS09-348-004, *et al.*

The Commission orders:

(A) BPPA's FERC No. 43.1.0, is accepted and suspended and made effective June 13, 2011, and EMPCo's FERC No. 402.1.0, is accepted and suspended and made effective July 1, 2011, and both subject to refund and further order of this Commission.

(B) These proceedings are consolidated with ConocoPhillips Transportation Alaska Inc. FERC Tariff No. 19.2 filed in Docket No. IS11-306-000 and Koch Alaska Pipeline Company LLC FERC Tariff No. 20.2.0 in Docket No. IS11-328-000 and are held in abeyance pending the resolution of the issues in the Docket No. IS09-348-000, *et al.* proceeding.

(C) The petition for partial waiver of section 346.2(a)(1)(ii) of the Commission's regulations is granted.

(D) The decision in the May 26, 2011 Order to consolidate the SR issues in Docket Nos. IS11-306-000 and IS11-328-000 with the SR issues in the ongoing proceedings in Docket No. IS09-348-004, *et al.* is reversed for the reasons discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.