

135 FERC ¶ 61,184
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Conoco Phillips Transportation Alaska, Inc	Docket No. IS11-306-000
Koch Alaska Pipeline Company, L.L.C.	Docket No. IS11-328-000
BP Pipelines (Alaska) Inc.	Docket No. IS09-348-000
BP Pipelines (Alaska) Inc.	Docket No. IS09-348-004 (Consolidated)

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

(Issued May 26, 2011)

1. On April 28, 2011, ConocoPhillips Transportation Alaska, Inc. (Conoco) filed FERC Tariff No. 19.2.0 for transportation of petroleum on the Trans Alaska Pipeline System (TAPS) to be effective May 29, 2011. Conoco proposes an increase to the interstate rate for transportation of crude oil on Conoco's share of the capacity of the Trans Alaska Pipeline System (TAPS) from \$4.36 per barrel to \$5.05 per barrel. On May 11, 2011, Koch Alaska Pipeline Company, L.L.C. (Koch) also filed FERC Tariff 20.2.0 for transportation of petroleum on the TAPS pipeline proposing an increase to the interstate rate for transportation of crude oil on Koch's share of capacity raising its per barrel price from \$4.37 to \$5.05.¹ Conoco and Koch state that each calculated their respective rates in accordance with the ratemaking methodology prescribed by the Commission for TAPS in

¹ Koch originally filed to increase its TAPS rates on May 5, 2011, in Docket No. IS11-321-000, but withdrew that filing on May 11, 2011, and simultaneously filed Docket no. IS11-328-000.

Opinion No. 502.² Koch requests the Commission permit FERC No. 20.2.0 to be effective on June 5, 2011, on 24 days notice.

2. As discussed below, the Commission grants Koch request for special permission to waive the Commission's 30 day notice requirement. In addition, the Commission will accept and suspend the referenced tariffs, effective May 29, 2011 and June 5, 2011 respectively, subject to refund and consolidate them with the ongoing proceedings in Docket No. IS09-348-004, *et al.* with respect to strategic reconfiguration (SR) issues, and sever the non-strategic reconfiguration (Non-SR) issues holding them in abeyance pending the outcome of the consolidated cases in Docket No. IS09-348-000, *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. Conoco and Koch are two of the five carrier-owners of TAPS, where each owner possesses an undivided joint interest and entitlement to its percentage ownership share of TAPS capacity.³

4. Prior to Opinion No. 502, each TAPS Carriers charged individual rates for interstate service that varied significantly between 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 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, *et al.*⁴ The order stated that while the Commission established a clear policy in Opinion No. 502 that a uniform rate

² Opinion No. 502, 123 FERC ¶ 61,287, *order on reh'g*, 125 FERC ¶ 61,215 (2008).

³ The other TAPS Carriers are BP Pipelines (Alaska) Inc., ExxonMobil Pipeline Company, and Unocal Pipeline Company.

⁴ *BP Pipelines (Alaska) Inc.*, 127 FERC ¶ 61,316 (2009) (June 30 Order).

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.⁵ The June 30 Order stated that the consolidation ensures that the one proceeding will determine a just and reasonable uniform rate for TAPS. 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)⁶, and the SR phase (Docket No. IS09-348-004). Those two cases are now proceeding before separate Presiding Judges pursuant to separate scheduling orders and are in varying stages of completion.

Protests

6. The State of Alaska (Alaska) and Anadarko Petroleum Corporation (Anadarko) filed protests to Conoco's rate filing, and Anadarko filed a protest to Koch's rate filing. They argue that the proposed rate increases have not been shown to be just and reasonable, and the protests raise numerous issues similar to the issues raised with respect to the TAPS Carriers' rate increases filed in 2009 and 2010 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 Docket No. IS09-348-004, *et al.*,⁷ 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.*

Conoco's and Koch's Response

7. Conoco and Koch filed responses to the protests. They contend that the protestors make substantially the same arguments here that protestors put forward

⁵ Certain TAPS Carriers made rate filings after June 30, 2010, which the Commission consolidated with the ongoing Docket No. IS09-348-000, *et al.* proceeding.

⁶ 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, *et al.*

⁷ Alaska asks that the SR issues not be consolidated with the pending proceeding but rather be held in abeyance.

with respect to the 2009 and 2010 tariff filings by the TAPS Carriers, and both ask the Commission to accept their rate filing, subject to refund. They both do not object to protestors' requests to consolidate the SR issues in these proceedings with the SR phase of the consolidated 2009 TAPS Carriers rate proceeding currently pending in Docket No. IS09-348-004, *et al.*, and also do not object to the request 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 Docket No. IS09-348-000, *et al.*

Discussion

8. As stated *supra*, P 5 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, *et al.*, that phase is still in the discovery phase. Consolidating the SR issues in the instant filing in the 004 sub-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 sub-docket. The proceeding addressing the Non-SR issues has progressed much faster, and the Presiding Judge issued his Initial Decision on March 10, 2011.⁸ 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, *et al.* would delay 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, *et al.* proceeding.

9. The Commission finds that Conoco and Koch made adequate initial showings and each Company's filing meets the requirement of a cost-of-service filing under section 346.1 of the Commission's regulations. However, these tariffs by Conoco and Koch raise a number of issues of material fact that cannot be resolved on the record before us and are more appropriately addressed through hearing procedures.

10. The Commission accepts and suspends Conoco's FERC No. 19.2.0, effective May 29, 2011, and accepts and suspends Koch's FERC No. 20.2.0, effective June 5, 2011, both subject to refund, and sets them for hearing. These proceedings involve the same cost of service issues currently under consideration in both the Docket No. IS09-348-000 proceeding and the Docket No. IS09-348-004, *et al.* proceeding. Consolidating the current filing with respect to the SR

⁸ *BP Pipelines (Alaska) Inc.*, 134 FERC ¶ 63,020 (2011).

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, *et al.* proceeding ensures a single proceeding will determine a just and reasonable uniform rate for TAPS.

The Commission orders:

(A) Conoco's FERC No. 19.2.0, is accepted and suspended and made effective May 29, 2011, and Koch's FERC No. 20.2.0, is accepted and suspended and made effective June 5, 2011, both subject to refund and further order of this Commission.

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

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.