

129 FERC ¶ 61,275
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Marc Spitzer, and Philip D. Moeller.

Unocal Pipeline Company	Docket No. IS10-52-000 Docket No. OR10-3-000
Koch Alaska Pipeline Company, L.L.C.	Docket No. IS10-54-000
BP Pipelines (Alaska) Inc.	Docket No. IS09-348-000, <i>et. al</i> (Consolidated)

ORDER ACCEPTING AND SUSPENDING TARIFFS, SUBJECT
TO REFUND, ESTABLISHING HEARING AND CONSOLIDATING
PROCEEDINGS

(Issued December 29, 2009)

1. On November 25, 2009, Koch Alaska Pipeline Company L.L.C. (Koch), filed FERC Tariff No. 306, and Unocal Pipeline Company (Unocal) filed FERC Tariff No. 14, both proposing to change the interstate rate for transportation of crude oil on their share of the capacity of the Trans Alaska Pipeline System (TAPS), effective January 1, 2010.¹ Koch and Unocal also filed² for a partial waiver of section 346.2(a)(1)(ii) of the Commission's regulations, 18 C.F.R. §346.2(a)(1)(ii)(2009), to allow them to change their rates using base period and test period adjustments and cost, revenue and throughput data that are consistent with data reflected in other TAPS Carriers' recent tariff filings by ConocoPhillips Transportation Alaska, Inc. (ConocoPhillips), ExxonMobil Pipeline Company (ExxonMobil) and BP Pipelines (Alaska) Inc. (BP). They state the requested

¹ The TAPS Carriers consist of BP, ConocoPhillips, ExxonMobil, Koch, and Unocal. Each owns an undivided joint interest and entitlement to its share of the pipeline's capacity.

² Unocal filed a petition in Docket No. OR10-3-000, and Koch attached its request to its tariff filing in Docket No. IS10-54-000.

waiver is consistent with the Commission's directive in Opinion No. 502³ that requires TAPS Carriers to charge a uniform rate for interstate transportation.

2. As discussed below, the Commission will grant the requested waivers and accept and suspend Koch's and Unocal's tariffs, subject to refund, to become effective January 1, 2010, as proposed, and consolidate this proceeding with the consolidated proceedings in Docket Nos. IS09-348-000, *et al.*, which concerns prospective TAPS' rates filed by the other TAPS Carriers.

Background

3. Prior to Opinion No. 502, each of the TAPS Carriers charged individual rates for interstate service on TAPS that varied significantly between them. In Opinion No. 502, the Commission directed the Carriers to charge a uniform rate for interstate transportation service on TAPS. 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 basically have the same cost of service.⁴

4. Following issuance of Opinion No. 502, the TAPS Carriers filed tariffs to comply with Opinion No. 502. In addition, Unocal, in Docket No. IS09-176-000, proposed to establish a volume incentive rate for transportation on its share of TAPS capacity. Unocal stated it was not proposing to change its existing maximum rate of \$3.45, which would remain applicable to shippers that do not satisfy the minimum volume threshold for the incentive rate. On April 28, 2009, the Commission accepted Unocal's filing, effective May 1, 2009, subject to refund and conditions.⁵

5. On June 30, 2009, the Commission issued an order addressing the various tariff filings of the TAPS Carriers.⁶ The order stated that while the Commission

³ *BP Pipelines (Alaska) Inc.*, 123 FERC ¶ 61,287, *order on reh'g*, 125 FERC ¶ 61,215 (2008).

⁴ Opinion No. 502 at P 242.

⁵ *See Unocal Pipeline Co.*, 127 FERC ¶ 61,088 (2009). Subsequently, Unocal brought this rate forward in FERC No. 304, which the Commission accepted subject to the same conditions in Docket No. IS09-176-000. *See*, 129 FERC ¶ 61,211 (2009).

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

established a clear policy in Opinion No. 502 that a uniform rate should apply for transportation service on TAPS, several TAPS Carriers individually filed their own rates, which they assert was calculated in accordance with the ratemaking methodology in Opinion No. 502. However, 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 since all the proceedings involve the same issues. The June 30 Order stated that consolidation ensures that the one proceeding will determine a just and reasonable uniform rate for TAPS. This order also granted the petition filed by BP requesting partial waiver of section 346.2(a)(1)(ii) of the Commission's regulations to permit it to adopt adjustments made by the other TAPS Carriers.

Koch and Unocal's Filings

6. Koch and Unocal propose to change their rates to \$4.08 per barrel, effective January 1, 2010. Like the other TAPS Carriers who filed rates in 2009, they state they calculated the rate using the Opinion No. 502 methodology using a base period of calendar year 2008. Their rate of \$4.08 per barrel is two cents per barrel lower than the \$4.10 per barrel rate filed by the other TAPS Carriers. They assert that this difference is attributable to an agreement in principle executed recently by various parties, including the TAPS Carriers, the State of Alaska (Alaska) and Anadarko Petroleum Company (Anadarko), pertaining to the methodology for calculating certain pre-2005 property balances.

7. Koch and Unocal both request a partial waiver of section 346.2(a)(1)(ii) to permit the use of the same base period and test period adjustments used in the filings by the other TAPS Carriers. They aver this approach is consistent with the June 30 Order and the Commission's intent to establish a single uniform rate applicable to all the TAPS Carriers. They also assert that if the Commission denies the waivers, their rates for transportation on TAPS would most likely differ from the rates filed by the other TAPS Carriers precluding achievement of a uniform transportation rate on TAPS.

Protests

8. Anadarko and Alaska timely filed protests to the Koch and Unocal filings. They both assert the proposed rate increases have not been shown to be just and reasonable. The protests raise the same issues Anadarko and Alaska raised with respect to the 2009 tariff filings by the other TAPS Carriers filings, such as life of the line, rate base, strategic reconfiguration (SR) costs, operating expenses, rate of return, throughput and uniform rate issue. Alaska and Anadarko request that the

Commission suspend the filings, subject to refund, and consolidate them with the pending consolidated rate proceeding pursuant to the June 30 Order.

9. With respect to the requested waiver, Anadarko requested the Commission to clarify that any such waiver does not prejudice the right of the participants to make any arguments that bear on the justness and reasonableness of the proposed rate.

Unocal and Koch Answers

10. In their answers, Unocal and Koch request the Commission to accept their filings and make them effective subject to refund. They state the Commission already established settlement judge procedures to resolve identical allegations of Alaska and Anadarko with respect to the filings by the other TAPS Carriers. They agree the Commission should consolidate this proceeding with the matters pending in Docket No. IS09-348-000, *et al.*

Discussion

11. The Commission accepts and suspends tariffs submitted by Koch and Unocal, subject to refund, to become effective January 1, 2010, establishes hearing procedures, and consolidates these proceedings with the ongoing proceedings in Docket No. IS09-348-000, *et al.*⁷

12. The Commission finds that Koch and Unocal have made adequate initial showings that their filings meet the requirements of a cost-of-service filing under section 346.1 of the Commission's regulations.⁸ However, these tariff filings raise a number of issues of material fact that cannot be resolved on the record before us and are more appropriately addressed through hearing and settlement procedures. Therefore, the Commission will establish hearing procedures to examine the varying data submitted by them and to determine, based on the ratemaking methodology set forth in Opinion No. 502, one rate for transportation service on TAPS.

⁷ On December 17, 2009, H. Peter Young, the Settlement Judge in Docket No. IS09-348-000, endorsed the request of the parties that the hearing procedures previously held in abeyance be re-activated and the settlement judge procedures be terminated. On December 22, 2009, the Chief Judge issued an order to that effect.

⁸ 18 C.F.R. § 346.1 (2009).

13. These proceedings involve the same issues currently under consideration in the Docket No. IS09-348-000 proceeding, and consolidating the instant filings with that proceeding ensures that a single proceeding will determine a just and reasonable uniform rate for TAPS. In addition, the Commission, as it did in the June 30 Order, will grant the requests filed by Unocal and Koch for partial waiver of section 346.2(a)(1)(ii) of the Commission's regulations because doing so furthers achieving a uniform rate.

The Commission orders:

(A) Unocal's Tariff No. 306 is hereby accepted and suspended, to be effective January 1, 2010, subject to refund and further order of this Commission.

(B) Koch's Tariff No. 14 is hereby accepted and suspended, to be effective January 1, 2010, subject to refund and further order of this Commission.

(C) Pursuant to the authority in sections 15(1) and 15(7) of the ICA and the Commission's regulations, a hearing shall be held concerning the rate filings in the above-captioned proceedings.

(D) These proceedings are consolidated with the ongoing proceedings in Docket No. IS09-348-000, *et al.*

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.