

114 FERC ¶61,133
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Nora Mead Brownell, and Suedeen G. Kelly.

Chevron Products Company
(Complainant)
v.

Docket No. OR03-5-000

SFPP, L.P.
(Respondent)

BP West Coast Products LLC
and ExxonMobil Oil Corporation

v.

Docket No. OR05-4-000

SFPP, L.P.

ConocoPhillips Company

v.

Docket No. OR05-5-000

SFPP, L.P.

SFPP, L.P.

Docket No. OR92-8-025

Docket No. OR03-5-001

ORDER SETTING PORTIONS OF PENDING COMPLAINTS FOR HEARING

(Issued February 13, 2006)

1. This order sets portions of the captioned complaints against SFPP, L.P. for hearing and consolidates them into a single proceeding. In addition, this order corrects an oversight in one of the Commission's prior orders by consolidating that portion of the complaint in Docket No. OR03-5-000 against the Watson Station volumetric deficiency charge (Watson Station charge) with the same issue now under litigation in Docket No.

OR92-8-025. The remaining issues in the captioned dockets will be set for hearing once the interim rates become effective on May 1, 2006 in Docket No. OR92-8-024, *et al.* and Docket No. OR96-2-010, *et al.*¹

2. By way of background, the captioned dockets include complaints filed against virtually all of SFPP rates in July 2003², and in December 2004.³ The rates so challenged included the Sepulveda Line rate, Watson Station charge, and SFPP's West, East, North, and Oregon line rates. An initial decision addressing finding that the Sepulveda Line rates are not just and reasonable is now before the Commission.⁴ Commission action on that initial decision could resolve most issues concerning those rates. The Commission also consolidated all complaints against the Watson Station charges (including those in Docket No. OR04-3-000) into a single docket with the exception of those in filed in Docket No. OR03-5-000.⁵ The Commission is doing so here to correct that exception.

3. The remainder of the complaints listed in the caption are against SFPP's North, Oregon, West and East Line rates. At the time these complaints were filed in July 2003 and December 2004 the North and Oregon Line rates were grandfathered under section 1803(b) of the Energy Policy Act of 1992.⁶ Therefore before there may be any challenge to the reasonableness of those rates in the captioned proceedings, the complainants must establish that there was a substantial change in the economic circumstances of the oil

¹ See *SFPP, L.P.*, 113 FERC P 61,277 (2005) (December 2005 Order) at Ordering Par. A.

² *Chevron Products Company v. SFPP*, 105 FERC ¶ 61,142 (2003).

³ *BP West Coast Products LLC, et al. v. SFPP, L.P.*, 110 FERC ¶ 61,183 (2005).

⁴ *Texaco Refining and Marketing, Inc. et al. v. SFPP, L.P.*, 112 FERC ¶ 63,020 (2005).

⁵ *American West Airlines, et al. v. SFPP, L.P.*, 112 FERC ¶ 61,209 (2005). The *American West Airlines* complaint is not relevant here because it did not involve complaints against SFPP's North Line rates, but only its West Line rates and the Watson Station charge.

⁶ See section 1803(b) of the Energy Policy Act, Pub. L. 102-486, 106 Stat. 2772 (1992) (EP Act). Section 1803(a)(1) provides that any rate in effect for the 365-day period ending on the date of the enactment of this Act shall be deemed just and reasonable (within the meaning of section 1(5) of the Interstate Commerce Act). See also the December 2005 Order at P 8 and footnote 16 for the Commission's prior determinations regarding the jurisdictional status of the North and Oregon Line rates.

pipeline which were the basis for those rates.⁷ In contrast, SFPP's East Line and West Line rates were never grandfathered, or have been found to be no longer grandfathered, for periods preceding the time the instant complaints were filed.⁸ Thus the complainants do not have to prove substantially changed circumstances in order to challenge those rates.

4. For this reason the Commission is severing that part of the complaints in Docket Nos. OR03-5-000, OR05-4-000, and OR05-5-000 challenging the North and Oregon Line rates from those proceedings and consolidating that portion of the complaints in a new Docket OR03-5-001. This does not relieve complainants of the obligation to prove that substantially changed circumstances occurred before the date the complaints were filed in each of the parent dockets from which the North and Oregon Line rate proceedings are severed here. The Commission recognizes that the parties and the Commission staff are now involved in litigation in other proceedings, including the compliance (and possible rehearing) filings engendered by the December 2005 Order, litigation over the Watson Station charge, and filing by SFPP April 28, 2005, to increase its North Line rates in Docket No. IS05-230-000.⁹ However, given the guidance contained in various orders involving SFPP during 2005, there is no need to postpone further the challenge to SFPP's North and Oregon Line rates in the instant dockets. The related challenges to SFPP's East and West Line rates will be addressed once the interim rates for those lines are effective May 1, 2006, pursuant to the December 2005 Order.

The Commission orders:

(A) The Watson Station charge portion of the complaint filed in Docket No. OR03-5-000 is severed from that docket and consolidated with the ongoing Watson Station charge proceeding in Docket No. OR92-8-025.

(B) Those portions of the Docket Nos. OR03-5-000, OR05-4-000, and OR05-5-000 addressing SFPP's North Line and Oregon Line rates are severed from those proceedings and are consolidated in a single new proceeding, Docket No. OR03-5-001.

⁷ See section 1803(b) (1)(A) of the EP Act. The test is referred to as "substantially changed circumstances" in its short, non-statutory form.

⁸ December 2005 Order at P. 8, footnotes 16 and 17.

⁹ These rates were filed after the last of the complaints at issue here and are therefore not subject to the requirement to prove substantially changed circumstances. Any challenge to the North Line rates before the April 28, 2005 filing in Docket No. IS05-230-000.

(C) A Presiding Administrative Law Judge (ALJ), to be designated by the Chief Administrative Law Judge, for the purpose pursuant to 18 C.F.R. § 375.302 (2005), shall convene a prehearing conference in this proceeding to be held within 20 days of the issuance this order in a hearing or conference room of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. The prehearing conference shall be held to clarify the positions of the participants, and for the ALJ to establish any procedural dates for the hearing. The ALJ is authorized to conduct further proceedings pursuant to this order and the Commission's Rules of Practice and Procedure.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.