20060901-3015 Issued by FERC OSEC 09/01/2006 in Docket#: IS06-466-000

116 FERC ¶ 61, 208

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Suedeen G. Kelly, Marc Spitzer,
Philip D. Moeller, and Jon Wellinghoff.

BP Pipelines (Alaska) Inc.	Docket Nos. IS06-466-000
	IS06-466-001
ConocoPhillips Transportation Alaska, Inc.	IS06-467-000
	IS06-467-001
ExxonMobil Pipeline Company	IS06-468-000
	IS06-468-001
Koch Alaska Pipeline Company, LLC	IS06-469-000
	IS06-469-001
Unocal Pipeline Company	IS06-470-000
	IS06-470-001

ORDER ACCEPTING TARIFF SHEETS

(Issued September 1, 2006)

1. On July 3, 2006, BP Pipelines (Alaska) Inc., ConocoPhillips Transportation Alaska, Inc. (Conoco), ExxonMobil Pipeline Company, Koch Alaska Pipeline Company, LLC, and Unocal Pipeline Company (collectively TAPS Carriers) filed identical tariffs to comply with the Commission's Opinion Nos. 481, 481-A, and 481-B.[1] As discussed below, the Commission accepts the tariff sheets effective November 1, 2005, the date directed in Opinion No. 481-A at P23.

[1] *Trans Alaska Pipeline System*, 113 FERC ¶ 61,062 (2005) (Opinion No. 481), *order on reh'g*, 114 FERC ¶ 61,323 (2006) (Opinion No. 481-A), *order on reh'g*, 115 FERC ¶ 61,287 (2006) (Opinion No. 481-B). Appeals of the Commission's orders are pending in the United States Court of Appeals for the District of Columbia Circuit.

20060901-3015 Issued by FERC OSEC 09/01/2006 in Docket#: IS06-466-000

Background

2. On August 31, 2004, Administrative Law Judge Edward Silverstein (ALJ) issued an initial decision (ID) regarding the method of making monetary adjustments among shippers of Alaska North Slope (ANS) oil on the Trans Alaska Pipeline System (TAPS). The adjustments are made through a "Quality Bank" which either compensates or charges a shipper for the difference in quality between the crude oil tendered by that shipper and the crude oil received by that shipper. The current method of valuing the oil tendered is the distillation methodology under which the crude oil stream is separated into its component parts, or "cuts" of petroleum products, such as Propane and Naphtha, then market values are assigned to each cut, and each shipper's delivery is valued in accordance with the volume-weighted price of its component parts.

3. One issue before the ALJ was valuation of the Resid and Heavy Distillate cuts. Their value would depend on the amount of certain costs incurred in processing those cuts. At the hearing the parties entered into a stipulation to use the Nelson-Farrar Operating Cost Index as part of the formula for valuing the Resid component.[2] The stipulation provided for the following definition of the Nelson-Farrar Index:

> **Nelson Farrar Index** is the ratio of: (a) the Nelson Farrar Index (Operating Indexes Refinery) for the year in which the value is being determined to (b) the Nelson Farrar Index (Operating Indexes Refinery) for the base year. The Eight Parties have proposed a base year of 1996 and ExxonMobil Tesoro have proposed a base year of 2000.[3]

4. Among other rulings, the ALJ directed that the coking costs for the Resid cut and the processing costs for the Heavy Distillate cut, which were stated on a 1996 basis during the hearing,[4] should have a base year of 2000.[5] The ALJ further ruled that the processing costs should be adjusted from a 1996 base year to a 2000 base year using the Nelson-Farrar Index. The Commission affirmed the ALJ's ID in Opinion No. 481.

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[2] ID at P 25.

[3] *Id.* (footnote omitted); *see also* Opinion No. 481 at P 18-19.

[4] ID at P 1254, 1449.

[5] ID at P 1258, 1450.

20060901-3015 Issued by FERC OSEC 09/01/2006 in Docket#: IS06-466-000

Tariff Sheets

5. The TAPS Carriers' proposed tariff sheets are supported by a Memorandum from the Quality Bank Administrator (QBA). In the Memorandum, the QBA explains that there are two sets of Nelson-Farrar indices used in the proposed tariff sheets. The first is to convert the 1996-based capital investment coking costs used to value Resid and the 1996 processing cost used to value Heavy Distillate to a 2000 basis. Because the Nelson-Farrar indices for these two years were known, the QBA compared the average value of the indices for each year. Thus, the QBA calculated the annual 2000 Nelson-Farrar Index and divided it by the annual average 1996 Nelson-Farrar index. The QBA determined the ratio to be 1.0742. The second is to escalate those costs from the 2000 base year to each following year through 2005. Specifically, the QBA recalculates the processing costs on an annual basis beginning February 1, 2000, as required by the Quality Bank tariff,[6] using the most recent twelve-months' data available in January of each year.

Protests and Answers

6. Flint Hills Resources Alaska, LLC (Flint Hills), Petro Star Inc. (Petro Star), BP Exploration (Alaska) and BP Oil Supply Company (BP Shipping), and jointly Chevron U.S.A. Inc. and Union Oil Company of California (Chevron) filed protests to the QBA's use of the Nelson-Farrar Index adjustments contained in the proposed tariffs. They all argue that the QBA's unilateral decision to use two different methods for computing the adjustment of the Resid and Heavy Distillate processing cost factors creates a double counting, or overlapping use of the Nelson-Farrar Index values for September 1999 to December 2000. This, they assert, results in increasing the processing costs thereby reducing the value of the cut.

7. They contend that the escalation factor effective February 1, 2001, uses Nelson-Farrar Index values in the calculation for the first eight months of the year 2000 and last four months of the year 1999, and that the escalation factor effective February 1, 2002, uses Nelson-Farrar Index values in the calculation for the last four months in the year 2000. They claim that the 1999 inflation was covered in the initial adjustment from 1996 to 2000 since that adjustment took into account all inflation between calendar years 1996 and 2000. Thus, they argue the inflation for 1999 has been taken into account a second time in the 2001 annual adjustment because the base for that year adjustment is eight months of 1999 and four months of 1998. They assert that this two-step Nelson-Farrar

[6] The current TAPS Quality Bank methodology to project inflation estimates has been in effect since February 1998 (ID at P 852), and was unchanged in the TAPS proceeding to keep the approach consistent by having all the adjustments change at the same time for administrative efficiency.

20060901-3015 Issued by FERC OSEC 09/01/2006 in Docket#: IS06-466-000

calculation is inconsistent with the understanding of all of the parties and the ALJ that the choice of base year would not have a material effect on Quality Bank adjustments.

8. The TAPS Carriers, ExxonMobil Corporation and Tesoro Alaska Company (EMT) and Conoco filed answers to the protests.[7] Essentially, the answers argue that the QBA's methodology is fully consistent with (1) the Commission's orders; (2) the parties' Joint Stipulations executed in October 2002; (3) the evidence presented at the Quality Bank hearing before the Commission's two ALJs; and (4) the existing TAPS Carriers' Quality Bank Tariff.

Discussion

9. We accept the TAPS Carriers' proposed tariff sheets for filing. We find the protestors' arguments to be unpersuasive. Essentially, protestors argue that the conversion of costs from a 1996 base year to a 2000 base year must be calculated the same way as the annual escalation is calculated or else there will be double counting. In other words, they would use the average Nelson-Farrar Index for September 1998 through August 1999 divided by the average Nelson-Farrar Index for September 1994 through August 1995 to convert 1996 values to 2000 values.

10. Contrary to Protestors' claims, the fact that the QBA used 2000 Nelson-Farrar Index values in different calculations pertaining to different years does not result in a double count. The QBA did not use 2000 Nelson-Farrar Index values twice in the same ratio or calculation. Rather, in developing the adjustment factor of 1.0742 used to convert 1996 costs to 2000 costs, the QBA used the ratio of the average of all twelve monthly Nelson-Farrar Index values for 2000 divided by the average of all twelve monthly Nelson-Farrar Index values for 1996.

11. On the other hand, in estimating 2001 costs (i.e., February 2001 through January 2002), the QBA used the method described in the QBA tariff of using inflation in the two most recent years for which Nelson-Farrar Index data existed, (i.e., September 1999 to August 2000, and September 1998 to August 1999) to estimate inflation for 2001.

12. Moreover, the methodology advocated by protestors results in converting 1996 costs into the year 1999 costs, not the year 2000 costs, as required by our orders, with a resulting index of .9810, rather than the QBA's index of 1.0742.[8] In addition, the methodology suggested by protestors would use no data from either 1996 or 2000, even

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[7] BP Shippers filed a motion to file a reply to TAPS' Carriers answer concerning what additional material TAPS Carriers should file in support of the proposed tariffs. In response, on August 15, 2006, the TAPS Carriers filed the requested information.

[8] *See* EMT's July 24, 2006 Answer, affidavit of David I. Toof at 6.

20060901-3015 Issued by FERC OSEC 09/01/2006 in Docket#: IS06-466-000

though the average indices for both years are known. Further, protestors' position is inconsistent with their position at hearing where one of their witnesses, Mr. John O'Brien, employed a methodology for converting 1996 costs to 2000 costs that is substantially the same to the QBA's methodology.[9]

13. For the reasons stated, we find that the QBA's calculations are consistent with the directives of the ID and Opinion No. 481 and do not result in double counting.

The Commission orders:

The TAPS Carriers proposed tariffs are hereby accepted effective November 1, 2005.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.

[9] Mr. O'Brien stated that the operating cost index for the period 1996 to 2000 is 1.073, essentially identical to the QBA's ratio of 1.0742. *See* Tr. 1108:12-13.