

State of Alaska (Alaska) and Anadarko Petroleum Corporation (Anadarko) filed protests to BPPA's rate filing.

2. The Commission will grant the requested partial waiver and will accept and suspend the referenced tariff, to become effective January 18, 2013, subject to refund. The Commission also will consolidate BPPA's filing with the already-consolidated proceedings in Docket No. IS11-306-000, *et al.*, which are being held in abeyance pending the outcome of the consolidated cases in Docket No. IS09-348-000, *et al.*

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 is one of the carrier-owners of TAPS.⁴ Each TAPS Carrier possesses an undivided joint interest and a corresponding entitlement to ownership of TAPS capacity.

4. Prior to Opinion No. 502,⁵ each TAPS Carrier charged individual rates that varied significantly among 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 have essentially the same cost-of-service.

5. Following issuance of Opinion No. 502, the TAPS Carriers filed tariffs to comply with that opinion. Alaska and Anadarko protested the 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, *et al.*⁶ The June 30, 2009 Order stated that, while the

For good cause, the Commission may allow reasonable deviation from the prescribed test period.

⁴ The other TAPS Carriers are: ConocoPhillips Transportation Alaska, Inc. (Conoco); ExxonMobil Pipeline Company (EMPCO); and Unocal Pipeline Company (Unocal). Both Koch Alaska Pipeline Company (Koch) and Unocal Pipeline Company filed notices on June 28, 2012, advising the Commission of their intent to cancel their interstate tariffs as of August 1, 2012. The Regulatory Commission of Alaska (RCA) has approved the transfer of Koch's interest to Conoco, BPPA, and EMPCO. The RCA also has directed Unocal to file an application by January 25, 2013, to transfer its interest to Conoco, BPPA, and EMPCO.

⁵ *BP Pipelines (Alaska) Inc.*, Opinion No. 502, 123 FERC ¶ 61,287 (2008).

⁶ *BP Pipelines (Alaska) Inc.*, 127 FERC ¶ 61,316 (2009) (June 30, 2009 Order).

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 because all of the proceedings involve the same issues.⁷ In the June 30, 2009 Order, the Commission stated that the consolidation ensures that a single proceeding will determine a just and reasonable uniform rate for TAPS.

6. By order issued January 13, 2010, the Chief Administrative Law Judge (Chief ALJ) severed the issues raised in the various filings into two phases, the Strategic Reconfiguration (SR) Phase (Docket No. IS09-348-004) and the Non-SR Phase (Docket No. IS09-348-000). Those two cases are pending according to separate procedural schedules and are in varying stages of completion.⁸ Subsequently, in Docket No. IS11-306-000, *et al.*,⁹ the TAPS Carriers' rate increases filed in 2011 were consolidated, set for hearing, and held in abeyance pending the outcome of the proceedings in Docket No. IS09-348-000, *et al.*

Request for Waiver

7. BPPA states that the rate reflected in its FERC Tariff No. 43.4.0 has been calculated in compliance with the ratemaking methodology prescribed by the Commission in Opinion No. 502 and the orders issued on rehearing of that opinion.¹⁰ BPPA further states that, on November 29, 2012, in Docket No. IS13-55-000, EMPCO

⁷ Certain TAPS Carriers made rate filings after June 30, 2010, which the Commission consolidated with the ongoing Docket No. IS09-348-000, *et al.*, proceedings.

⁸ On December 28, 2012, the Commission approved an uncontested partial settlement of the SR Phase. *BP Pipelines (Alaska) Inc.*, 141 FERC ¶ 61,263 (2012).

⁹ *Unocal Pipeline Co.*, 136 FERC ¶ 61,144 (2011). Unocal filed its 2011 TAPS rate increase in Docket No. IS11-546-000, which the Commission accepted and suspended and consolidated with the proceedings in Docket No. IS11-306-000, *et al.* The parties treat Docket No. IS11-306-000, filed by Conoco, as the lead proceeding for the consolidated TAPS 2011 rate filings.

¹⁰ BPPA cites *BP Pipelines (Alaska) Inc.*, 125 FERC ¶ 61,215 (2008), *order on reh'g*, 127 FERC ¶ 61,317 (2009).

filed to increase its rate for interstate transportation on TAPS.¹¹ According to BPPA, in the instant filing, it uses the same methodology and base and test periods used by EMPCO in that filing. BPPA maintains that, because of the Commission's ruling requiring a uniform rate on TAPS, and because EMPCO filed its tariff so recently, BPPA has adopted the test period data that EMPCO used rather than developing separate test period data. Additionally, BPPA states that its filing includes a petition asking the Commission for a partial waiver of section 346.2(a)(1)(ii) of the Commission's regulations. BPPA asserts that the Commission has granted previous requests for waiver in response to its filings in Docket Nos. IS11-335-000¹² and IS12-458-000.¹³

Protests

8. Alaska and Anadarko state that BPPA seeks to increase its rate in this filing, although it sought a rate decrease less than three weeks earlier. Alaska and Anadarko contend that the rate increase proposed in this proceeding is not supported by the cost-of-service information required by the Commission's regulations. According to Alaska and Anadarko, BPPA seeks a waiver of the applicable regulations so that it can copy EMPCO's rate increase without having to file independent support for the instant rate increase. They assert that the request for a waiver should be denied and that the Commission should reject BPPA's FERC Tariff No. 43.4.0. Further, they maintain that the tariff is unjust and unreasonable because, *inter alia*, (a) the rate includes imprudent and unlawful expenditures relating to the SR Program, (b) may include impermissible costs relating to the dismantling and removal of certain TAPS facilities from the right-of-way, (c) fails to adjust the equity return to account for differences in the tax treatment of income derived by master limited partnership unit holders versus corporate shareholders, (d) may not accurately calculate appropriate operating costs and test period adjustments to such costs, and (e) has not been shown to be just and reasonable where BPPA seeks to abandon its recent request to decrease rates.

9. If the Commission does not reject the filing outright, Alaska and Anadarko urge the Commission to suspend the tariff and impose a refund condition. Further, they ask the Commission to consolidate this proceeding with the investigations in Docket No.

¹¹ On December 28, 2012, the Commission issued an order accepting and suspending EMPCO's filing, subject to refund, consolidating the filing with the proceedings in Docket No. IS11-306-000, *et al.*, and holding it in abeyance pending the outcome of the proceedings in IS09-348-000, *et al.*, and IS09-348-004, *et al.* *ExxonMobil Pipeline Co.*, 141 FERC ¶ 61,261 (2012).

¹² *BP Pipelines (Alaska) Inc.*, 135 FERC ¶ 61,221 (2011).

¹³ *BP Pipelines (Alaska) Inc.*, 140 FERC ¶ 61,025 (2012).

IS11-306-000, *et al.*, which currently are being held in abeyance pending the outcome of the proceedings in Docket Nos. IS09-348-000, *et al.*, and IS09-348-004, *et al.*

BPPA's Responses

10. BPPA filed answers to each protest, observing that Alaska and Anadarko raise many of the same issues they raised with respect to past TAPS Carriers' rate filings. BPPA asks the Commission to reject these contentions, arguing that the instant filing contains the required cost-of-service support and fully complies with the Commission's requirement that the TAPS Carriers charge uniform rates.

11. Further, BPPA asserts that objections to its request for waiver of section 346.2(a)(1)(ii) of the Commission's regulations are baseless because its filing contains all required cost-of-service support and complies with the uniform rate requirement. BPPA points out that requiring it to submit new cost-of-service data would increase the likelihood that its rate will not be uniform with the EMPCO rate recently approved by the Commission.¹⁴ BPPA contends that any investigation into the current filing should be consolidated with the consolidated proceedings in Docket Nos. IS11-306-000, *et al.*, which are being held in abeyance pending resolution of the ongoing SR and Non-SR proceedings in Docket Nos. IS09-348-000, *et al.*

Commission Analysis

12. As discussed below, the Commission will grant BPPA's request for a partial waiver and will accept FERC Tariff No. 43.4.0 to become effective January 18, 2013. The Commission also will consolidate BPPA's FERC Tariff No. 43.4.0 with existing ongoing proceedings involving the TAPS Carriers' rates.

13. The Commission finds that BPPA has demonstrated that good cause exists to grant its petition for partial waiver of section 346.2(a)(1)(ii) of the Commission's regulations. This will allow BPPA to change its rates using base period and test period adjustments, as well as cost, revenue, and throughput data that are consistent with the data reflected in EMPCO's recently approved tariff filing in Docket No. IS13-55-000. This action is consistent with Commission action addressing previous similar requests by BPPA,¹⁵ and

¹⁴ BPPA contends that EMPCO used updated cost-of-service and throughput data, along with using settlement-based depreciation factors. BPPA states that this caused EMPCO's rate of \$6.24 per barrel to be higher than the rate of \$5.77 per barrel that BPPA proposed in its most recent filing (FERC Tariff No. 43.3.0) in Docket No. IS13-62-000.

¹⁵ *E.g.*, *BP Pipelines (Alaska) Inc.*, 140 FERC ¶ 61,025 (2012) (citing *BP Pipelines (Alaska) Inc.*, 135 FERC ¶ 61,221 (2011)).

will aid in achieving a uniform TAPS rate. Accordingly, the Commission finds that BPPA has made an adequate initial showing and that granting the partial waiver of the Commission's regulations will further the goal of a uniform TAPS rate while preserving the rights of all contesting parties to that rate.

14. As stated above, the Chief ALJ severed the issues in the pending TAPS rate cases into two phases. BPPA's filing and the protests raise many of the same issues being addressed in the SR and Non-SR proceedings in Docket Nos. IS09-348-000, *et al.*, and IS09-348-004, *et al.*, and being held in abeyance in Docket Nos. IS11-306-000, *et al.* Further, the instant filing and the protests raise a number of issues that cannot be resolved on the basis of the existing record. Accordingly, the Commission will consolidate BPPA's filing with the consolidated proceedings in Docket Nos. IS11-306-000, *et al.*, which will allow FERC Tariff No. 43.4.0 to be held in abeyance pending resolution of the ongoing SR and Non-SR proceedings in Docket Nos. IS09-348-000, *et al.* Addressing the common issues in the TAPS Carriers' rate filings in this fashion ensures that a single proceeding will determine a just and reasonable uniform rate for TAPS.

The Commission orders:

(A) BPPA's petition for a partial waiver of section 346.2(a)(1)(ii) of the Commission's regulations is granted, as discussed in the body of this order.

(B) BPPA's FERC Tariff No. 43.4.0 is accepted and suspended to become effective January 18, 2013, subject to refund and further order of the Commission.

(C) These proceedings are consolidated with the consolidated proceedings in Docket Nos. IS11-306-000, *et al.*, which are being held in abeyance pending the resolution of the ongoing SR and Non-SR proceedings in Docket Nos. IS09-348-000, *et al.*, and IS09-348-004, *et al.*

By the Commission.

(S E A L)

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