

120 FERC ¶ 61,214
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Suedeen G. Kelly, Marc Spitzer,
Philip D. Moeller, and Jon Wellinghoff.

ExxonMobil Oil Corporation

Docket No. OR07-11-000

v.

SFPP, L.P.

BP West Coast Products LLC

Docket No. OR07-8-000

v.

SFPP, L.P.

ORDER HOLDING COMPLAINT IN ABEYANCE
AND CONSOLIDATING PROCEEDINGS

(Issued September 4, 2007)

1. On June 29, 2007, ExxonMobil Oil Corporation (ExxonMobil) filed a complaint against SFPP, L.P. The complaint asserts that the index-based increase that became effective July 1, 2005, was unjust and unreasonable because that increase substantially exceeded the pipeline's actual cost increases in the preceding calendar year.¹ At bottom, this complaint makes many of the same allegations that were addressed by the Commission's June 7, 2005 Order in Docket No. OR07-8-000,² but more clearly limits the complaint to SFPP's July 1, 2007 rate increase. In addition to requesting the Commission to rescind SFPP's July 1, 2005 indexed-based rate increase, the instant complaint requests consolidation with the complaint filed in Docket No. OR07-8-000.

¹ SFPP's index-based increase was an annual increase pursuant to the Commission's indexing regulations, 18 C.F.R. § 342.3(2007).

² *BP West Coast Products, LLC v. SFPP, L.P.*, 119 FERC ¶ 61,241 (2007).

2. SFPP filed an answer on July 19, 2007, asserting that the complaint does not meet the standards contained in section 343.2(c)(1) of the Commission's regulations. SFPP further argues that the Commission developed a new and improper standard, the so-called substantial over-recovery standard, in the June 29 Order. It states that it has a request for rehearing outstanding arguing that this standard is inconsistent with Commission policy and the underlying rulemaking that designed the Commission's indexing methodology.

3. The June 29 Order addressed a complaint filed by BP West Coast Products. The instant complaint was filed by ExxonMobil one day before the expiration of the two year statutory bar to further complaints against SFPP's July 1, 2005 indexed based rate increase. The complaint presents the same legal issues as the prior complaint filed in Docket No. OR07-8-000. For this reason, the Commission will consolidate the instant complaint with Docket No. OR07-8-000, and hold the complaint in abeyance pending resolution of certain other rate actions pending before the Commission. This action is without prejudice to SFPP's pending request for rehearing in Docket No. OR07-8-000. Its detailed arguments will be addressed there in light of the Commission's consolidating the two complaints.

The Commission orders:

The instant complaint is consolidated with Docket OR07-8-000 and is held in abeyance pending further action by the Commission.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Acting Deputy Secretary.