

141 FERC ¶ 61,261
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Philip D. Moeller, John R. Norris,
Cheryl A. LaFleur, and Tony T. Clark.

ExxonMobil Pipeline Company
ConocoPhillips Transportation Alaska, Inc.

Docket No. IS13-55-000
Docket No. IS11-306-000, *et al.*
(Consolidated)

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

(Issued December 28, 2012)

1. On November 29, 2012 ExxonMobil Pipeline Company (EMPCO) filed a FERC Tariff Record¹ to become effective January 1, 2013. EMPCO proposes an increase to the interstate rate for transportation of crude oil on its share of the capacity of the Trans Alaska Pipeline System (TAPS) from \$5.97 per barrel to \$6.24 per barrel. The State of Alaska (Alaska) and Anadarko Petroleum Corporation (Anadarko) filed protests to EMPCO's rate filing.
2. The Commission will accept and suspend the referenced tariff, to become effective January 1, 2013, subject to refund, and will consolidate EMPCO's filing with the already-consolidated proceedings in Docket No. IS11-306-000, *et al.*, which are being held in abeyance pending the outcome of the pending 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. EMPCO is one of

¹ ExxonMobil Pipeline Company, FERC Oil Tariff, CRUDE AND PRODUCT TARIFFS, [Purdue Bay-Valdez AK, FERC 402.3.0, 3.0.0](#) .

the five carrier-owners of TAPS. Each owner possesses an undivided joint interest and entitlement to its percentage ownership share of TAPS capacity.²

4. Prior to Opinion No. 502,³ each TAPS Carrier 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 have essentially the same cost of service.

5. Following issuance of Opinion No. 502, the TAPS Carriers filed tariffs to comply with that opinion. Alaska and Anadarko protested those 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 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 because all of the proceedings involve the same issues.⁵ The June 30, 2009 Order stated that the consolidation ensures that the one proceeding will determine a just and reasonable uniform rate for TAPS.

6. By order dated January 13, 2010, the Chief Administrative Law Judge (Chief ALJ) severed the issues raised in the various filings into two phases, the Strategic Reconfiguration (SR) phase (Docket No. IS09-348-004) and the Non-SR phase (Docket No. IS09-348-000). Those two cases are pending according to separate procedural schedules and are in varying stages of completion. Subsequently, in Docket No. IS11-

² The other TAPS Carriers are BP Pipelines (Alaska) Inc. (BP); ConocoPhillips Transportation, Alaska Inc. (Conoco); Koch Alaska Pipeline Company LLC (Koch); and Unocal Pipeline Company (Unocal). Koch and Unocal have cancelled their Tariffs effective August 1, 2012, and are in the process of transferring their TAPS interest to the other TAPS Carriers. Effective January 1, 2013, they no longer will provide service on TAPS.

³ *BP Pipelines (Alaska) Inc.*, 123 FERC ¶ 61,287 (2008).

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

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.

306-000, *et al.*,⁶ the TAPS Carriers' rate increases filed in 2011 were consolidated, set for hearing, and held in abeyance pending the outcome of the proceedings in Docket No. IS09-348-000, *et al.*

Protests

7. Alaska and Anadarko filed protests to EMPCO's rate filing. They argue that the proposed rate increase has not been shown to be just and reasonable, and that EMPCO's filing raises 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, consolidate it with the proceedings in Docket No. IS11-306-000, *et al.*, and hold it in abeyance pending the resolution of the proceedings currently pending in Docket Nos. IS09-348-000, *et al.*, and IS09-348-004, *et al.*

ExxonMobil's Responses

8. EMPCO filed responses to both protests. EMPCO contends that both protests make substantially the same arguments that Alaska and Anadarko advanced with respect to EMPCO's filing in Docket No. IS12-397-000, the TAPS Carriers' various rate filings in Docket No. IS09-348, *et al.*, and in Docket No. IS11-306-000, *et al.*, including the costs of the TAPS Carriers' SR project, including their impact on rate base; costs for dismantling, removal, and restoration (DR&R); rate of return; operating expenses; throughput; base and test periods, carrier direct costs; and pooling and uniform rate issues. EMPCO submits that its FERC Tariff No. 402.3.0 should be accepted and suspended, effective January 1, 2013, subject to refund, and consolidated with the consolidated proceedings in Docket No. IS11-306-000, *et al.*, which are being held in abeyance pending resolution of the ongoing SR and non-SR proceedings in Docket No. IS09-348, *et al.*⁷ EMPCO does not object to Anadarko's request that this filing be consolidated with the proceedings in Docket No. IS13-62-000.

⁶ *Unocal Pipeline Co.*, 136 FERC ¶ 61,144 (2011). Unocal filed its 2011 TAPS rate increase in Docket No. IS11-546-000, which the Commission accepted and suspended, and consolidated with the proceedings in Docket No. IS11-306-000, *et al.* The parties treat Docket No. IS11-306-000, filed by Conoco, as the lead proceeding for the consolidated TAPS 2011 rate filings.

⁷ EMPCO cites *Unocal Pipeline Co.*, 136 FERC ¶ 61,144, at ordering para. (B) (2011).

Discussion

9. As stated above, the Chief ALJ severed the issues in the pending TAPS rate cases into two phases. The allegations in the protests raise many of the same issues being addressed the SR and Non-SR proceedings in Docket Nos. IS09-348-000, *et al.*, and IS09-348-004, *et al.*,⁸ and are being held in abeyance in Docket No. IS11-306-000, *et al.* Accordingly, the Commission will consolidate EMPCO's filing with the consolidated proceedings in Docket No. IS11-306-000, *et al.*, which are being held in abeyance pending resolution of the ongoing SR and Non-SR proceedings in Docket No. IS09-348-000, *et al.*

10. The Commission finds that EMPCO has made an adequate initial showing and that the instant filing meets the requirement of a cost-of-service filing under section 346.1 of the Commission's regulations.⁹ However, EMPCO's Filing raises a number of issues of material fact that cannot be resolved on the record before the Commission and are more appropriately addressed through hearing procedures.

11. The Commission accepts and suspends EMPCO's FERC Tariff No. 402.3.0, 3.0.0 to become effective January 1, 2013, subject to refund, and sets the instant filing for hearing. This filing involves the same cost-of-service issues currently under consideration in both the Docket No. IS09-348-000, *et al.*, proceedings and the Docket No. IS09-348-004, *et al.*, proceedings. Consolidating EMPCO's filing with the consolidated proceedings in Docket No. IS11-306-000, *et al.*, which are being held in abeyance pending resolution of the ongoing SR and Non-SR proceedings in Docket Nos. IS09-348-000, *et al.*, and IS09-348-004, *et al.*, ensures that a single proceeding will determine a just and reasonable uniform rate for TAPS.

The Commission orders:

(A) EMPCO's FERC Tariff No. 402.3.0, 3.0.0 is accepted and suspended and made effective January 1, 2013, subject to refund and further order of this Commission.

⁸ As stated above, the proceedings in Docket Nos. IS09-348-000, *et al.*, and IS09-348-004, *et al.*, are in varying stages of completion.

⁹ 18 C.F.R. § 346.1 (2012).

(B) This proceeding is consolidated with the consolidated proceedings in Docket No. IS11-306-000, *et al.*, which are being held in abeyance pending resolution of the ongoing SR and Non-SR proceedings in Docket No. IS09-348-000, *et al.* and IS09-348-004, *et al.*

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.