

132 FERC ¶ 61,084
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

ConocoPhillips Transportation Alaska, Inc.
BP Pipelines (Alaska) Inc.

Docket No. IS10-476-000
Docket No. IS09-348-000
Consolidated

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

(Issued July 29, 2010)

1. On July 1, 2010, ConocoPhillips Transportation Alaska, Inc. (ConocoPhillips) filed FERC Tariff No. 18 proposing to increase the interstate rate for transportation of crude oil on ConocoPhillips' share of the capacity of the Trans Alaska Pipeline System (TAPS) from \$4.08 per barrel to \$4.36 per barrel. ConocoPhillips states that it calculated this rate in accordance with the ratemaking methodology prescribed by the Commission for TAPS in Opinion No. 502.¹

2. ConocoPhillips proposes an effective date of August 1, 2010. The Commission accepts and suspends the referenced tariff, subject to refund and consolidates it with the ongoing proceedings in Docket No. IS09-348-004, *et al.* with respect to strategic reconfiguration (SR) issues, and severs the non-strategic reconfiguration (Non-SR) issues holding them in abeyance pending the outcome of the consolidated cases in Docket No. IS09-348-0004 *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. ConocoPhillips is

¹ *BP Pipelines (Alaska) Inc.*, 123 FERC ¶ 61,287, *order on rehearing*, 125 FERC ¶ 61,215 (2008).

one of the TAPS Carriers who own TAPS, with each possessing an undivided joint interest and entitlement to its percentage ownership share of the pipeline's capacity.²

4. Prior to Opinion No. 502³, 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.

5. Following issuance of Opinion No. 502, the TAPS Carriers filed tariffs to comply with Opinion No. 502. The State of Alaska (Alaska) and Anadarko Petroleum Company (Anadarko) filed protests to these 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. The 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 since all the proceedings involve the same issues.⁴ By order dated January 13, 2010, the Chief Judge severed the issues raised in the various filings into two phases, the Non-SR phase (Docket No. IS09-348-000),⁵ and the SR phase (Docket No. IS09-348-004). Those two cases are now proceeding before separate Presiding Judges pursuant to separate scheduling orders.

² The Carriers consist of ConocoPhillips, BP Pipelines (Alaska) Inc., ExxonMobil Pipeline Company, Koch Alaska Pipeline Company, LLC, and Unocal Pipeline Company.

³ *BP Pipelines (Alaska) Inc.*, 123 FERC ¶ 61,287, *order on reh'g*, 125 FERC ¶ 61,215 (2008) (Opinion No. 502).

⁴ Certain TAPS Carriers made rate filings after June 30, 2010, which the Commission consolidated with the ongoing Docket No. IS09-348-000 proceeding.

⁵ The Commission will address the carrier's implementation of a uniform rate in the consolidated Non-SR phase proceeding in Docket No. IS09-348-000.

Protests

6. Alaska and Anadarko filed protests to ConocoPhillips's rate filing. They argue that the proposed rate increase, has not been shown to just and reasonable and raises numerous issues in common with the TAPS Carriers' rate increases filed in 2009 that were set for hearing in Docket No. IS09-348-000, *et al.* They urge the Commission to suspend the tariff, subject to refund and consolidate the SR issues in this case, with the SR phase of the consolidated 2009 Taps Carriers rate proceeding currently pending in *BP Pipelines (Alaska) Inc.*, Docket No. IS09-348-004, *et al.*, and otherwise hold the remaining issues in abeyance pending the resolution of the relevant issues in the Non-SR phase of the consolidated proceeding now pending in *BP Pipelines (Alaska) Inc.*, Docket No. IS09-348-000, *et al.*

Response to Protests

7. ConocoPhillips filed a response to Alaska's and Anadarko's protests stating the protestors make the same arguments here that they put forward with respect to ConocoPhillips FERC Tariff No. 17 in Docket No. IS09-348-000, *et al.* and the TAPS Carriers' 2008 compliance filing in Docket No. IS07-75-001, *et al.* In addition, ConocoPhillips states it does not object to the motions of Alaska and Anadarko to (1) consolidate the SR issues in the current proceeding with the SR phase of the 2009 TAPS rate proceeding in Docket No. IS09-348-004, *et al.*, and (2) hold in abeyance the remaining issues pending resolution of the Non-SR phase of the consolidated 2009 TAPS rate proceeding in Docket No. IS09-348-000, *et al.*

Discussion

8. As stated *supra*, P5, the Chief Judge severed the issues in the pending TAPS rate cases into two phases. Pursuant to the scheduling order in the SR phase, Docket No. IS09-348-004, that phase is in initial discovery with no testimony filed yet and none due in the near future. Consolidating the SR issues in the instant filing in the 004 docket would cause no significant delay or other hardship on the parties. Accordingly, the SR issues in this docket will be consolidated with the 004 docket. The same is not true for the non-SR issues. In that phase, initial discovery has been completed and direct and answering testimony has been filed. Thus, consolidating the Non-SR issues from this filing into the ongoing Non-SR phase of the consolidated 2009 TAPS rate case in Docket No. IS09-348-000 would cause delay in that proceeding with no benefit to the parties. On the other hand, resolution of the issues in the Non-SR phase would be applicable in good part to the instant filing. Accordingly, the Non-SR issues will be held in abeyance pending the resolution of the issues in the Docket No. IS09-348-000 proceeding.

9. The Commission accepts and suspends the tariff submitted by ConocoPhillips, subject to refund, to become effective August 1, 2010, consolidates the SR issues in this proceeding with the ongoing proceedings in Docket No. IS09-348-004, *et al.*, and holds the remaining issues in this case in abeyance pending the resolution of the relevant issues in the Non-SR phase of the consolidated 2009 TAPS rate proceeding now pending in *BP Pipelines (Alaska) Inc.*, Docket No. IS09-348-000, *et al.*

10. The Commission finds that ConocoPhillips has made adequate initial showings that their filing meets the requirement of a cost-of-service filing under section 346.1 of the Commission's regulations 18 C.F.R. § 346.1 (2010). However, this tariff filing raises 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.

11. This proceeding involves the same issues currently under consideration in both the Docket No. IS09-348-000 proceeding and the Docket No. IS09-348-004 proceeding. Consolidating the current filing with respect to the SR issues with the Docket No. IS09-348-004 proceeding and holding the Non-SR issues in abeyance pending the resolution of the issues in the Docket No. IS09-348-000 proceeding ensures a single proceeding will determine a just and reasonable uniform rate for TAPS.

The Commission orders:

(A) ConocoPhillips FERC Tariff No. 18 is accepted and suspended, to be effective August 1, 2010, subject to refund and further order of this Commission.

(B) This proceeding is consolidated with the ongoing proceedings in Docket No. IS09-348-004 with respect to the SR issues, and the Non-SR issues are held in abeyance pending the resolution of the issues in the Docket No. IS09-348-000 proceeding.

By the Commission. Commissioner LaFleur is not participating.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.