

144 FERC ¶ 61,080
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

ConocoPhillips Transportation Alaska, Inc.	Docket No. IS13-480-000
ExxonMobil Pipeline Company	Docket No. IS13-496-000
ConocoPhillips Transportation Alaska, Inc.	Docket No. IS11-306-000, <i>et al.</i> (Consolidated)

ORDER ACCEPTING AND SUSPENDING TARIFFS, SUBJECT TO REFUND,
CONSOLIDATING PROCEEDINGS, AND HOLDING PROCEEDINGS IN
ABEYANCE

(Issued July 31, 2013)

1. On June 28, 2013, ConocoPhillips Transportation Alaska, Inc. (CPTAI) in Docket No. IS13-480-000, and on July 2, 2013, ExxonMobil Pipeline Company (EMPCO) in Docket No. IS13-496-000, filed FERC Tariff Records¹ to become effective August 1, 2013 and August 2, 2013, respectively. CPTAI proposes an increase to the interstate rate for transportation of crude oil on its share of the capacity of the Trans Alaska Pipeline System (TAPS) from \$5.92 to \$6.68 per barrel while EMPCO proposes an increase from \$6.24 per barrel to \$6.68 per barrel on its share of the capacity of the TAPS. The State of Alaska (Alaska) and Anadarko Petroleum Corporation (Anadarko) filed protests to CPTAI's and EMPCO's rate filings. Flint Hills Resources Alaska, LLC (Flint Hills) filed motions to intervene in both dockets.

2. The Commission will accept and suspend the referenced tariffs, to become effective August 1, 2013 for CPTAI and August 2, 2013 for EMPCO, subject to refund, and will consolidate both filings with the already-consolidated proceedings in Docket No. IS11-306-000, *et al.*, which are being held in abeyance pending the outcome of the pending consolidated cases in Docket No. IS09-348-004, *et al.*

¹ ConocoPhillips Transportation Alaska, Inc., FERC Oil Tariff, ConocoPhillips Transportation Alaska, Inc. Tariffs, [CPTAI FERC Rate Change 19.5.0, 1.0.0](#) and ExxonMobil Pipeline Company, FERC Oil Tariff, CRUDE AND PRODUCT TARIFFS, [Purdue Bay-Valdez AK, FERC 402.4.0, 4.0.0](#) .

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. CPTAI and EMPCO are two of the three Carrier-owners of TAPS. Each owner possesses an undivided joint interest and entitlement to its percentage ownership share of TAPS capacity.²
4. Prior to Opinion No. 502,³ each TAPS Carrier charged individual rates for interstate service that varied significantly between 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 those 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.*⁴ The June 30, 2009 Order stated that, while the

² The other current TAPS Carrier is BP Pipelines (Alaska) Inc. Prior TAPS Carriers, Koch Alaska Pipeline Company LLC (Koch), and Unocal Pipeline Company (Unocal) provided notice to the Commission of their withdrawal from TAPS effective August 1, 2012, and the transfer of their TAPS' interests to the remaining Carriers. The Regulatory Commission of Alaska (RCA) approved Koch's transfer of its TAPS ownership interest. *In the Matter of the Joint Application Filed by Koch Alaska Pipeline Company, LLC*, 2012 WL 6628059 (Regulatory Commission of Alaska) December 14, 2012.

However, as of the date of this order, it does not appear that Unocal's transfer of its ownership shares is complete. On February 4, 2013, the RCA issued an order extending Unocal's deadline until April 25, 2013 for filing an application to transfer its operating authority in TAPS or to file an explanation of the reasons why the transfer application had not been filed. On April 25, 2013, Unocal asserted that it was not in a position to file an application to transfer its operating authority at that time but by July 25, 2013, it would file its application or an explanation as to why the application could not be made.

³ *BP Pipelines (Alaska) Inc.*, Opinion No. 502, 123 FERC ¶ 61,287 (2008).

⁴ *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 the Commission's 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.⁵ The June 30, 2009 Order stated that the consolidation ensures that the one proceeding will determine a just and reasonable uniform rate for TAPS.

6. On 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). The SR case is pending according to separate procedural schedules and is in varying stages of completion.⁶ On July 16, 2013, the Commission issued an order accepting a contested settlement resolving the Non-SR issues.⁷ In Docket No. IS11-306-000, *et al.*,⁸ 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.* The TAPS Carriers' 2012 and 2013 rate filings were similarly held in abeyance in Docket No. IS11-306-000, *et al.*

Protests

7. Alaska and Anadarko protest the instant rate filings. They argue that the proposed rate increases have not been shown to be just and reasonable, and that both rate filings raise numerous issues similar to the issues raised with respect to the TAPS Carriers' prior rate filing increases that were all set for hearing in Docket No. IS11-306-000, *et al.* They urge the Commission to suspend the tariffs, subject to refund, consolidate them with the

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.

⁶ On June 25, 2013, the Chief ALJ issued an order extending the Initial Decision deadline to on or before October 31, 2013, due to the magnitude of the record and complexity of the issues.

⁷ *BP Pipelines (Alaska) Inc.*, 144 FERC ¶ 61,025 (2013).

⁸ *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 Transportation Alaska, Inc., as the lead proceeding for the consolidated TAPS 2011 rate filings.

proceedings in Docket No. IS11-306-000, *et al.*, and hold them in abeyance pending the resolution of the proceedings currently pending in Docket No. IS09-348-004, *et al.*

CPTAI and EMPCO's Responses

8. CPTAI and EMPCO filed responses to the protests. They both contend that the protests make substantially the same arguments that Alaska and Anadarko urged in the recent TAPS Carriers' rate filings including, among others, objections to the following: the costs of the TAPS Carriers' SR project, and their impact on rate base; costs for dismantling, removal, and restoration (DR&R); rate of return; operating expenses; throughput; base and test periods, Carrier direct costs; and pooling and uniform rate issues. CPTAI and EMPCO submit that their rate filings should be accepted and suspended, effective August 1, 2013, and August 2, 2013, respectively, made subject to refund, and consolidated with the consolidated proceedings in Docket No. IS11-306-000, *et al.*, which are being held in abeyance pending resolution of the ongoing SR proceedings in Docket No. IS09-348-004, *et al.*

Discussion

9. As stated above, the Chief ALJ severed the issues in the pending TAPS rate cases into two phases: SR and Non-SR. The protests raise many of the same issues being addressed in the SR proceeding in Docket Nos. IS09-348-004, *et al.*,⁹ and being held in abeyance in Docket No. IS11-306-000, *et al.* Accordingly, the Commission will consolidate CPTAI's and EMPCO's filings with the consolidated proceedings in Docket No. IS11-306-000, *et al.*, which are being held in abeyance pending resolution of the ongoing SR proceeding in Docket No. IS09-348-000, *et al.*

10. The Commission finds that CPTAI and EMPCO have made an adequate initial showing in the subject filings to meet the requirements for cost-of-service filings under section 346.1 of the Commission's regulations.¹⁰ However, CPTAI's and EMPCO's filings raise a number of issues of material fact that cannot be resolved on the record before the Commission and should appropriately be set for hearing.

11. The Commission therefore accepts and suspends CPTAI's and EMPCO's proposed FERC tariff records to become effective August 1, 2013 and August 2, 2013, respectively, subject to refund, and sets the subject filings for hearing. These filings involve the same cost-of-service issues currently under consideration in Docket No. IS09-

⁹ As stated above, the proceeding in Docket No. IS09-348-004, *et al.*, is in varying stages of completion.

¹⁰ 18 C.F.R. § 346.1 (2012).

348-004, *et al.*, proceeding. Consolidation of both CPTAI's and EMPCO's filings with the already consolidated proceedings in Docket No. IS11-306-000, *et al.*, which themselves are currently held in abeyance pending resolution of the ongoing SR proceedings in Docket No. IS09-348-004, *et al.*, ensures that a single proceeding will determine a just and reasonable uniform rate for TAPS, consistent with the pooling methodology in the recently approved settlement in Docket No. IS09-348-007, *et al.*

The Commission orders:

(A) CPTAI's FERC Tariff No. 19.5.0 and EMPCO's FERC Tariff No. 402.4.0, are accepted and suspended and made effective August 1, 2013, and August 2, 2013, respectively, subject to refund and further order of this Commission.

(B) The subject Docket Nos. IS13-480-000 and IS13-496-000 proceedings are hereby consolidated into the already consolidated proceedings in Docket No. IS11-306-000, *et al.*, which are being held in abeyance pending resolution of the ongoing SR proceeding in Docket No. IS09-348-004, *et al.*

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.