

144 FERC ¶ 61,002
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

SFPP, L.P.

Docket No. IS11-444-001

ORDER MODIFYING OPINION NO. 527

(Issued July 2, 2013)

1. Opinion No. 527, issued June 6, 2013,¹ affirmed the Initial Decision (I.D.) issued on March 16, 2012,² by the Presiding Administrative Law Judge (ALJ). The I.D. held that SFPP, LP (SFPP) was not entitled to implement a proposed 6.8819 percent index-based transportation rate increase on its West Line for the period July 1, 2011, to June 30, 2012. That increase had been accepted, subject to refund, by Commission order issued June 30, 2011.³

2. In its Brief on Exceptions, Trial Staff (Staff) requested that if the Commission affirmed the I.D., the Commission should order refunds, which the I.D. did not address. Specifically, Staff recommended the Commission implement the I.D. by requiring SFPP to refund, within 30 days, all of the amounts collected under the rejected index-based rate increase from July 1, 2011, until the index-based increase ends, file a refund report, and reduce/cancel its currently effective West Line tariffs and reduce those rates effective July 1, 2011. The requested rate reduction was as follows:

- a. The Watson, CA to Phoenix, AZ and East Hynes, CA to Phoenix, AZ rates by 7.82 cents per barrel,
- b. The Colton Transmix Facility rates by 6.76 cents per barrel, and
- c. The Watson, CA to Calnev Pipe Line L.L.C., Colton, CA and East Hynes, CA to Calnev Pipe Line L.L.C., Colton, CA rates by 1.78 cents per barrel.

¹ *SFPP, L.P.*, 143 FERC ¶ 61,213 (2013).

² *SFPP, L.P.*, 138 FERC ¶ 63,017 (2012).

³ *SFPP, L.P.*, 135 FERC ¶ 61,274 (2011).

3. In its Brief Opposing Exceptions SFPP argued that Staff was wrong to claim that the I.D. erred in not ordering SFPP to make refunds. SFPP did not take issue with the amounts of the proposed reduction in rates. The Commission rejected SFPP's contention, and accepted Staff's recommendations. Staff's request was incorporated in Ordering Paragraphs (B) and (C) of Opinion No. 527.

4. On June 20, 2013, SFPP filed a motion requesting that the Commission (1) issue an errata order correcting errors in its calculation of the reduction in SFPP's West Line rates mandated by Ordering Paragraph (C) of Opinion No. 527, and (2) grant an extension of the deadline for the payment of refunds and refund report filing mandated by Ordering Paragraphs (B) and (C) of Opinion No. 527.⁴

5. SFPP asserts that the amount of the rate reduction of the rates in effect July 1, 2011 was in error. SFPP states that while the rate reductions in Ordering Paragraph (C) correctly remove the 2011 Index Adjustment from the West Line rates that were in effect on July 1, 2011, SFPP adjusted its West Line base rates twice since July 1, 2011, once in February 2012, and the second time in August 2012. Thus, SFPP asserts, the July 1, 2011 base rate was not applicable during the entire refund period, and the rate reductions in Ordering Paragraph (C) do not reflect these adjustments.

6. SFPP states that the adjustment in February 2012 was the result of Opinion No. 511-A,⁵ issued in December 2011 which directed SFPP to file revised West Line rates. Accordingly, on January 30, 2012, SFPP made a compliance filing to implement Opinion No. 511-A and submitted a tariff filing to adjust its West Line rates to reflect the new rates that were calculated in the compliance filing (the Opinion No. 511-A Compliance Filing).⁶ The rates in Opinion No. 511-A Compliance Filing became effective on February 1, 2012, and were lower than the West Line rates in effect on July 1, 2011.

7. The second adjustment was made to the West Line rates when SFPP increased the Opinion No. 511-A Compliance Filing rates, effective August 5, 2012, by taking a portion of the Commission's index for the July 1, 2012 to June 30, 2012 period (the 2012 Index Adjustment).⁷ SFPP states that while the West Line rates effective August 5, 2012

⁴ On June 27, 2013, a notice was separately issued extending the deadline for SFPP to comply with Opinion No. 527 until August 5, 2013.

⁵ *SFPP, L.P.*, 137 FERC ¶ 61,220 (2011) (Opinion No. 511-A).

⁶ Compliance Filing Implementing Opinion No. 511-A, Docket Nos. IS08-390-004, *et al.*, (January 30, 2012).

⁷ See FERC Tariff Nos. 196.9.0 and 198.9.0 (applying 5.4 percent of the Commission's 8.6 percent 2012 index Adjustment to the West Line rates).

were higher than the Opinion No. 511-A Compliance Filing rates, they remained below the level of the West Line rates in effect on July 1, 2011. The indexed rates that went into effect on August 5, 2012 are the currently effective West Line rates.

8. SFPP included with the motion a chart showing the applicable rates referred to in Ordering Paragraph (C), for three different periods. The three periods are: (1) July 1, 2011 to June 3, 2012, (2) February 1, 2012, to August 4, 2012, and (3) August 5, 2012 to current 2012 Index Adjustment Rate. As a result, SFPP contends the rate reductions for the three locations should be corrected as follows:

1. Watson, CA to Phoenix, AZ from \$0.0782 to \$0.0734,
2. Colton Transmix Facility, from \$0.0676 to \$0.0630, and
3. Watson, CA and East Hynes, CA to Colton, from \$0.0178 to \$0.0142.

9. SFPP argues that if it must pay excess amounts of refunds, it may not be able to recover the excess amount even if the Commission later corrects the amount of the refunds.

10. SFPP also requests that the Commission extend the time SFPP is required to make the refunds under Opinion No. 527, which would be July 5, 2013. SFPP states this presents an administrative problem because the amount of the refunds will remain open until the Commission acts on SFPP's request to change the refund amount. Secondly SFPP will not know the volumes subject to the refund until sometime after July 8, 2013. Accordingly, it requests that the Commission extend the deadline for compliance until August 5, 2013.

11. Indicated Shippers filed an answer to SFPP's motion. Indicated Shippers state that they have no objection to SFPP's corrected refund amount.

12. As to the requested extension of the date for the refund payment, Indicated Shippers state they "understood SFPP's logistical difficulties in implementing the final refunds on the timetable ordered in Opinion No. 527." Answer at 2. However, Indicated Shippers state that SFPP could calculate the refund based upon the corrected amounts in its motion. Thus, Indicated Shippers request that the Commission order SFPP to make the refund on July 8, 2013 for all volumes through May 31, 2013, and a second payment for subsequent volumes on August 5, 2013.

13. SFPP's request to correct the rate reduction is unopposed, and appears to accurately calculate the appropriate rate reduction for the relevant periods. There also is merit to SFPP's contention that it would encounter administrative problems if it were required to make the refund and file the refund report on July 5, 2013. Further, Indicated Shippers' proposal for two payments is not necessary since no shipper will be harmed if

the entire refund is paid at one time, no more than thirty days later, with interest as appropriate. Accordingly, the Commission grants SFPP's motion.

The Commission orders:

Ordering Paragraph C in Opinion No. 527 is modified as follows:⁸ SFPP shall file revised tariff records to remove the rejected index-based increase from its West Line rates, cancel its currently effective West Line tariffs, and reduce its rates effective July 1, 2011, as follows:

- a. the Watson, CA to Phoenix, AZ and East Hynes, CA to Phoenix, AZ rates by 7.34 cents per barrel,
- b. the Colton Transmix Facility rates by 6.30 cents per barrel, and
- c. the Watson, CA to Calnev Pipe Line L.L.C., Colton, CA and East Hynes, CA to Calnev Pipe Line L.L.C., Colton, CA rates by 1.42 cents per barrel, and
- d. the refund and refund report are due by August 5, 2013.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

⁸ SFPP did not request an extension of the deadline for filing revised West Line tariffs.