

144 FERC ¶ 61,091
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. IS13-502-000

ORDER ACCEPTING TARIFF FILING SUBJECT TO REFUND

(Issued August 1, 2013)

1. On July 3, 2013, SFPP, L.P. (SFPP) filed revised tariff records¹ to implement an increase to its West Line rates pursuant to section 342.3 of the Commission's regulations.² As explained below, the Commission accepts SFPP's proposed tariff records to be effective August 3, 2013, as proposed, subject to refund and the outcome of ongoing proceedings in Docket Nos. IS08-390-000, *et al.*, IS11-444-000, *et al.*, and IS13-416-000, *et al.*

Background

2. Oil pipelines may increase their ceiling levels every July 1 to reflect the most recent index adjustment published by the Commission. A pipeline may, at its discretion, also increase its rates pursuant to the Commission's indexing regulations up to these new ceiling levels.³ A rate that is not immediately increased to the ceiling level may nonetheless be increased to the ceiling level at a later time.⁴

¹ SFPP, L.P., FERC Oil Tariff, SFPP Tariff Database, [Calnev Line, FERC 196.12.0, 196.12.0](#); [West Line, FERC 198.12.0, 198.12.0](#).

² 18 C.F.R. § 342.3 (2012).

³ *Id.* § 342.3(a).

⁴ *Revisions to Oil Pipeline Regulations Pursuant to the Energy Policy Act*, Order No. 561, FERC Stats. & Regs. [Regulations Preambles, 1991-1996 ¶ 30,985, at 30,954 (1993)].

3. In this proceeding, SFPP states that it has filed to increase its West Line rates pursuant to the Commission's indexing methodology. SFPP states that after applying the rate increase, its West Line rates remain below the applicable ceiling levels.

Interventions, Protests, and Answer

4. On July 18, 2013, BP West Coast Products LLC, Valero Marketing and Supply Company, Continental Airlines, Inc., Delta Airlines, Inc., Southwest Airlines Co., US Airways, Inc., and Tesoro Refining and Marketing Company (collectively, Indicated Shippers) filed a protest. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2012), all timely filed motions to intervene and any unopposed motions to intervene out-of-time filed before issuance of this order are granted.

5. The Indicated Shippers argue that SFPP has improperly sought to increase its West Line rates above the applicable ceiling levels. The Indicated Shippers note that in Opinion No. 527 the Commission rejected SFPP's proposed 2011 index rate increase and required SFPP to remove the 2011 index rate increase from its rates effective July 1, 2011.⁵ The Indicated Shippers contend that Opinion No. 527 mandates a commensurate reduction in SFPP's West Line ceiling levels. The Indicated Shippers allege that SFPP's filing violates the ceiling levels as adjusted by Opinion No. 527. The Indicated Shippers also state that SFPP's West Line rates are currently subject to ongoing proceedings in Docket Nos. IS08-390-000, *et al.*, IS11-444-000, *et al.*, and IS13-416-000, *et al.*, and that any Commission acceptance of SFPP's proposed index rate increase must be subject to the outcome of those proceedings.

6. On July 23, 2013, SFPP filed an answer. In its answer, SFPP states that Opinion No. 527 only rejected an indexing increase to SFPP's rates, not SFPP's ceiling levels. SFPP emphasizes that under Commission regulations, a pipeline's ceiling levels are set without regard to any rate increases pursuant to the indexing methodology.⁶ Thus, if a pipeline forgoes an indexing rate increase in any given year, the pipeline's ceiling level will increase nonetheless as provided by the indexing methodology. Accordingly, SFPP states that the Commission should accept its filing.

Discussion

7. The Commission accepts SFPP's proposed rate increase subject to refund and the outcome of ongoing proceedings relating to SFPP's existing West Line rates. Contrary to

⁵ Indicated Shippers Protest at 4 (citing *SFPP, L.P.*, Opinion No. 527, 143 FERC ¶ 61,213 (2013)).

⁶ SFPP Answer at 6 (citing 18 C.F.R. § 342.3(d)(3) (2012))

the assertions of the Indicated Shippers, SFPP's proposed rates do not exceed the applicable ceiling levels. The Commission's holding in Opinion No. 527 was limited to the particular indexing rate increase sought by SFPP in that proceeding.⁷ Although the Commission rejected SFPP's proposed West Line 2011 indexing rate increase, this rejection neither changed SFPP's ceiling levels nor precluded SFPP from proposing to raise its rates to the ceiling level at a later time. SFPP's ceiling levels change with the index independent of SFPP's rate changes pursuant to the indexing regulations.⁸ To the extent that SFPP's rates remain under the applicable rate ceiling, the protest makes no claim that SFPP's rate increase is "so substantially in excess of the actual cost increases incurred by the carrier that the rate is unjust and unreasonable...."⁹ Accordingly, the Commission finds no reason either to reject SFPP's proposed indexing increase or to initiate an investigation.

8. SFPP's filing proposes to change its West Line rates which are the subject of ongoing proceedings. Accordingly, SFPP's FERC Tariff Nos. 196.12.0 and 198.12.0, are accepted to be effective August 3, 2013, subject to refund and the outcome of ongoing proceedings in Docket Nos. Docket Nos. IS08-390-000, *et al.*, IS11-444-000, *et al.*, and IS13-416-000, *et al.*

The Commission orders:

FERC Tariff No. 196.12.0 and FERC Tariff No. 198.12.0, are accepted to be effective August 3, 2013, subject to refund and the outcome of ongoing proceedings in Docket Nos. IS08-390-000, *et al.*, IS11-444-000, *et al.*, and IS13-416-000, *et al.*

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

⁷ Opinion No. 527, 143 FERC ¶ 61,213 at ordering para. (C).

⁸ 18 C.F.R. § 342.3(c)(3) (2012) ("A carrier must compute the ceiling level each index year without regard to the actual rates filed pursuant to this section."); *SFPP, L.P.*, 143 FERC ¶ 61,267, at P 9 (2013).

⁹ 18 C.F.R. § 343.2(c)(1) (2012).

Document Content(s)

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