

122 FERC ¶ 61,129
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Sudeen 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

v.

Docket No. OR07-8-000

SFPP, L.P.

ORDER SETTING COMPLAINTS FOR HEARING

(Issued February 13, 2008)

1. On June 6, 2007, BP West Coast Products LLC filed a complaint against SFPP, L.P. (SFPP)¹ followed by a virtually identical complaint filed on June 29, 2007 by ExxonMobil Oil Corporation (ExxonMobil).² Both complaints asserted that SFPP's index-based increase that became effective July 1, 2005, was unjust and unreasonable because that increase substantially exceeded the pipeline's

¹ BP West Coast Products, LLC v. SFPP, L.P., 119 FERC ¶ 61,241 (2007).

² *ExxonMobil Oil Corporation v. SFPP, L.P.*, 120 FERC ¶ 61,214 (2007) (September 2007 Order).

actual cost increases in the preceding calendar year.³ A September 2007 order consolidated both complaints and held them in abeyance pending clarification of other generic oil pipeline cost of service issues then pending before the Commission.⁴ Most of those issues have been addressed in detail by the Commission's Remand Order issued December 26, 2007,⁵ that should provide sufficient guidance to warrant setting the instant complaints for hearing. The Commission does so. In light of serious ongoing settlement negotiations in other index-based rate cases, the Commission establishes settlement procedures in these proceedings as well.

The Commission orders:

(A) Pursuant to the authority of the Interstate Commerce Act, particularly sections 13(1) and 15(1) thereof, and the Commission's regulations, a hearing is established to address the issues raised in the instant dockets.

(B) Pursuant to the section 375.304 of the Commission's regulations, 18 C.F.R. § 375.304 (2007), the Chief Administrative Law Judge shall designate a presiding administrative law judge for the purpose of conducting a hearing. The Administrative Law Judge is authorized to conduct further proceedings pursuant to this order and to the Commission's Rules of Practice and Procedure.

(C) Pursuant to Rule 603 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.603 (2007), the Chief Administrative Law Judge is directed to appoint a settlement judge in this proceeding within 10 days of the date this order issues. To the extent consistent with this order, the designated settlement judge shall have all the powers and duties enumerated in Rule 603 and shall convene an initial settlement conference as soon as practicable.

(D) Within 30 days of the date this order issues, the settlement judge shall file a report with the Chief Judge and the Commission on the status of the

³ SFPP's index-based increase was an annual increase pursuant to the Commission's indexing regulations, 18 C.F.R. § 342.3(2007).

⁴ September 2007 Order at P 3.

⁵ *SFPP, L.P.*, 121 FERC ¶ 61,240 (2007) (Remand Order).

settlement discussions. Based on this report, the Chief Judge shall provide the parties with additional time to continue their settlement discussions, if appropriate, or assign this case to a presiding judge for a trial-type evidentiary hearing, if appropriate. If settlement discussions continue, the settlement judge shall file a report at least every 30 days thereafter, informing the Chief Judge and the Commission of the parties' progress toward settlement.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.