

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. ConocoPhillips 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 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

⁴ The other TAPS Carriers are: BP Pipelines (Alaska) (BPPA); ExxonMobil Pipeline Company (EMPCO); Koch Alaska Pipeline Company (Koch); and Unocal Pipeline Company (Unocal). Both Koch and Unocal 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 ConocoPhillips, BPPA, and EMPCO. The RCA also has directed Unocal to file an application by January 25, 2013, to transfer its interest to ConocoPhillips, 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).

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.*

Rate Filing

7. ConocoPhillips states that the rate reflected in its FERC Tariff No. 19.4.0 has been calculated in compliance with the Commission-approved Settlement Agreement related to the life of the line.¹⁰ In addition, ConocoPhillips requests waiver of the 30-day notice to allow the tariff to go in effect on January 1, 2013, as required by the Settlement Agreement, due to the absence of certain key personnel during the holiday season.

Protests

8. Alaska and Anadarko state that ConocoPhillips' rate filing 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

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 the Settlement Agreement resolving 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 ConocoPhillips, as the lead proceeding for the consolidated TAPS 2011 rate filings.

¹⁰ *BP Pipelines (Alaska) Inc.*, 141 FERC ¶ 61,263 (2012).

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 ConocoPhillips seeks to abandon its recent request to decrease rates.

9. In addition, 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. 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.*

ConocoPhillips' Responses

10. ConocoPhillips filed answers to each protest, observing that Alaska and Anadarko raise many of the same issues they raised with respect to previous TAPS Carriers' rate filings. ConocoPhillips asks the Commission to reject these contentions, arguing that the instant filing fully complies with the Commission's requirements and the life-of-line Settlement Agreement.

11. ConocoPhillips 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. For good cause shown, the Commission will grant ConocoPhillips' request for waiver and will accept and suspend FERC Tariff No. 19.4.0 to become effective January 1, 2013, consistent with the Settlement Agreement. The Commission also will consolidate ConocoPhillips' FERC Tariff No. 19.4.0 with existing ongoing proceedings involving the TAPS Carriers' rates.

13. As stated above, the Chief ALJ severed the issues in the pending TAPS rate cases into two phases. ConocoPhillips' 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 ConocoPhillips' filing with the consolidated proceedings in Docket Nos. IS11-306-000, *et al.*, which will allow the proceedings on FERC Tariff No. 19.4.0 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) ConocoPhillips' petition for waiver of the 30-day notice requirement of the ICA is granted, as discussed in the body of this order.

(B) ConocoPhillips' FERC Tariff No. 19.4.0 is accepted and suspended to become effective January 1, 2013, subject to refund and further order of the Commission.

(C) These proceedings are consolidated with the already 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)

Nathaniel J. Davis, Sr.,
Deputy Secretary.