

UNITED STATES OF AMERICA 100 FERC ¶ 61,353  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;  
William L. Massey, Linda Breathitt,  
and Nora Mead Brownell.

SFPP, L.P.	Docket Nos. OR92-8-013-015 OR93-5-010-012 OR94-3-009-011 OR94-4-010-012
Mobil Oil Corporation v. SFPP, L.P.	OR95-5-008-010
Tosco Corporation v. SFPP, L.P.	OR95-34-007-009
SFPP, L.P.	IS99-144-005-007
SFPP, L.P.	IS00-379-002-004 IS02-46-001 IS02-82-001

ORDER ON REHEARING, COMPLIANCE AND TARIFF FILINGS

(Issued September 26, 2002)

1. This order addresses several compliance filings made by SFPP, L.P. (SFPP), in response to the Commission's September 13, 2001 order issued in Opinion No. 435-B,<sup>1</sup> as well as several related rehearing requests. The Commission denies rehearing of the shipper parties concerns regarding reparations and SFPP's assertions regarding retroactive rate making, grants one minor request for clarification regarding the timing of

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<sup>1</sup>SFPP, L.P., 96 FERC ¶ 61,281 (2001) (Opinion No. 435-B).

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reparations, and directs SFPP to file a revised compliance filing and related tariffs within 30 days after this order issues.

### **I. Procedural Background**

2. This proceeding addresses challenges to SFPP's East Line rates between El Paso, in the east, and Tucson and Phoenix, to the west, between late 1993 and August 1, 2000. It has culminated in three decisions, Opinion Nos. 435, 435-A, and 435-B.<sup>2</sup> The compliance filing for Opinion No. 435 was addressed by Opinion No. 435-A, issued May 17, 2000. Opinion No. 435-A required SFPP to make an additional compliance filing to reflect certain changes to the rate methodology that had been developed in Opinion No. 435.<sup>3</sup> That compliance filing was made on July 17, 2000, and was addressed by Opinion No. 435-B, issued on September 13, 2001. Opinion No. 435-A also required SFPP to make a tariff filing to implement certain rate design requirements of Opinion No. 435-A. In response, SFPP filed Tariff No. 60 in Docket No. IS00-379-000, also on July 17, 2000. Tariff No. 60 involved a rate reduction to SFPP's East Line rates.<sup>4</sup> The Commission accepted and suspended Tariff No. 60 on August 16, 2000, to be effective August 1, 2000.<sup>5</sup> Tariff No. 60 was supplanted by Tariff No. 61, effective December 1, 2000, which did not revise the rates at issue here.

3. Opinion No. 435-B resulted in a number of requests for rehearing and clarification, as well as challenges to some of the directions for calculating the estimated reparations SFPP was required to prepare pursuant to Opinion No. 435-B. The Commission addressed these requests in an order issued November 7, 2001.<sup>6</sup> One minor request for clarification of that November 7 order will be addressed below. Opinion No. 435-B also required that SFPP revise its prior tariff filing in Docket No. IS00-379-000

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<sup>2</sup>SFPP, L.P., 86 FERC ¶ 61,022 (1999) (Opinion No. 435); SFPP, L.P., 91 FERC ¶ 61,145 (2000) (Opinion No. 435-A); Opinion No. 435-B, supra.

<sup>3</sup>Opinion No. 435-A, 91 FERC at 61,498 and 61,520-21.

<sup>4</sup>This was the first tariff filing SFPP made in this proceeding since Opinion No. 435 did not require a tariff filing.

<sup>5</sup>SFPP, L.P., 92 FERC ¶ 61,166 (2000).

<sup>6</sup>SFPP, L.P., 97 FERC ¶ 61,138 (2001)

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(which contained Tariff No. 60) and make such revisions effective as of August 1, 2000.<sup>7</sup> SFPP filed Tariff No. 67 in response on November 16, 2001, in Docket No. IS02-46-000. While the filing in Docket No. IS02-46-000 was pending, SFPP advised the Commission that it had made a mistake in calculating the level of the five year surcharge included in that filing, and therefore filed Tariff No. 68 on December 14, 2001, in Docket No. IS02-82-000. Tariff No. 68 increased the level of surcharges in Tariff No. 67 and several earlier tariffs. Tariff Nos. 67 and 68 were rejected by two separate director letter orders on December 20, 2001, on grounds that they did not have an August 1, 2000 effective date as required by Opinion No. 435-B.<sup>8</sup>

## **II. Interventions and Protests**

4. The protesting parties to the two compliance filings include ARCO and ExxonMobil (filing jointly) (ARCO), Refinery Holding Company (RFC), Navajo Refining Company, L.P. (Navajo), Chevron Holding Company (Chevron), and Ultramar Diamond Shamrock Corporation (Ultramar). These are collectively the protesting parties. Chevron filed for permission to intervene and comment a one day late in response to the November 20, 2001 filing. The request is granted as Chevron has demonstrated good cause shown and late intervention will not prejudice any other party.

5. Ultramar filed for an intervention on December 28, 2001. While this intervention is out of time for SFPP's November 20 filing, it is in time for the revised filing on December 14, 2001. Since Ultramar has raised no new issues to which SFPP has not had an opportunity to respond, the requested late intervention will be granted. SFPP filed a response to the protests on December 10, 2001.

6. The protesting parties raise four issues: (1) the method for determining the possible recovery by SFPP of any supplemental costs, if any; (2) whether certain settlement payments by SFPP should be considered eligible FERC litigation costs that may be included in the East Line rates; (3) whether the amount of any past surcharges for supplemental costs authorized by the Commission should be included in the refund calculations that may be due under this order; and (4) whether SFPP has adequately documented the scope of ownership interests in calculating the income tax allowance component of its cost of service. Chevron and Navajo again raise issues regarding their

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<sup>7</sup>Id.

<sup>8</sup>Unpublished Director letter orders issued by the Director, Tariffs and Rates Central, December 20, 2001.

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eligibility for reparations under the Commission's prior orders in this proceeding. These parties raised these issues both in requests for rehearing and in their comments of SFPP's November 20, 2001 and December 14, 2001 compliance filings.

### **III. Discussion**

7. This order addresses two main sets of issues. The first involves whether SFPP properly applied the methodology developed in Opinion No. 435-B in making its compliance filings in Docket Nos. IS02-46-0000 and IS02-82-000. The protesting parties assert that it has not. The second set involves the date upon which any revised rates required by Opinion No. 435-B may be made effective. SFPP argues that any revised rates may not be made effective on August 1, 2000 under the doctrine stated in Arizona Grocery Co. v. Atchison, T. & S.F. Ry. Co.,<sup>9</sup> and seeks rehearing of the determination that the compliance filings made in response to Opinion No. 435-B must have an August 1, 2000 effective date.

#### **A. The Methodology of the Compliance Filing**

8. There are two types of compliance filings now before the Commission in the instant proceedings. The first, made in Docket No. OR92-8-013, shows SFPP's calculations for determining how its East Line rates should be structured to reflect the requirements of Opinion No. 435-B. SFPP later amended that in Docket No. OR92-8-015 to address the exclusion of the interest element from the calculation of the total potential reparation pool that would be due under the Commission's prior orders. The second is the level of the proposed rates that SFPP has filing in response to that opinion, which SFPP filed in Docket Nos. IS02-46-000 and IS02-82-000.

##### **1. The calculation for the recovery of supplemental costs**

9. In Opinion No. 435-B the Commission disallowed the recovery of any supplemental costs other than litigation expenses for FERC administrative proceedings for the years 1995 through 1998.<sup>10</sup> These so-called supplemental costs are those that SFPP incurred in excess of FERC litigation costs that it was permitted to include in its cost of service under Opinion No. 435-A. The supplemental costs were to be recovered after offsetting the supplemental costs against portions of a reparations pool that would

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<sup>9</sup>284 U.S. 370, 387-90 (1932)(Arizona Grocery).

<sup>10</sup>Opinion No. 435-B, 96 FERC at 62,069-71.

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otherwise have been paid to certain shippers if they had been eligible to receive reparations. If the offset was inadequate to cover all the supplemental costs, then SFPP would be permitted to institute a surcharge to recover the difference over 5 years.

10. The central technical issue is whether the supplemental costs should be measured against the reparations pool that may exist in each year for which reparations are owed, or against the total reparations pool for the entire reparations period. In its compliance filing, SFPP first determined the total reparations owed in each year of the reparations period. It then subtracted the reparations that were due the eligible shippers in each such year and determined how much of the reparations pool remained. It then measured the allowable FERC litigation expenses against the remainder available in each year and determined if there was a surplus or a deficit. If there was a remainder, SFPP did not credit that surplus of that year to any other year in the reparations period for which the allowable FERC litigation expenses exceeded the remainder of reparations for that year. It then summed the shortfall for the deficient years and used that sum as the basis for the five year surcharge included in its compliance filings. The protesting parties assert that SFPP should have determined the total reparations pool that was available for the reparations period, subtracted all reparations owed the eligible shippers, and developed a total remainder of reparations that would be applied to offset all allowable FERC litigation expenses. They assert that if this procedure is used, no surcharge would be needed given the calculations involved in the latest compliance filing.

11. The Commission finds that the protesting parties have made the proper interpretation of the Commission's prior orders. As pointed out by the protesting parties, the intent of the prior orders is to determine the total amount of reparations that would be owed, then determine the amount of reparations that would not be paid because certain shippers are ineligible to receive reparations, and then offset the allowable supplemental costs against that amount. Otherwise SFPP will recover the supplemental costs in part through revenues that were generated by rates that were in excess of the just and reasonable rate determined for the reparations period, and thereafter through the surcharge to recover any deficit for the same period under the method proposed by SFPP. As Opinion No. 435-A states:

SFPP will calculate the gross reparations that would be due if all shippers that had used the East Line had filed complaints for the applicable

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reparations period. This will establish the total revenue that was received in excess of the new East Line rates established by the prior order.<sup>11</sup>

12. SFPP asserts that this approach is inconsistent with the Commission's prior determination that reparations must be calculated on the basis of each year for which any reparations may be due in order to avoid problems with the filed rate doctrine.<sup>12</sup> This argument is without merit. As stated in Opinion No. 435-B, the solution in that order was designed to assure that those shippers entitled to reparations did not have their reparations reduced by sums that might be used to offset the allowable supplemental costs. Moreover, this solution assured that shippers who have not received reparations under this order would not be precluded from arguing that additional reparations may be due for rates paid after August 7, 1995.<sup>13</sup> SFPP must, therefore, recalculate the supplemental costs that might be recovered through a prospective five year surcharge and to revise its compliance filing accordingly.

13. The protesting parties also assert that SFPP improperly included supplemental costs for the years 1999 and 2000 in its compliance filing. They assert that the Commission limited the recovery of supplemental costs to the years 1995-1998 in Opinion No. 435. SFPP asserts that Opinion No. 435-B extended the reparation period to August 1, 2000, and that therefore the Commission should permit the supplemental costs to cover the same period. While SFPP's argument has some surface appeal, the Commission concludes that the offset procedure should be limited to the years 1995-1998 for several reasons. First, it is difficult to conclude just what SFPP's FERC litigation expenses were for the years 1999 and 2000. SFPP's compliance filing suggests that the total was some \$327,000. However, in a related docket involving the rates for SFPP's Line 109 from Sepulveda Junction to Watson Station, SFPP's testimony suggests that the actual costs for that litigation were \$1,312,000 through September 1999, and

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<sup>11</sup>Opinion No. 435-A, 91 FERC at 61,518.

<sup>12</sup>Id., 61,517-18.

<sup>13</sup>Id. Shippers who filed amended complaints that covered the years 1995-1998 would be eligible for additional reparations in those years if the litigation determined that the rates for those year should be lower than the rates ultimately used to calculate the reparation levels pursuant the Opinion No. 435 series of orders.

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were estimated at \$1,729,000 for the entire year.<sup>14</sup> This highlights the uncertainty that would be involved in an effort to close out FERC administrative litigation costs for the years 1999 and 2000 since those costs are not solely related to the instant proceeding. Moreover, in January 1999, certain shipper complainants made their first filings in the second phase of the maximum rate litigation against SFPP, and that litigation has accelerated thereafter. Since 1999 is the last test year for that proceeding, an issue in establishing SFPP's any new long term rates would be the level of the legal costs to be embedded in such rates.

14. Thus, the Commission will not address here the issue of the recovery of administrative litigation costs for the years 1999 and 2000. This will also avoid the need to address at this time the concern expressed in Opinion No. 435-B that SFPP's regulatory costs could reasonably be considered excessive.<sup>15</sup> SFPP must revise its compliance filing to exclude any FERC litigation costs that were incurred in 1999 or 2000.

## **2. The inclusion of FERC Settlement Costs in the Supplemental Costs**

15. RFC and Navajo assert that the amounts paid to them in 1996 and 1997, respectively, in settlement of certain pending FERC litigation should not be included as part of the supplemental costs in those years. SFPP included 50 percent of those settlement costs in its calculation of the supplemental costs to be attributed to the East Line shippers. RFC and Navajo assert that a party that has received a settlement should not be required to pay for its own settlement through ongoing rates. SFPP asserts that the Commission's prior orders did not exclude FERC settlement costs and that traditionally these are recovered in part through cost of service rates.

16. The Commission concludes that SFPP should not be permitted to include FERC related settlement payments in its rates. The Commission has permitted SFPP to recover FERC related administrative litigation costs such as legal and consultant fees. This is because unlike the case of the civil litigation discussed in the prior orders, such costs arise in the context of a jurisdictional proceeding that will determine the level of the jurisdictional rates. The settlement costs, however, are in the nature of refunds or reparations for rates or services that were determined by mutual agreement, to be unjust

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<sup>14</sup>Docket No. OR98-11-000, Testimony of George R. Ganz, Exhibit No. 4 (GRG-4) at 14.

<sup>15</sup>96 FERC at 62,075.

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and unreasonable. As the protesting parties point out, SFPP's inclusions of those costs is based on the assumption that the company could return to shippers revenues that were in essence unjust and unreasonable, and then institute a tariff to bill the revenues returned to specific customers to those customers and others who were not parties to the settlement. This is inconsistent with the Commission's policy that settlement payments are absorbed by the company. Therefore SFPP must exclude the FERC related settlement amounts from its compliance filing.

### **3. Whether refunds are due for surcharges previously collected**

17. The protesting parties also assert that SFPP has not allowed for refunds for the surcharge that was collected between August 1, 2000 and December 1, 2001 under its prior compliance filing, which had a December 1, 2001 effective date, rather than the August 1, 2000 effective date that the Commission ordered. They assert that since the proper calculation of the supplemental costs indicates that no surcharge is required, the collections under the prior surcharge should be refunded. SFPP asserts that to require any such refund would violate the filed rate doctrine, as enunciated in Arizona Grocery. This contention is without merit since the order permitting SFPP to impose a prospective surcharge by means of its FERC Tariff No. 60, which included the surcharge at issue here, was subject to refund.<sup>16</sup> SFPP's view is that the revised calculation of the surcharge may actually result in a greater surcharge. This may or may not be the case depending on how SFPP recalculates the supplemental costs that can be recovered, as required by this order. However, if a surcharge is not warranted, or should be less than that calculated under Tariff No. 60, SFPP must make refunds accordingly.

### **4. Computation of the Income Tax Allowance**

18. Opinion No. 435-B required the SFPP partnership to provide additional documentation on the distribution of its ownership interests between owners that have taxable and non-taxable interests. If the interest is held by a non-corporate entity, Opinion Nos. 435 and 435-A applied the so-called Lakehead doctrine. This precludes inclusion of such interests in the calculation of federal income tax allowances, because the partnership interests are not subject to double taxation and therefore never incur "double" federal income tax costs.

19. SFPP's November 20, 2001 compliance filing included the affidavit of Richard L. Bullock, which lists corporate owners for the period to which the compliance filing applies. The protesting parties assert that one group of entities listed in the affidavit, Pioneering Management Corp., and Pioneer II, Inc., were mutual funds and should be excluded from the list. They also assert that inclusion of the two firms, that SFPP should have known were mutual funds at the time, taints the entire list. They therefore request that any determination on this issue be deferred until after the completion of the ongoing litigation now before the Commission. SFPP in reply asserts that the list was compiled in good faith, that it meets the requirements of the Commission's orders, and that the

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<sup>16</sup>SFPP, L.P., 92 FERC at 61,564.

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affidavit should be accepted. SFPP points out that the disputed entity is less than one tenth of one percent of the total unit holders and has no material impact on the filing.

20. The material submitted by Ultramar establishes that of the two entities, the Pioneer II entity was a Massachusetts business trust and clearly operates as a mutual fund. While the Commission will reject the request that this issue be further prolonged, SFPP must exclude the ownership interests attributable to the Pioneer II entity from the calculations in its revised compliance filing. The Pioneer Management Corp., does not appear to be a mutual fund and therefore SFPP may continue to include it in the tax allowance calculations.

### **5. Eligibility for Reparations.**

21. Three parties again raise the issue of their eligibility for reparations under the Commission's prior orders. Chevron requests rehearing or clarification that it is entitled to reparations for its shipments on the East Line for the two years prior to the filing of its complaint in the instant proceedings. Opinion No. 435-B did not literally state that Chevron was eligible for reparations, but this was its clear intent, and SFPP in fact included Chevron in its calculations of the reparations due for the period two years before the complaint.

22. Navajo protests that SFPP has failed to include its filing reparations that extend beyond the period permitted in the Commission's prior orders. The Commission does not intend by its rulings here to imply that Navajo is entitled to reparations beyond that authorized in Opinion Nos. 435 and 435-A. In its protest, ARCO again asserts that it should be granted reparations for the period before August 7, 1995 covered by the opinions issued in this proceeding because it filed a complaint against the East Line rates on January 14, 1994, and that the same argument applies to Mobil (now Exxon Mobil) which filed a purported complaint on April 23, 1995, amended June 25, 1995. The Commission has consistently rejected these assertions, which are now before the Court of Appeals for the District of Columbia circuit in ARCO v. FERC, Case No. 99-1020.

### **B. The Effective Date of the Revised East Line Rates**

23. The remaining issue to be addressed is the effective date of any revised rates required by this order. As has been discussed, the Commission did not accept any of the

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proposed East Line rates that were filed to comply with Opinion No. 435.<sup>17</sup> There were no rate changes to the East Line rates until the rates filed in Docket No. IS00-329-000 to comply with Order No. 435-A were accepted and suspended on August 16, 2000, to be effective August 1, 2000. Opinion No. 435-B required that any modifications to those compliance rates also be effective on August 1, 2000. SFPP has challenged this ruling as inconsistent with the requirements of Arizona Grocery, supra. SFPP asserts that any changes to the August 1, 2000 rates can be made only prospectively, and thus no reparations or refunds can lie for a rate reduction.

24. Under the doctrine established in Arizona Grocery, once the Commission has declared a maximum reasonable rate to be charged by a carrier, it cannot subsequently subject a carrier to the payment of reparations for charging that reasonable rate.<sup>18</sup> Here, the Commission had not declared what are the maximum reasonable rates to be charged by SFPP for its East Line services. The prior opinions issued by the Commission and the filings made by SFPP to comply with those opinions are part of the process leading to a finding of what the specific reasonable rates should be. That finding, however, has not yet been made. Thus, SFPP's argument is inapposite.

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<sup>17</sup>The Commission did accept and suspend rates SFPP filed in relation to the so-called dry drain facilities located in California. Those rates were filed in Docket No. IS99-144-000 and were accepted and suspended subject to refund. Opinion No. 435-A lifted the refund obligation attached to those rates.

<sup>18</sup>In that case, the Interstate Commerce Commission (ICC) made an explicit finding that the specific maximum reasonable rate would be 96.5 cents. On September 17, 1921, the carriers promulgated a rate of 96 cents, which they later voluntarily reduced to 86.5 cents. On November 3, 1922 [more than one year after the ICC order and the compliance by the carrier] certain of the complainants in the earlier proceeding, other than the petitioner, filed a new complaint attacking the specifically stated legal rate previously established by the ICC. See 282 U.S. at 381-82; 32 S.Ct. at 183. It is clear from the Supreme Court's decision that the failure of the Interstate Commerce Commission was to attempt to revisit its prior decision retroactively after it had fixed a specific rate, the carriers had complied, and the case was closed. The Commission did so in the context of a new complaint attacking the current rate. None of these factors is involved in the existing case, which is quite consistent with this Commission's established practice in this type of complex proceeding.

25. For this reason, the first purpose of the various opinions issued in this proceeding is to arrive at the correct methodology for establishing oil pipeline rates under the Commission's Opinion No. 154-B methodology.<sup>19</sup> As such, none of the prior opinions or orders in these proceedings have established a final, specific rate level that SFPP should include in any final and definitive compliance filing. In fact, it became clear after the issuance of Opinion No. 435 that the large number of requests for rehearing and continued review of technical issues raised by comments to SFPP's first compliance filing (that to Opinion No. 435), would necessitate a further compliance filing. In Opinion No. 435-A, the Commission therefore directed SFPP to make a new compliance filing, including for the first time that SFPP prepare a set of proposed rates as part of that subsequent compliance filing.

26. There were numerous protests to the proposed rates contained in Tariff No. 60, which SFPP filed to comply with Opinion No. 425-A. In light of those protests and the resulting uncertainty regarding the rates proposed in compliance with Opinion No. 434-A, which was the foundation for the tariff filing, the Commission accepted and suspended Tariff No. 60 subject to refund. Thus, it is clear that the Commission had not reached a final determination on the methodology to be used to design SFPP's East Line rates at the time it accepted Tariff No. 60 subject to refund or on the level of those rates. The fact that no final determination was made by any of these opinions is reflected in the Commission's own proposal in Opinion No. 435-A to make the rate methodology adopted in that opinion effective on the date first suggested in Opinion No. 435, namely, April 1, 1999.

27. The reason the Commission accepted the rates proposed in Tariff No. 60 subject to suspension and refund, in contrast to its action in Opinion No. 435, was out of equitable concern for the East Line shippers that are not eligible for reparations in this proceeding. Under Opinion No. 435-A, East Line shippers who were not eligible for reparations would continue to pay rates higher than those that might ultimately be determined to be just and reasonable until such time as a final and definitive prospective rate was determined. This would also be true for the shippers that were eligible for reparations, but this latter group would be protected through the ultimate receipt of their reparations. The Commission accepted the rates proposed in Tariff No. 60, effective August 1, 2000, subject to refund, in order to provide some interim rate relief to those East Line shippers who would not be eligible for reparations. This interim relief was necessitated in part because of the numerous objections to the prior orders by SFPP itself

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<sup>19</sup>See generally Opinion No. 435, 62 FERC at 61,085-61,104.

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and the technical problems in SFPP's compliance filings, some of which involved clear overreaching. These include the inclusion of FERC settlement costs in its proposed litigation costs and the refusal to offset the supplemental costs permitted against the total potential reparations pool as was clearly contemplated by Opinion No. 435-B. Under the structure adopted in the prior orders, the East Line shippers not entitled to reparations would obtain at least some rate relief during this protracted proceeding.

28. For these reasons it is clear that, given the convoluted context of this proceeding, the Commission never intended that the rates approved, subject to refund, on an interim basis in Tariff No. 60 to be final rates. In fact, the order expressly anticipated a future final determination, as follows:

Navajo's protest raises numerous issues regarding the calculations contained in SFPP's filing. At this time there are also outstanding further requests for rehearing by SFPP, Refinery Holding Company, L.P., and Chevron Products Company (Chevron) that could materially affect the calculations [in] of SFPP's July 17 filing.. The Commission will therefore follow the practice adopted in Opinion Nos. 435 and 435-A of ruling on the requests for rehearing, the compliance filings, and a number of procedural issues related to SFPP's continuing litigation in a single order to be issued subsequent to this order.<sup>20</sup>

29. It is also clear from the foregoing that all parties were on notice that the Tariff No. 60 rates filed in Docket No. IS00-379-000 were not final rates, and were also on notice that those rates might be modified retrospective to the initial effective date of August 1, 2000. To argue otherwise simply ignores the clear language of the cited order and the obvious recognition by the Commission that further work would be required in these proceedings. Moreover, SFPP's argument that there can be no reparations for a rate reduction to a lawful rate initiated by the carrier is simply inapposite as that is not the issue here. The issue here is the lawfulness of the rate filed by the carrier to comply with a Commission order. As such, SFPP's argument that reparations are precluded in the context of a carrier initiated rate reduction is irrelevant since SFPP has not made an initial rate filing to reduce an established lawful rate.

30. Finally, the Commission emphasizes that its action in this case does not violate the doctrine in Arizona Grocery. As previously stated, there has been no final action by the

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<sup>20</sup>SFPP, L. P., 92 FERC at 61,564.

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Commission that establishes the rates contained in Tariff 20 as final lawful rates. This cannot occur under a situation where the Commission has expressly reserved its authority in the context of an ongoing proceeding in which the methodology for determining the rate had not even been established. This is in direct contrast to the situation that occurred in Arizona Grocery. SFPP's request for rehearing is denied and the new compliance filing shall be effective August 1, 2000, so that all East Line shippers will be equally affected by its terms.

The Commission orders:

(A) SFPP's request for rehearing is denied and Chevron's request for clarification is granted for the reasons stated in the body of this order.

(B) The Director's rejection of the tariffs filed in Docket Nos. IS02-42-000 and IS02-82-000 is affirmed for the reasons discussed in the body of this order.

(C) SFPP is directed to make a revised compliance filing consistent with the terms of this order within 30 days after this order issues. It is also directed to file revised tariffs consistent with the terms of this order, also within 30 days after this order issues. The revised tariffs are to be effective August 1, 2000. SFPP's filing must include supporting work papers consistent with the format used to make the compliance filing in Order No. 435-B.

(D) In its revised compliance filing SFPP shall calculate any additional surcharge that is due as of August 1, 2000, or any refunds that are due for the collection of the surcharge previously instituted on that date, and shall provide work papers supporting the calculation. Refunds and reparations that may be due under the revised compliance filing shall be paid to the relevant parties within 60 days of any order approving the revised compliance filing.

By the Commission.

( S E A L )

Linwood A. Watson, Jr.,  
Deputy Secretary.