

148 FERC 61,078
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

ExxonMobil Pipeline Company

Docket Nos. IS14-575-000
and IS11-306-000, *et al.*
(Consolidated)

ConocoPhillips Transportation Alaska, Inc.

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

(Issued July 31, 2014)

1. On June 7, 2014, ExxonMobil Pipeline Corporation (Exxon) filed¹ FERC Tariff No. 402.5.0 to become effective August 1, 2014.² Exxon proposes to decrease its interstate rate for transportation of crude oil on the Trans Alaska Pipeline System (TAPS) from \$6.68 to \$5.90 per barrel. The State of Alaska (Alaska) and Anadarko Petroleum Corporation (Anadarko) filed to intervene³ and included protests to Exxon's rate filing stating that they do not object to the reduction but assert the reduced rate is unjust and unreasonable because it includes excessive costs. Exxon filed a response to these protests.

2. The Commission will accept and suspend the referenced tariff, to become effective August 1, 2014, subject to refund. The Commission also will consolidate Exxon's filing with the already-consolidated proceedings in Docket No. IS11-306-000, *et al.*, which are

¹ On July 3, 2014, Exxon filed supporting workpapers that it stated were inadvertently omitted from the original filing.

² ExxonMobil Pipeline Company, FERC Oil Tariff, CRUDE AND PRODUCT TARIFFS [Purdue Bay-Valdez AK, FERC 402.5.0, 5.0.0](#) .

³ All unopposed motions to intervene filed before the issuance date of this order are granted.

being held in abeyance pending the outcome of the consolidated cases in Docket No. IS09-348-004, *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. Exxon 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 issues. The Commission stated that the consolidation ensures that a single proceeding will determine a just and reasonable uniform rate for TAPS.

⁴ The other current TAPS carrier-owners are BP Pipelines (Alaska) and ConocoPhillips Transportation Alaska, Inc. (Conoco). Unocal Pipeline Company (Unocal) filed a notice advising this Commission of its intent to cancel its interstate tariff as of August 1, 2012. The Regulatory Commission of Alaska (RCA) has directed Unocal to file an application by July 25, 2014, to transfer its interest to the other TAPS carrier-owners.

⁵ *BP Pipelines (Alaska) Inc.*, Opinion No. 502, 123 FERC ¶ 61,287 (2008), *order on reh'g and compliance*, 125 FERC ¶ 61,215 (2008), *order on reh'g*, 127 FERC ¶ 61,317 (2009).

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

6. The Carriers' 2009 and 2010 rates were litigated in Docket Nos. IS09-348-000, *et al.*, (Non-SR Phase) and Docket Nos. IS09-348-004, *et al.*, (SR Phase). Similar issues also were raised regarding the Carriers' rate filings in 2011, 2012, and 2013, which were consolidated, set for hearing, and held in abeyance in Docket Nos. IS11-306-000, *et al.* subject to the outcome of the hearings regarding the 2009 and 2010 rate.⁷

7. On July 16, 2013, the Commission approved a consolidated settlement resolving the Non-SR Phase, *BP Pipeline Alaska, Inc.*, 144 FERC ¶ 61,025 (2013). That matter was appealed to the D.C. Circuit and is pending in *Tesoro Alaska Co. v. FERC*, Case Nos. 13-1248, *et al.* The SR Phase hearings were conducted jointly between the FERC and the Regulatory Commission of Alaska. Presiding Judge Cintron issued an Initial Decision in the SR Phase on February 27, 2014. *BP Pipeline Alaska, Inc.*, 146 FERC ¶ 63,019 (2014) (SR Phase Initial Decision). Parties are currently briefing exceptions to the Commission.

Rate Filing

8. Exxon states that the rate reflected in its FERC Tariff No. 402.5.0 has been calculated in accordance with the ratemaking methodology prescribed by the Commission in Opinion No. 502.

Protests

9. Alaska and Anadarko state that Exxon's 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 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 other defects as enumerated in the protests.

10. Alaska and Anadarko urge the Commission to suspend the tariff and impose a refund condition. Further, they ask the Commission to hold in abeyance any investigation into the filing and consolidate this proceeding with the investigations in Docket No. IS11-306-000, *et al.*, which currently are also being held in abeyance pending the outcome of the proceedings in Docket Nos. IS09-348-000, *et al.*, and IS09-348-004, *et al.*

⁷ See, e.g., *ConocoPhillips Transportation Alaska, Inc.*, Docket No. IS11-306-000, 135 FERC ¶ 61,184 (2011).

Exxon's Responses

11. Exxon 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. Exxon asks the Commission to reject these contentions, arguing that the instant filing fully complies with the Commission's Settlement Agreement.

12. Exxon states it does not object that any investigation into the current filing should be consolidated with the already 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. IS09-348-004, *et al.*

Commission Analysis

13. The Commission will accept and suspend FERC Tariff No. 402.5.0 to become effective August 1, 2014, subject to refund and conditions, and investigation at hearing. The Commission also will hold any investigation into the subject filing in abeyance, and consolidate investigation of Exxon's FERC Tariff No. 402.5.0 with the existing ongoing proceedings involving the TAPS Carriers' rates.

14. Exxon's filing and the protests thereto raise many of the same issues being addressed in the SR proceeding in Docket Nos. 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, it is reasonable to consolidate Exxon's filing with the consolidated proceedings in Docket Nos. IS11-306-000, *et al.*, and allow the proceedings on FERC Tariff No. 402.5.0 to be held in abeyance pending resolution of the ongoing SR proceedings in Docket Nos. IS09-348-004, *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) Exxon's FERC Tariff No. 402.5.0 is accepted and suspended to become effective August 1, 2014, subject to refund and further investigation, with that investigation held in abeyance pending further order of the Commission.

(B) These proceedings concerning FERC Tariff No. 402.5.0 are consolidated with the already consolidated proceedings in Docket Nos. IS11-306-000, *et al.*, which are themselves 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.