

139 FERC ¶ 61,092
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

BP Pipelines (Alaska) Inc.	Docket Nos.	IS09-348-000
BP Pipelines (Alaska) Inc.		IS09-395-000
BP Pipelines (Alaska) Inc.		IS10-204-000
ConocoPhillips Transportation Alaska, Inc.		IS09-384-000
ConocoPhillips Transportation Alaska, Inc.		IS10-205-000
ConocoPhillips Transportation Alaska, Inc.		IS10-205-001
ExxonMobil Pipeline Company		IS09-391-000
ExxonMobil Pipeline Company		IS09-177-000
ExxonMobil Pipeline Company		IS10-200-000
Unocal Pipeline Company		IS09-176-000
Unocal Pipeline Company		IS10-52-000
Unocal Pipeline Company		OR10-3-000
Koch Alaska Pipeline Company, L.L.C.		IS10-54-000
		(Consolidated)

ORDER GRANTING RECONSIDERATION

(Issued May 4, 2012)

1. On February 17, 2012, certain Trans Alaska Pipeline System (TAPS) Carriers¹ filed a motion asking the Commission to direct the Chief Administrative Law Judge to appoint a settlement judge to aid in resolving the pooling issues addressed in this

¹ BP Pipelines (Alaska) Inc. (BP); ConocoPhillips Transportation Alaska, Inc. (ConocoPhillips); and ExxonMobil Pipeline Company (ExxonMobil) are three of the five owners of TAPS. These carriers own approximately 95 percent of TAPS.

proceeding and to suspend issuance of an order addressing the Initial Decision issued in this proceeding on March 10, 2011.² On April 23, 2012, the Commission issued the Order Directing Chief Administrative Law Judge to Appoint Settlement Judge.³

2. In the April 23, 2012 Order, the Commission stated as follows:

Because the negotiations contemplated by [TAPS Carriers] involve the pooling of costs among the TAPS Carriers rather than the justness and reasonableness of the rates charged to the shippers, it is unnecessary to involve other participants in the negotiations. Moreover, no other participants have filed in opposition to the . . . proposal for settlement discussions, nor have other participants sought to participate in the proposed negotiations.⁴

3. On April 27, 2012, Anadarko Petroleum Corporation (Anadarko), a shipper on TAPS and an active participant in all the TAPS proceedings, filed a Request for Expedited Reconsideration and Expansion of Settlement Judge Procedures to Include All Participants. Anadarko states that the non-TAPS Carrier participants in this proceeding have a strong interest in any settlement of the pooling issues and that its motion for reconsideration has the support or non-opposition of the TAPS Carriers that filed the motion for appointment of a settlement judge, the State of Alaska, and the Commission's Trial Staff.

4. The pooling issues raised on exceptions are complex and resolution of those issues by all of the participants would conserve their resources and those of the Commission. Anadarko contends that exclusion of the non-TAPS Carrier participants reduces the likelihood that the settlement judge procedures will be successful.

5. On May 2, 2012, Koch Alaska Pipeline Company, L.L.C. (Koch) filed a response opposing Anadarko's request for reconsideration. Koch generally argues that Anadarko has not justified its request to participate in the settlement judge procedures. Koch

² *BP Pipelines (Alaska) Inc.*, 134 FERC ¶ 63,020 (2011) (ID).

³ *BP Pipelines (Alaska) Inc.*, 139 FERC ¶ 61,065 (2012) (April 23, 2012 Order).

⁴ *BP Pipelines (Alaska) Inc.*, 139 FERC ¶ 61,065, at P 6 (2012) (footnote omitted).

further states that it is authorized to state that Unocal Pipeline Company (Unocal)⁵ has authorized it to state that Unocal concurs with its response to Anadarko's request for reconsideration.

6. As the Commission indicated in the April 23, 2012 Order, it would be more efficient and would conserve the resources of the participants and the Commission if the pooling issues raised on exceptions to the ID can be resolved through settlement. Requiring all participants in this proceeding to negotiate in good faith, as provided in section 343.5 of the Commission's regulations,⁶ may increase the likelihood that the highly contested pooling issues can be resolved among the participants. Koch has not raised any valid reasons for excluding Anadarko, the State of Alaska, and the Commission's Trial Staff, all of which have been actively engaged in these proceedings, from settlement discussions.

7. Accordingly, the Commission will grant reconsideration and will require all participants in this proceeding to be included in the settlement judge discussions so that all the contested pooling issues can be addressed.

The Commission orders:

The Commission grants reconsideration of the April 23, 2012 Order to include all participants in this proceeding in the settlement judge procedures.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

⁵ Unocal is the other TAPS Carrier. Together, Koch and Unocal own approximately five percent of TAPS.

⁶ 18 C.F.R. § 343.5 (2011). This section provides that the Commission may require good faith negotiations in oil pipeline rate proceedings. The section provides further that failure to participate in such negotiations in good faith is a ground for decision against the party so failing to participate on issues that are the subject of the negotiations.