



**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

FILED

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CONOCOPHILLIPS COMPANY,

Complainant,

v.

SFPP, L.P. (PLC 9),

Defendant.

CASE NO. _____

C1204004

(Filed April 10, 2012)

COMPLAINT OF CONOCOPHILLIPS COMPANY AGAINST SFPP, L.P.

Martha C. Luemers
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*Attorney for Complainant
ConocoPhillips Company*

NATURE OF THE COMPLAINT

1. Pursuant to Section 1702 of the Public Utilities Code and Article 4 of the California Public Utilities Commission's ("Commission") Rules of Practice and Procedure, ConocoPhillips Company ("ConocoPhillips") hereby files this complaint against SFPP, L.P. ("SFPP") and alleges that SFPP's rates for intrastate transportation of refined petroleum products by pipeline are unjust and unreasonable and therefore unlawful under Section 451 of the Public Utilities Code.

2. ConocoPhillips requests that the Commission initiate a hearing concerning the lawfulness of SFPP's rates set forth in its Tariffs Cal PUC 116 and Cal PUC 117, including any supplements, amendments, or replacement tariffs. ConocoPhillips further requests that, at the conclusion of the hearing, the Commission determine the just and reasonable rates, and order SFPP to reduce its rates to the just and reasonable level and to pay refunds to shippers of the revenues it collected in excess of the just and reasonable rates from March 1, 2012, forward.

THE PARTIES

Complainant

3. The full name of the complainant is ConocoPhillips Company, and its principal place of business is at 600 North Dairy Ashford, Houston, Texas 77079, telephone number (281) 293-4578. Contact information for ConocoPhillips' attorney is as follows:

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4. ConocoPhillips is engaged in the refining and marketing of refined petroleum products in California. ConocoPhillips operates petroleum refineries in the Los Angeles area and in the San Francisco Bay area.

Defendant

5. On information and belief, the full name of the defendant is SFPP, L.P., and its address is 1100 Town & Country Road, Orange, California 92868, telephone number (714) 560-4780. Contact information for SFPP's attorney is as follows:

James Squeri
Goodin, MacBride, Squeri, Day & Lamprey, LLP
505 Sansome Street, Suite 900
San Francisco, CA 94111
Telephone: (415) 392-7900

6. SFPP operates an intrastate pipeline which transports refined petroleum products from refineries and terminals to wholesale and retail markets. Together with Calnev Pipe Line, LLC ("Calnev"), which is under common ownership with SFPP, the SFPP and Calnev pipeline systems are responsible for the transportation of more than one-third of the refined products consumed in California. The SFPP and Calnev pipelines are the only common carrier refined product pipelines serving the interior of California.

RELATED CONSOLIDATED PROCEEDINGS

7. SFPP's current rates for intrastate transportation of refined petroleum products by pipeline are set forth in Tariffs Cal PUC 116 and Cal PUC 117, which were filed on January 30, 2012 in A.12-01-015, and were made effective on March 1, 2012. On March 5, 2012, ConocoPhillips and other shippers protested Application (A.) 12-01-015 on the grounds that the

rates put into effect on March 1, 2012 are unjust and unreasonable.¹ Also on March 5, 2012, Tesoro Refining and Marketing Company filed Case (C.) 12-03-005, BP West Coast Products LLC filed Case (C.) 12-03-006, and ExxonMobil Oil Corporation filed Case (C.) 12-03-007 alleging that the rates SFPP has charged and will be charging on the basis of A.12-01-015 are unjust, unreasonable and unlawful.

8. On April 2, 2012, Administrative Law Judge Karl J. Bemserderfer issued his Ruling Granting Motion of Tesoro Refining and Marketing Company to Consolidate Ratesetting Proceedings, in which he ordered that (1) A.12-01-015, C.12-03-005, C.12-03-006 and C.12-03-007 be consolidated, and (2) if any other protestant to A.12-01-015 files a complaint alleging that the rates SFPP has charged and will be charging on the basis of A.12-01-015 are unjust, unreasonable and unlawful, such case shall automatically be consolidated with the foregoing proceedings.

9. As set forth below, ConocoPhillips does allege by this complaint that the rates SFPP has charged and will be charging on the basis of A.12-01-015 are unjust, unreasonable and unlawful. Therefore, this case should be consolidated with A.12-01-015, C.12-03-005, C.12-03-006 and C.12-03-007.

BACKGROUND

10. SFPP's rates are the subject of multiple proceedings pending before the Commission. As set forth above, SFPP's current rates went into effect March 1, 2012, and are the subject of A.12-01-015, *et al.* SFPP's rates in effect at the time immediately prior to March

¹ See attached Protest and Intervention of Chevron Products Company, ConocoPhillips Company, Southwest Airlines Company, Valero Marketing and Supply Company, and Ultramar Inc. dated March 5, 2012 ("Protest"); *see also*, Protest of BP West Coast Products LLC to Application of SFPP, L.P. dated March 5, 2012; Protest of ExxonMobil Oil Corporation to Application of SFPP, L.P. dated March 5, 2012, and Protest of Tesoro Refining and Marketing Company to the Application of SFPP, L.P. dated March 5, 2012.

1, 2012 are at issue in A.09-05-014, *et al.*, which is also pending before Administrative Law Judge Karl J. Bemederfer. In addition, SFPP's historical rates are the subject of C.97-04-025, *et al.*, which is currently pending before the Commission on limited rehearing of D.11-05-045, and A.03-02-027, *et al.*, which is currently pending before Administrative Law Judge Douglas M. Long.

11. SFPP characterized its application in A.12-01-015 as a rate decrease filed pursuant to Section 455.3 of the Public Utilities Code. While it is true that the new rates are lower than the rates they supersede, SFPP did not explain that the superseded rates are subject to revision and refund. As a result, the new rates are likely substantially higher than the rates that will ultimately result from A.09-05-014, *et al.*, making A.12-01-015 a rate increase filing, rather than a decrease. If SFPP had filed a rate increase after A.09-05-014, *et al.*, had been resolved, there would be no doubt that the entire amount of the increase would be subject to refund.

12. SFPP may contend that the lowest possible rates that could result from A.12-01-015 are the rates that SFPP filed and put into effect on March 1, 2012, even if those rates are higher than the rates that result from A.09-05-14, *et al.* Rather than pay refunds down to the finally determined A.09-05-014 level, SFPP may argue that because it voluntarily decreased its rates, no further reductions below the proposed A.12-01-015 rates, effective March 1, 2012, are available in the context of a proceeding under Section 455.3.

13. Such a result would not be correct. There is no basis for an oil pipeline to limit its liability for refunds simply by filing a potentially higher rate in the guise of a rate decrease prior to the conclusion of a pending rate proceeding. Accordingly, in its Protest of A.12-01-015, ConocoPhillips asked the Commission to determine the just and reasonable rates to be in effect

as of March 1, 2012, and to order refunds and prospective rate reductions without regard to the level of the newly filed rates.

14. This Complaint seeks a determination of the just and reasonable rates from March 1, 2012 forward. If those just and reasonable rates are lower than SFPP's proposed A.12-01-015 rates, effective March 1, 2012, the Commission should require SFPP to place the lower rates into effect on a prospective basis, and to pay refunds to shippers of all revenues collected in excess of the just and reasonable rates from March 1, 2012 until the effective date of the prospective rate reduction.

GROUND FOR COMPLAINT

15. The Commission has not determined that SFPP's currently effective rates are just and reasonable; that issue is pending in A.12-01-015, *et al.* While ConocoPhillips believes that those rates are not justified by SFPP's cost of service, and are therefore unjust and unreasonable, ConocoPhillips requires discovery to establish conclusively that SFPP's rates are unjust and unreasonable. However, based on the following information, it is highly likely that the rates put into effect on March 1, 2012, although they are lower than the previously effective rates, are not justified by SFPP's cost of service.

16. In A-09-05-014, *et al.*, Judge Bemserfer issued a Proposed Decision on April 6, 2012, in which he recommended that the Commission find that SFPP's cost of service for Test Year 2009 was \$90,973,835.² In its pending Application, SFPP has calculated a total cost of service of \$110,448,000, which is substantially in excess of the cost of service set forth in Judge Bemserfer's Proposed Decision. SFPP's Application, Attachment A at 1.

² Revised and Reissued Proposed Decision Determining Test Year 2009 Rate Base and Cost of Services for SFPP, L.P. and Calnev Pipe Line L.L.C. and Ordering Refunds dated April 6, 2012 ("Proposed Decision"), Finding of Fact 7.

17. SFPP has reported total intrastate operating revenue of \$120,303,959 for 2009 and \$122,063,099 for 2010. A.06-09-016, Compliance Filing of SFPP, May 25, 2011. SFPP has not yet reported its intrastate operating revenue for 2011.

18. If the Commission ultimately adopts a cost of service in A.09-05-014, *et al.*, that is close to the figure recommended by Judge Bemserfer, and if SFPP's 2011 revenues are similar to its 2009 and 2010 revenues, it is likely that SFPP continued to over-recover its cost of service in 2011 by roughly 30 to 35 percent. SFPP's current rates constitute a decrease of only 6.76 percent from its previously effective rates. It follows that the current rates will yield revenues that significantly exceed SFPP's cost of service.

19. The attached Protest of ConocoPhillips, *et al.* in A.012-01-015 indicates that certain elements in the cost of service claimed by SFPP to justify its current rates are likely overstated. These questionable items include cost of capital, *i.e.*, capital structure, cost of debt, and rate of return on equity. Protest at 9-12. The Protest also raises substantial questions concerning the operating expenses claimed by SFPP, including outside services, right-of-way costs, and overhead costs. Protest at 13-16. Finally, it appears that SFPP has made no provisions for the return to shippers or reduction in rate base of the amounts which SFPP has collected in its rates for deferred income taxes which SFPP will not have to pay and for which the Commission has denied an income tax allowance. Protest at 16-18.

20. As discussed in the Protest, SFPP's current rates are based on a projection of declining throughput volume which is not adequately supported and appears to be unrealistically low. Protest at 7-9. The Protest also shows that SFPP's prior throughput projections have proven to be well below actual levels. *Id.* at 9. In this regard, Judge Bemserfer's Proposed

Decision rejected SFPP's throughput projection in favor of those presented by the shippers.

A.09-05-014, *et al.*; Proposed Decision at 7-10.

21. The foregoing information provides a reasonable basis for believing that the rates SFPP has charged and will be charging on the basis of A.12-01-015 are unjust, unreasonable and unlawful. However, it is not possible to determine the amount by which SFPP's rates are excessive without discovery and the opportunity to present evidence at hearing.

ADDITIONAL INFORMATION REQUIRED BY RULE 4.2(a)

22. The Complaint should be categorized as a "ratesetting" proceeding pursuant to Rule 1.3(e). The issues to be decided are the just and reasonable rates to be charged by SFPP for intrastate pipeline transportation of refined petroleum products and the refunds and reparations required as a result of SFPP charging unjust and unreasonable rates. ConocoPhillips believes a hearing is necessary and proposes the following schedule:

Complainant's Testimony	September 17, 2012
Defendant's Testimony	November 15, 2012
Complainant's Rebuttal Testimony	January 15, 2013
Start of Evidentiary Hearing	February 4, 2013
Post-Hearing Briefing	To be determined at close of evidentiary hearing

CONCLUSION

23. For the foregoing reasons, the Commission should initiate a hearing to examine whether the current rates of SFPP set forth in Tariffs Cal PUC 116 and Cal PUC 117, including any amendments, supplements or replacement tariffs, are just and reasonable. To the extent that the hearing evidence demonstrates that such rates are not just and reasonable, the Commission

should order SFPP to reduce its rates to the just and reasonable level and to pay refunds and reparations to shippers of the amounts collected in excess of the just and reasonable rate level.

DATE: April 10, 2012

Respectfully submitted,

/s/ Martha C. Luemers _____

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*Attorney for Complainant
ConocoPhillips Company*

VERIFICATION

I, Martha C. Luemers, declare as follows:

1. I am the attorney for Complainant ConocoPhillips Company in this action. My office is in Santa Clara County, California.

2. This verification is made by me because no officer of ConocoPhillips Company is located in Santa Clara County, California.

3. I have read the foregoing complaint and am informed and believe, and on that basis allege, that the matters stated in it are true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 10th day of April, 2012 at Palo Alto, California.

/S/ Martha C. Luemers

Martha C. Luemers

ATTACHMENT

**PROTEST AND INTERVENTION OF
CHEVRON PRODUCTS COMPANY, CONOCOPHILLIPS COMPANY,
SOUTHWEST AIRLINES CO., VALERO MARKETING
AND SUPPLY COMPANY AND ULTRAMAR INC.**

Filed March 5, 2012



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**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Application of **SFPP, L.P.** for authority,)
pursuant to Public Utilities Code Section) Application No. 12-01-015
455.3, to change its rates for pipeline)
transportation services within California.)

**PROTEST AND INTERVENTION OF
CHEVRON PRODUCTS COMPANY, CONOCOPHILLIPS COMPANY,
SOUTHWEST AIRLINES CO., VALERO MARKETING
AND SUPPLY COMPANY AND ULTRAMAR INC.**

Pursuant to Rule 1.4(a)(2) and Rule 2.6 of the Rules of Practice and Procedure of the California Public Utilities Commission (“Commission” or “CPUC”), Chevron Products Company, ConocoPhillips Company, Southwest Airlines Co., Valero Marketing and Supply Company and Ultramar Inc. (jointly referred to herein as “Joint Protestors”) hereby jointly and severally intervene and protest SFPP, L.P.’s (“SFPP”) captioned rate change application concerning pipeline transportation rates for refined petroleum products within the State of California (“SFPP Application”). Each of the Joint Protestors requests that they be made parties to this proceeding with full rights attendant thereto and that the Commission accept SFPP’s proposed rates, effective March 1, 2012, subject to refund and further reduction. In turn, the Joint Protestors request that the Commission set this proceeding for full investigation and hearing as to the justness and reasonableness of SFPP’s proposed rates.¹

SFPP’s captioned rate application proposes an approximately 6.8% systemwide rate decrease. While the Joint Protestors applaud SFPP’s recognition that its systemwide rates require a decrease, based on SFPP’s filing, the record in SFPP’s most recent rate proceeding (*i.e.*, A.09-05-014, *et al.*), and Commission precedent, SFPP’s proposed reduced rates still appear to be excessive and unreasonable. As discussed in further detail below, SFPP has failed to

¹ SFPP’s Application was noticed in the Daily Calendar on February 3, 2012, making protests due on March 5, 2012, pursuant to Commission Rule 2.6(a). Accordingly, Joint Protestors’ Protest is timely filed.

substantiate or justify the level of its proposed reduced rates. Moreover, in light of SFPP's most recent rate proceeding in Docket A.09-05-014, *et al.* and Commission precedent, various of SFPP's proposed cost components appear to be substantially overstated resulting in the proposed rates being excessive. Indeed, given the Proposed Decision issued in the A.09-05-014, *et al.* proceedings, *SFPP's proposed rate decrease is a substantial rate increase* from the rates likely to result from the A.09-05-014, *et al.* proceedings.² In short, while Joint Protestors do not oppose SFPP's voluntary rate decrease from the rates SFPP had in effect prior to March 1, 2012, SFPP's proposed rates should be set for hearing and full investigation. In this connection, the Commission should clarify that SFPP's proposed reduced rates will be subject to refund to the extent the record in this proceeding demonstrates that the proposed reduced rates are unreasonable and should be reduced even further.

I. BACKGROUND

Pursuant to Section 455.3 of the Public Utilities Code and Rules 6(a) and 23 of the Commission's Rules of Practice and Procedure, SFPP filed, on January 30, 2012, an application requesting authority to reduce its systemwide rates by approximately 6.8%. SFPP Application at 2. SFPP contends that its rate filing reflects a reduction of approximately \$8.015 million in revenues that would otherwise be collected based on the pipeline's then current rates. *Id.* SFPP identifies that the effective date for the proposed reduced rates is March 1, 2012.

SFPP indicates that with respect to the design of the proposed systemwide rates, it is projecting 2012 Test Year throughput volumes of 230.2 million barrels. In regard to the cost of

² Presiding Administrative Law Judge Bemserfer ("Judge Bemserfer") issued a Proposed Decision in A.09-05-014, *et al.* on June 22, 2011. On September 15, 2011, Judge Bemserfer withdrew the Proposed Decision noting that it needed supplementing because "it did not include necessary findings of fact, namely, the dollar amounts of California jurisdictional rate bases of SFPP, L.P. . . for the Test Year 2009." Judge Bemserfer's Ruling Directing Applicants to Supplement Record, A.09-05-014, *et al.* (Dec. 8, 2011). In light of the narrow basis on which the Proposed Decision was withdrawn, there is no reason to believe that any of Judge Bemserfer's other determinations (non-rate-base related) will be modified when the Proposed Decision is reissued.

service underlying the proposed rates, SFPP provides summary results without supporting workpapers and/or information. SFPP's Application also presents a purported rate base and operating expenses for designing rates albeit again without supporting workpapers and/or data. Finally, SFPP proposes a procedural schedule with proposed hearings to be held in June 2012 with a Commission decision by January 2013.³

As alluded to in SFPP's Application (SFPP Application at 3-4), SFPP's rates are the subject of multiple proceedings pending before the Commission. Its historical rates are the subject of C.97-04-025 and A.03-02-027, *et al.*, which proceedings are currently pending before the Commission on rehearing of D.11-05-045 and before the Commission's Energy Division as it respects SFPP's related compliance filing in Advice Letter No. 27. The rates that SFPP had in effect at the time of the instant Application were subject to refund and are the subject of pending rate proceedings in A.09-05-014, *et al.* which is currently before Judge Bemederfer.

Accordingly, the rates that SFPP is currently proposing to change with its instant Application are themselves subject to revision. As a result, until the Commission issues an order in SFPP's A.09-05-014, *et al.* rate proceedings and, in turn, SFPP implements such new rates in accordance with this Commission order, it is not definitively known whether the rates proposed in the captioned proceeding are higher or lower than the just and reasonable rates applicable to the period immediately preceding the effective date of the rates proposed herein.

II. BURDEN OF PROOF

SFPP bears the ultimate burden of proof as to the justification and reasonableness of its proposed rate change. As stated in *Pacific Gas & Electric*:

³ As set forth in Section V of this Joint Protest and Intervention, the Joint Protestors object to SFPP's proposed procedural schedule.

. . . the Commission has declined to draw a distinction between types of ratemaking cases with respect to the utility's burden of proof:

The inescapable fact is that the ultimate burden of proof of reasonableness, whether it be in the context of test-year estimates, prudence reviews outside a particular test year, or the like, never shifts from the utility which is seeking to pass its costs of operations onto ratepayers on the basis of the reasonableness of these costs. Whenever the utility comes before this Commission seeking affirmative rate relief, it fully exposes its operations to our scrutiny and review.

2000 WL 289723 at 89 (*citing* 87-12-067, 27 CPUC 2d 1, at 21); *see also* *ARCO Prods. Co. v. SFPP, L.P.*, D.99-06-093, 1999 WL 699485 at *7 (1999) (Commission finding that SFPP bears the burden of proof when it seeks “to disturb the established rate scheme.”). The Commission has further clarified that in order for a utility, such as SFPP, to meet its burden of proof, it must present clear and convincing evidence justifying the particular rates under review.

As set forth below and in the attached expert declaration of Mr. Matthew P. O’Loughlin of The Brattle Group (“O’Loughlin Declaration”), SFPP has failed to meet its burden of proof in this proceeding as it respects the reasonableness of its proposed rates. Indeed, notwithstanding the sparse and summary nature of SFPP’s cost-of-service and revenue support and the absence of discovery, a preliminary review of SFPP’s Application indicates that SFPP has overstated various of its cost-of-service components or failed to properly account for other aspects of its cost of service resulting in rates that are likely to be unreasonably excessive even in light of the proposed rate reduction. Consequently, (i) SFPP’s proposed rates should be placed into effect March 1, 2012, subject to refund and further decrease and (ii) SFPP’s Application should be set for investigation and hearing.

III. STANDING

As past, current, and future ratepayers and shippers on SFPP's intrastate pipeline system, each of the Joint Protestors has a substantial economic interest in SFPP's proposed intrastate rates and the reasonableness thereof. Moreover, each of the Joint Protestors has a substantial economic interest in this proceeding as its outcome will affect the present and future application of SFPP's intrastate rates.

IV. PROTEST

Contrary to its claims, SFPP's purported cost-of-service presentation and resulting proposed rates are not reasonable or consistent with Commission policy and precedent. Moreover, SFPP's sparse results-oriented cost-of-service presentation does not permit a thorough evaluation of the reasonableness of SFPP's proposed rates. Accordingly, SFPP's proposed rates should be set for hearing and a full investigation.

Notwithstanding the lack of support for the various components of SFPP's proposed cost of service and related rates, a preliminary review of SFPP's application and summary cost and revenue data raises substantial questions and concerns regarding the reasonableness thereof. As set forth below, even without discovery, various aspects of SFPP's proposed cost of service and throughput projections appear to be significantly flawed and lacking a rational basis.

A. The Commission Should Confirm that the Instant Tariff Filing Does Not Limit the Effect of the A.09-05-014, *et al.* Proceedings.

SFPP's January 30, 2012 Application has the effect of decreasing the rate levels from the rates proposed by SFPP in A.09-05-014, *et al.* for all routes (except for the Watson and Sepulveda rates). SFPP Application at 5. Specifically, SFPP claims that the Application implements a 6.76 percent system wide reduction in intrastate rates. SFPP Application at 2. However, as SFPP recognizes in its Application, the prior rates proposed by SFPP in the A.09-05-

014, *et al.* proceedings are subject to refund after a final rate determination in those proceedings. SFPP Application at 4.

Based on the evidence submitted in those proceedings, the prior proposed decision of Judge Bemesderfer, and the attached Declaration of Matthew P. O'Loughlin, SFPP's Application here proposes rate levels higher than the rates that would have resulted from the proposed decision in A.09-05-014, *et al.* O'Loughlin Declaration at 3-7. Using the prior proposed decision as a guide, Mr. O'Loughlin calculates that SFPP was overrecovering its Test Year 2009 cost of service by approximately \$30 million or 34 percent. O'Loughlin Declaration at 4 and Figure 1. Similarly, Mr. O'Loughlin calculates that the rates set by the instant Application are approximately 25 percent higher than the rates that would result from Judge Bemesderfer's prior proposed decision in the A.09-05-014, *et al.* proceedings. O'Loughlin Declaration at 5 and Figure 2. As such, the actual effect of SFPP's Application is to request an *increase in its rates* to a level approximately 25 percent above the likely outcome of A.09-04-014, *et al.*

The Commission should clarify that SFPP's instant Application to decrease its currently effective rates has no impact on the remedies available to the Commission in the A.09-05-014, *et al.* proceedings before Judge Bemesderfer. The Shippers anticipate that SFPP will be required to make substantial refunds and rate reductions at the conclusion of that case. SFPP's current rate reduction does not go far enough and should not be viewed as creating a floor below which the Commission cannot order refunds or rate reductions.

If the Commission should find that just and reasonable rates in the A.09-05-014, *et al.* proceedings are less than the rates proposed by SFPP in the instant Application, the Commission should not view the instant Application as limiting refunds that would be due to SFPP's ratepayers. A determination that the Application limits the Commission's authority would be

inconsistent with the Commission's constitutional and statutory mandates to ensure just and reasonable rates, as well as the Commission's determination in the change of control proceeding to require SFPP to justify its rates. Cal. Const. art XII, § 4; Cal. Pub. Util. Code § 451 (2007); D.07-12-006 at Ordering Paragraph 3. A public utility, such as SFPP, should not be permitted to frustrate the Commission's ability to investigate and establish lawful rates by use of a new rate filing to block the effects of a Commission determination of just and reasonable rates or unfairly limit refunds due to ratepayers that have paid unjust and unreasonable rates.

Of course, SFPP is entitled to file a new general rate application if its total costs increase over time. In the instant Application, SFPP is proposing new rates based on a 2012 Test Year that are effective March 1, 2012. SFPP Application at 3, 6. However, the Commission should make clear that the instant Application will be effective from March 1, 2012 and will have no effect on refunds that may be payable to SFPP's shippers for rates resulting from the rate justification proceedings in A.09-05-014, *et al.*. Moreover, the Commission should also clarify that SFPP's proposed rates are subject to further reduction if it is shown that the proposed rates are in excess of the ultimately determined just and reasonable rates.

B. SFPP's Proposed Throughput Level Lacks Reasonable Support and Justification and Requires Investigation.

SFPP correctly identifies that its intrastate revenue is a direct function of the barrels shipped on its intrastate system. SFPP Application at 6. In designing rates, the cost of service is divided by a specific throughput level to determine the required rates that will generate the necessary revenue requirement. As such, when an inappropriately low level of throughput is utilized to design rates, the rates are artificially inflated, and, in turn, the pipeline essentially builds into rates an unreasonable over-recovery of costs when higher, more reasonable and

representative levels of throughput are experienced. Accordingly, establishing a justified and representative throughput level is critical to the derivation of reasonable rates.

SFPP proposes in its instant Application a 2012 Test Year volume level of 230.2 million barrels for deriving rates. SFPP contends that this 2012 Test Year volume level was developed through an analysis of volumes shipped during the base period of November 2010 to October 2011 and an evaluation of a 5-year volume trend for each intrastate destination. SFPP Application at 7. Notwithstanding SFPP's claims that its volumes are "declining amid unprecedented circumstances" and its purported belief of "continuing downward pressure on SFPP's expected throughput," SFPP adjusts its actual volumes experienced during the base period November 2010 – October 2011 at five locations (*i.e.*, increasing volumes at three locations and decreasing volumes at two locations) resulting in an overall increase in total intrastate volumes of approximately 0.5%. O'Loughlin Declaration at P 21.

Aside from the plain inconsistency between SFPP's claims of continued volume decline and its projected increase (albeit slight) in total intrastate volumes, there is no means to confirm or evaluate the reasonableness of SFPP 2012 Test Year volume projection. That is, while SFPP asserts that it analyzed 5-year trends for volumes at each location, SFPP failed to include in its application this specific data thereby precluding any meaningful evaluation of SFPP's purported volume adjustments or lack thereof regarding individual destinations or markets. Indeed, rather than include the 5-year trend location-specific data relied on, SFPP included a graph of total system-wide volume from 2005 to present as well as a resulting linear calculation for the same period as support for its claims. However, this graph does not make any adjustment for the historic recession experienced by the nation during this period. *See* O'Loughlin Declaration at

P 21. Nor does this graph substantiate that SFPP's projected 2012 test year volumes are representative of what is to be expected on a forward-looking basis.

Finally, history has shown that SFPP's throughput projections have been highly questionable and tend to substantially understate representative throughput volumes for ratemaking purposes. For example, in SFPP's most recent rate proceeding, Docket A.09-05-014, *et al.*, SFPP contended that a representative 2009 test year throughput level for developing forward-looking rates would be approximately 223,000,000 barrels. However, as SFPP's annual report filed with the Commission plainly demonstrates, this SFPP-projected throughput level vastly understated a representative level for 2009 and beyond. Specifically, the actual intrastate volumes transported by SFPP in 2009 and 2010 were 234,831,663 and 232,067,585 barrels, respectively. *See* O'Loughlin Declaration at P 21 and fn.29. Simply put, SFPP has not demonstrated an ability to reasonably project throughput for ratemaking purposes. Ultimately, investigation, discovery, and a hearing are required to meaningfully evaluate SFPP's projected forward-looking throughput level in the design of its proposed rates.

C. SFPP's Proposed Cost of Capital is Unsupported, Unreasonable, and Results in an Overstated Cost of Service.

As SFPP witness Turner explains, his cost-of-service analysis relies on cost-of-capital components (*i.e.*, capital structure, debt cost, and rate of return on equity) provided by Professor James H. Vander Weide. SFPP Application, Turner Declaration at P 5. However, SFPP fails to include in its Application any of the workpapers and/or other data relied on in developing these cost-of-capital inputs to the proposed cost of service. Accordingly, there is no means for the Commission or Joint Protestors to assess or to evaluate the reasonableness of these calculations. As such, without investigation and discovery, sufficient data is not available to perform a

comprehensive analysis of these cost-of-capital components and, in turn, the overall reasonableness of SFPP's cost of service and proposed rates.

Notwithstanding the above, a preliminary review of SFPP's summary cost-of-service and cost-of-capital data raises significant questions and concerns, including whether SFPP is proposing an excessive cost of capital resulting in an overstated cost of service and artificially inflated rates. A significant aspect of SFPP's cost of service is its allowed rate of return. In turn, a significant component of allowed return is the applicable capital structure. Moreover, it is without reasonable dispute that the cost of equity is greater than the cost of debt. As such, the Commission should closely investigate and evaluate the reasonableness of SFPP's proposed capital structure and corresponding equity-to-debt ratio in the design of rates.

SFPP's application proposes a capital structure of 46% equity and 54% debt. However, it is unclear how SFPP derived this proposed capital structure as it reflects neither the capital structure of SFPP nor its parent, Kinder Morgan Energy Partners ("KMEP"). O'Loughlin Declaration at PP 12-13. Although unclear, it appears that SFPP is proposing a type of hybrid capital structure methodology reflecting an average of a proxy group set of entities rather than its actual capital structure. Simply put, there is no rational basis or justification for adopting such a hypothetical capital structure which arbitrarily inflates the applicable equity ratio for deriving SFPP's rates.

In particular, SFPP is not a publicly-traded entity and SFPP does not control or issue its own debt. Consequently, SFPP's capital structure is not appropriate for use in determining a rate of return. SFPP's parent, KMEP, controls SFPP's financing and is publicly traded on the New York Stock Exchange.⁴ As the provider of SFPP's financing, the use of KMEP's actual capital

⁴ Of note, the Commission's determinations in D.07-05-061, created a "first priority condition" for SFPP's holding company structure which effectively eliminates SFPP's need to compete for capital within the Kinder

structure is likely the most representative of the risks faced by SFPP and the mix of financial leverage necessary for SFPP's operations under existing market conditions. Unlike SFPP's proposed hypothetical capital structure of 46% equity/54% debt, KMEP's publicly available 10-Q filing with the Securities and Exchange Commission ("SEC") for the quarter ending September 2011 (without adjusting for Purchase Accounting Adjustments⁵ and deficiencies associated with the current portion of long-term debt – both of which would further reduce KMEP's equity percentage) reflects a capital structure of approximately 41% equity and 59% debt. *See* O'Loughlin Declaration at P 13. Similarly, KMEP's recently filed annual SEC 10-K report for 2011 shows a capital structure of approximately 40% equity and 60% debt. *Id.* Simply stated, SFPP's arbitrary use of an apparent hypothetical 46% equity percentage for its proposed capital structure artificially inflates its weighted cost of capital, allowed return on rate base, and overall cost of service. This, in turn, results in an overstated cost of service for SFPP and excessive rates.

As Mr. O'Loughlin explains, SFPP's proposed nominal return on equity of 13.21% also raises concerns as to the reasonableness of the pipeline's overall cost of service. *Id.* at P 14. In particular, SFPP witness Turner incorporates a nominal return on equity of 13.21% in deriving his overall SFPP cost of service. SFPP Application, Turner Declaration, Attachment A at 1, line

Morgan holding company structure. That is, the Commission's "first priority condition" requires a holding company's board to give first priority to the capital requirements of a utility such as SFPP (or its sister affiliate Calnev) "as determined to be necessary and prudent to meet the obligation to serve or to operate the utility in a prudent and efficient manner." D.07-05-061 at 33 fn. 19 citing *PG&E et al. v. CPUC*, 118 Cal. App. 4th 1174, 2004 Cal. App. LEXIS 785.

⁵ The Commission has specifically addressed the issue of Purchase Accounting Adjustments ("PAAs") in connection with the corporate restructuring and formation of SFPP's original partnership in 1988. There, the Commission took note that as a result of the restructuring and transfer of assets to the newly-formed operating partnership, the book value of SFPP's property, plant, and equipment was being increased by some \$200 million, *Southern Pacific Pipe Lines, Inc.*, 29 CPUC 2d 635 (1988). The Commission found that the write-up of SFPP's assets was directly contrary to its long-established policy of original cost accounting and ratemaking. The use of KMEP's capital structure in the design of SFPP's rates will require adjustment for PAAs as KMEP's acquisition of regulated entities, including SFPP, has directly involved the write-up of the book value of property, plant, and equipment.

15. Mr. Turner notes, as with his capital structure component, that this nominal return on equity figure was provided to him by Professor Vander Weide. As addressed above, SFPP and Mr. Turner provide no supporting basis or workpapers for this figure.

Notwithstanding the complete lack of justification for this proposed nominal return on equity figure, Mr. O’Loughlin describes how recent SFPP proceedings and testimony of Prof. Vander Weide raise serious questions regarding the likely excessive nature of SFPP’s proposal. O’Loughlin Declaration at P 14. Specifically, SFPP’s proposed nominal return on equity of 13.21% is 60 basis points higher than the 12.61% return-on-equity figure adopted for SFPP by the Commission in D.11-05-045⁶ and 78 basis points higher than the 12.43% return-on-equity figure recommended by the Presiding Judge for a forward-looking 2009 Test Year in his June 22, 2011 Proposed Decision in Docket A.09-05-014, *et al.* Moreover, Prof. Vander Weide recently submitted testimony before the Federal Energy Regulatory Commission (“FERC”) in Docket No. IS11-444-001 where he recommended a nominal cost of equity for SFPP of 9.91% which is 330 basis points lower than that currently being proposed. *See* FERC Docket No. IS11-444-001, Exh. SWI-021 at 21.

Joint Protestors submit that given the glaring deficiencies and inconsistencies in the development of SFPP’s proposed cost-of-capital components, even absent any supporting data or discovery, no legitimate claim can be made that SFPP’s cost of service or resulting rates are of a reasonable nature. That is, based on these material and substantive flaws in SFPP’s proposed cost-of-capital components, the reasonableness of SFPP’s overall cost of service and resulting rates cannot be determined without discovery and a hearing.

⁶ D.11-05-045, at 30.

D. SFPP's Proposed Operating Expenses Raise Questions and Concerns Regarding the Justification and Potentially Overstated Nature of the Total Cost of Service.

SFPP witness Turner proposes a 2012 Test Year operating expense level of \$74.1 million for SFPP. SFPP Application, Turner Declaration, Attachment A at 4, line 18. Mr. Turner asserts that this operating expense level is based on SFPP's recorded base period of November 2010 to October 2011 with certain "regulatory adjustments." However, SFPP's Application fails to provide the actual expenses for the November 2010 to October 2011 time period. Moreover, SFPP's Application is devoid of any explanation of the nature of the "regulatory adjustments" that were made or the magnitude of such "adjustments." Accordingly, without the ability to investigate the nature of SFPP's proposed operating expenses, including the alleged "regulatory adjustments," there is no means to comprehensively evaluate the reasonableness of SFPP's claims or its overall proposed cost of service.

Notwithstanding the summary nature of SFPP's operating cost information, various factors and expense levels included in Mr. Turner's operating expense figures raise specific concerns that such operating expenses may be significantly overstated which, in turn, would result in an overstated total cost of service and unreasonable rates. First, Mr. O'Loughlin highlights the fact that SFPP's Application nowhere explains the significant deviation between SFPP's proposed operating expense level and the forward-looking operating expense level advocated by SFPP in its last rate proceeding in Docket A.09-05-014, *et al.* O'Loughlin Declaration at P 15. As demonstrated by Mr. O'Loughlin, in its September 21, 2009 testimony in A.09-05-014, *et al.*, SFPP proposed a 2009 Test Year operating expense level of \$66.5 million. Moreover, in a more recent filing in A.09-05-014, *et al.*, SFPP sought to amend its operating expense level to \$72.9 million. *Id.* at P 15 and Figure 4. Accordingly, SFPP's current

proposal of \$74.1 million reflects a significant increase above any of its recent proposals in A.09-05-014, *et al.*

Second, SFPP's proposed Account 350 (Outside Services) expense level reflects a dramatic increase from the levels proposed by SFPP in its recent A.09-05-014 *et al.* rate proceedings. As explained by Mr. O'Loughlin, SFPP witness Turner proposes to increase SFPP's Account 350 expense level, which includes right-of-way costs, from \$4.6 million to approximately \$8 million. *Id.* at P 16 and Figure 4. Although no explanation for this increase is provided by SFPP, Joint Protestors believe this cost increase is being influenced by a potential right-of-way expense increase SFPP identified recently in the A.09-05-014, *et al.* proceedings. *See* SFPP Amended Application in A.09-05-014, *et al.*, Attachment A at 11 (filed December 23, 2011).

Judge Bemserfer held, in A.09-05-014, *et al.*, that SFPP's increased right-of-way costs are speculative and premature. In that case, SFPP made an extremely belated request to amend its application in A.09-05-014, *et al.* in order to increase SFPP's 2009 operating expenses by \$5.7 million related to right-of-way costs that are at issue in an ongoing litigation between SFPP and Union Pacific Railroad ("UPRR") and which were addressed in a tentative preliminary decision by the relevant court. As reflected in the various shipper protests to SFPP's belated filing, there is no current factual support for this cost increase as the referenced decision is far from being final and is subject to objections and appeal. *See* Judge Bemserfer's Ruling Accepting in Part and Rejecting in Part the Amended Application of SFPP, L.P. and Calnev Pipe Line L.L.C. and Denying the Motion of SFPP, L.P. to Supplement the Record, Docket A.09-05014, *et al.* (issued March 1, 2012) (Judge Bemserfer finding right-of-way cost decision "not yet final" and "not a sufficient basis for re-opening the record"). Thus, any cost increase

associated with this proceeding is premature and uncertain at best. *See* O'Loughlin Declaration at P 16.

Finally, SFPP's proposed overhead costs appear to be excessive and clearly lack support. As Mr. O'Loughlin details, SFPP's proposed overhead costs reflect a similar level to that proposed by the pipeline in the A.09-05-014, *et al.* rate proceedings which level was based on a subjective methodology of directly assigning and allocating Kinder Morgan overhead costs to SFPP and other Kinder Morgan subsidiaries. *Id.* at P 17. As reflected in A.09-05-014, *et al.*, SFPP records its overhead expenses in Account 520 which includes other expenses such as regulatory litigation costs. *Id.* Despite the fact that SFPP has no employees, and inconsistent with its testimony in the A.09-05-014, *et al.* proceedings, SFPP here is proposing Account 500 (Salaries and Wages) expense of \$4.3 million, Account 550 (Employee Benefits) expense of \$5.5 million, Account 560 (Insurance) expense of \$0.9 million, and Account 520 (Outside Services) expense of \$12.6 million, for what appears to be a total overhead cost of \$23.3 million for an increase of approximately \$5.8 million over its proposed 2009 Test Year overhead level reflected in the A.09-05-014, *et al.* rate proceedings. *Id.*

Shippers strongly objected to and challenged SFPP's purported overhead cost level in A.09-05-014, *et al.* proposing instead a more reasonable and objective overhead cost allocation methodology. The shippers' methodology was adopted by the Presiding Judge in his Proposed Decision dated June 22, 2011 which substantially reduced SFPP's overhead cost level. As addressed above, while this Proposed Decision was withdrawn on September 15, 2011, the basis for the withdrawal was centered on a narrow issue associated with rate base, which Judge Bemserfer has now decided, and there is no indication that the Presiding Judge will modify his

determination to reject SFPP's subjective overhead assignment and allocation methodology when he reissues his Proposed Decision.

Accordingly, at a minimum, investigation, discovery, and hearings are necessary to determine the appropriate methodology to derive SFPP's proposed overhead cost amount and whether this methodology comports with Commission precedent. *Id.*

E. The Reasonableness of SFPP's Treatment of Accumulated Deferred Income Taxes ("ADIT") is Contingent on the Commission's Treatment of SFPP's ADIT Account in the Pipeline's Pending Rate Proceedings.

SFPP's Application proposes the elimination of ADIT and a related adjustment to rate base. SFPP Application, Attachment A at 3. However, SFPP makes no mention of the fact that the appropriate treatment of ADIT in this proceeding is dependent on the Commission's treatment of SFPP's ADIT balance in the pending SFPP rate proceedings in A.03-02-027, *et al.* and A.09-05-014, *et al.*

As background, a pipeline's ADIT balance represents funds previously collected from ratepayers for the future payment of income taxes. The ADIT balance that is deducted from rate base is a rate-making device which allows a pipeline to "normalize" the income tax allowance collected in its rates. In general, during the early years of plant life, the income tax allowance for regulatory purposes is based on normal book depreciation – *e.g.*, straight line depreciation – even though a pipeline's actual income tax liability is lower as a result of the accelerated depreciation rates allowed in the tax code. The difference between the normalized income tax allowance collected from shippers and the lower income tax actually paid by the pipeline is accumulated in an ADIT account. In recognition of the fact that the ADIT account is funded by ratepayers, the ADIT balance is deducted from the rate base on which the pipeline earns its return. This rate base treatment further recognizes that the pipeline is not permitted to earn a return on funds collected from ratepayers as a prepayment for expenses.

In SFPP's A.03-02-027, *et al.*, rate proceedings, the Commission issued D.11-05-045 which rejected SFPP's inclusion of an income tax allowance in its cost of service because this cost of service item was for an expense that SFPP did not incur. As a result, SFPP's ratepayer funded ADIT account immediately became overfunded and, in turn, required the refunding of these monies to ratepayers. Usually refunds are effectively implemented by amortizing the balance back to such ratepayers prospectively by reducing the pipeline's cost of service for a specified time period by the applicable amortization amount.

As Mr. O'Loughlin explains, the correct treatment of SFPP's ADIT balance in the current proceeding depends on the Commission's disposition of SFPP's ADIT balance in SFPP's A.03-02-027, *et al.* rate proceedings and possibly SFPP's A.09-05-014, *et al.* rate proceedings. O'Loughlin Declaration at PP 18-19; *see also* Judge Bemserfer's Ruling Accepting in Part and Rejecting in Part the Amended Application of SFPP, L.P. and Calnev Pipe Line L.L.C. and Denying the Motion of SFPP, L.P. to Supplement the Record, Docket A.09-05-014, *et al.* (issued Mar. 1, 2012) (Presiding Judge finding that the treatment of SFPP's ADIT balance in the A.09-05-014, *et al.* rate proceedings should be consistent with the treatment of ADIT in SFPP's A.03-02-027, *et al.* rate proceedings).

That is, if the Commission decides to refund the entire ADIT balance over the period for which the A.03-02-027, *et al.* rates apply (October 22, 2002 to the start of the A.09-05-014, *et al.* rates), the appropriate ADIT balance to be deducted from net plant in deriving rate base and to be utilized in designing rates in this proceeding is zero. Similarly, if the Commission decides in the A.03-02-027, *et al.* and/or the A.09-05-014, *et al.* proceedings to amortize the refunding of all of the ADIT balance over the rate periods associated with these rate cases (*i.e.*, October 22, 2002

through March 1, 2012), the appropriate ADIT balance to be used in designing rates in the current proceeding would again be zero.

However, if the Commission determines in the A.03-02-027, *et al.* and A.09-05-014, *et al.* proceedings to amortize the refunding of none or only a partial amount of the ADIT balance over the period for which the A.03-02-027, *et al.* and A.09-05-014, *et al.* rates will apply (*i.e.*, October 22, 2002 through March 1, 2012), the appropriate ADIT balance to be used in designing the rates in the current proceeding will need to be calculated by starting from the October 22, 2002 ADIT balance and reducing it for any portion of the amortized amount refunded to ratepayers during the rate periods associated with the A.03-02-027, *et al.* and A.09-05-014, *et al.* rate proceedings. In turn, the remaining portion of ADIT that has not been amortized during these rate periods will need to be accounted for in the development of rates in the current proceeding. O'Loughlin Declaration at P 19-20.

As Mr. O'Loughlin describes, to the extent that any remaining ADIT balance exists as of March 1, 2012, the appropriate treatment of this ADIT balance would include a reduction from SFPP's rate base for an appropriate amount as well as a corresponding reduction to SFPP's cost of service for the amortization of this amount back to ratepayers. *Id.* Accordingly, the proper treatment of ADIT in this proceeding is contingent on other Commission action in SFPP's A.03-02-027, *et al.* and A.09-05-014, *et al.* rate proceedings and should be treated accordingly in the current proceeding. To the extent SFPP does have a remaining ADIT amount as of March 1, 2012, as a result of the Commission's actions in these pending rate proceedings, Joint Protestors fully intend to submit evidence and testimony on the appropriate treatment of these monies and how to reasonably return this remaining ADIT balance back to ratepayers.

V. INFORMATION REQUIRED BY RULE 2.6(d)

Joint Protestors do not object to SFPP's proposed classification of this proceeding as "ratesetting." Further, Joint Protestors are in agreement with SFPP that the instant rate proceeding will require a hearing whereby full investigation and discovery should be conducted in order to develop a full and complete record for the Commission's ultimate decision. Joint Protestors disagree and object, however, to SFPP's characterization of the issues requiring consideration which appear to be referring to another matter not applicable to the instant rate change Application. Rather, the issues to be decided in this proceeding include whether SFPP's proposed rates are just and reasonable, and if not, what rates are just and reasonable and the applicable remedies available and due shippers.

Joint Protestors object to SFPP's proposed procedural schedule. SFPP's proposed procedural schedule appears to arbitrarily reduce the time available to the parties for resolving this proceeding. Accordingly, Joint Protestors submit that the Commission should promptly schedule a prehearing conference to address this matter. In conjunction with this prehearing conference, the parties will attempt to agree on an appropriate schedule so that it can be presented to the Presiding Judge at the prehearing conference. To the extent the parties cannot agree to a reasonable and appropriate procedural schedule, the Joint Protestors propose that they be permitted to present their scheduling positions at the prehearing conference for ultimate resolution by the Presiding Judge.

VI. CONCLUSION

WHEREFORE, each of the Joint Protestors respectfully request that they be made parties to this proceeding with full rights attendant thereto and that the Commission accept SFPP's proposed rate changes effective March 1, 2012, subject to refund and potential further reduction, and set this proceeding for investigation and hearing.

Respectfully submitted,

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ATTACHMENT

**DECLARATION OF
MATTHEW P. O'LOUGHLIN**

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

SFPP, L.P.

Docket No. A.12-01-015

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DECLARATION OF MATTHEW P. O'LOUGHLIN

I, Matthew P. O'Loughlin, declare as follows:

I. INTRODUCTION AND SUMMARY OF CONCLUSIONS

1. I am a Principal of The Brattle Group, an economic and management consulting firm located at 44 Brattle Street, Cambridge, Massachusetts.
2. I have over twenty-five years of experience consulting to firms in the regulated energy industries on pricing and ratemaking, project and contract evaluation, business strategy, and market assessment. I have filed declarations and testimony on cost-of-service matters in several of SFPP, L.P.'s ("SFPP") prior California Public Utilities Commission ("Commission") and Federal Energy Regulatory Commission ("FERC") rate dockets. This includes declarations and/or testimony regarding SFPP's cost of service and rates in A.09-05-014, *et al.*, the Test Year 2009 General Rate Application of SFPP, LP; A.04-11-017, the Application of SFPP, LP, A.03-02-027, *et al.*, the Application of SFPP, LP pursuant to Commission Resolution No. O-0043 issued October 24, 2002; and A.00-03-044, SFPP's Request for Authority to Justify Its Rates on the Basis of Market Factors. I have also filed affidavits and/or testimony in various SFPP proceedings before the FERC including the complaint proceeding involving SFPP's interstate rates in Docket Nos. OR03-5, *et al.*, the consolidated complaint proceeding involving SFPP's interstate rates in Docket Nos. OR96-2, *et al.*, the complaint and tariff proceeding involving SFPP's Sepulveda Line rate in Docket Nos. OR96-2, *et al.* and IS98-1, the complaint and tariff

proceeding involving SFPP's Watson Station rate in Docket Nos. OR92-8-025, *et al.*, and the tariff proceedings involving SFPP's request for increases in its West Line rates in Docket No. IS08-390-002, its North Line rates in Docket No. IS05-230-000, and its East Line rates in Docket No. IS09-437-000. I have recently provided testimony before the Commission regarding San Pablo Bay's cost of service and rates in A.08-09-024 and C.08-03-021 regarding the Application of San Pablo Bay Pipeline Company LLC for Approval of Tariffs for the San Joaquin Valley Crude Oil Pipeline.

3. I hold an M.A. in Finance from The Wharton School, University of Pennsylvania and a B.A. in Economics and Business from Saint Anselm College. Further details of my professional and educational background and a list of my publications are provided in my curriculum vitae in Attachment A.
4. I have been asked by Chevron Products Company, ConocoPhillips Company, Valero Marketing and Supply Company, Ultramar Inc., and Southwest Airlines Co. to evaluate the cost of service and revenue information contained in the January 30, 2012 Application of SFPP, L.P. ("Application")¹ in Docket No. A.12-01-015 and to evaluate the justness and reasonableness of SFPP's proposed rates. According to its Application, SFPP submitted the cost of service and revenue data in order to justify what it characterizes as a 6.76% reduction in intrastate pipeline transportation rates relative to their current levels.
5. In this declaration I first explain why SFPP's styling of this rate filing as a rate decrease is something of a mischaracterization. SFPP's current rates were filed on May 12, 2009 in the A.09-05-014, *et al.* proceedings, and are currently being collected subject to refund

¹ SFPP's Application in this proceeding comes approximately one month after SFPP made its December 23, 2011 Amended Application in the A.09-05-014, *et al.* proceedings. There, SFPP and SFPP witness Turner inappropriately attempted to revise its A.09-05-014, *et al.* Test Year 2009 rate base and cost of service well after the completion of both the base and test periods, ostensibly in response to ALJ Bemederfer's December 8, 2011 ruling directing SFPP to supplement the record. On January 9, 2012, I filed a declaration explaining why Mr. Turner's proposed changes to SFPP's proposed Test Year 2009 rate base and cost of service were inappropriate, untimely, and should be rejected. I also explained there Mr. Turner's incorrect treatment of the ADIT issue as well as how the Commission should handle the ADIT balance in the context of SFPP's A.03-02-024, *et al.* and A.09-05-014, *et al.* proceedings. In his March 1, 2012 Ruling in the A.09-05-014, *et al.* proceedings Judge Bemederfer denied SFPP's request to increase SFPP's 2009 cost of service to reflect the tentative decision in its litigation with Union Pacific Railroad and SFPP's proposed increase to the 2009 rate base to reflect the adjustments to carrier property in service.

until final rates are determined in those proceedings. The evidence that I presented in the A.09-05-014 proceeding indicates that SFPP's then-current (May 12, 2009) rates were unjust and unreasonable and well above (specifically, 28.9% above) just and reasonable rate levels. As explained below, SFPP's proposed rates in this proceeding likely represent a rate increase over yet-to-be-determined just and reasonable rates in the A.09-05-014, *et al.* proceedings. I then discuss several areas where publicly available information indicates that SFPP's Application likely overstates its cost of service and understates its revenues. Specifically, I address the appropriateness of SFPP's capital structure, return on equity, operating expenses, volume levels and ADIT adjustment in this Declaration.

II. SFPP MISCHARACTERIZES ITS APPLICATION AS A RATE DECREASE

6. SFPP characterizes its Application as a request for a rate decrease across all routes under the Commission jurisdiction (except for Watson and Sepulveda). SFPP claims that its proposed rates in this Application represent a 6.8% decrease from its current rates that were filed subject to refund on May 12, 2009 in the A.09-05-014, *et al.* proceedings.² SFPP claims that it is experiencing an \$8.0 million over-recovery that is the difference between its proposed 2012 Test Year cost of service of \$110.5 million and Test Year revenue at current rates of \$118.5 million [$\$8.0M = \$118.5M - \$110.5M$].³
7. In characterizing its proposed rates as a rate decrease, SFPP does not account for the fact that its current rates are not final rates and are being collected subject to refund. Based on my analysis of the evidence in the A.09-05-14, *et al.* proceedings it is likely that SFPP's proposed tariff rates in this proceeding will exceed the final rates determined in the A.09-05-14, *et al.* proceedings. In that instance, SFPP's proposed rates in this proceeding will properly be characterized as a rate increase relative to the final A.09-05-014, *et al.* rates.

² Application at 5.

³ Application at 6.

8. In his June 22, 2011 proposed decision (which was withdrawn on September 15, 2011 for revision to determine the dollar amount of the rate base), the Presiding Judge in the A.09-05-014, *et al.* proceedings concluded that “Rates calculated in accordance [with] this decision are lower than the rates unilaterally imposed on shippers during the refund period and shippers are accordingly due refunds of the difference between the reasonable rates mandated by this decision and the rates actually charged plus interest.”⁴ Also, in that same proposed decision, the Presiding Judge established a Test Year 2009 cost of service of \$90,973,835,⁵ which was 19.7% below SFPP’s proposed Test Year 2009 cost of service of \$113,301,356 on which its May 12, 2009 then-current rates were based. In addition, the Presiding Judge established the 2009 test year revenue level (using SFPP’s May 12, 2009 rates) at \$122.4 million.⁶ Based on the Presiding Judge’s determined cost of service of \$91.0 million and revenue level of \$122.4 million, SFPP’s then-current rates (which are the basis for its existing tariffs CalPUC Nos. 113 and 114) produced an overrecovery of \$31.4 million or 34.5% relative to the cost of service.⁷ Figure 1 below shows the calculation of this figure.

⁴ Proposed Decision of ALJ Bemserderfer dated 6/22/2011 at 19.

⁵ *Id.* at 18.

⁶ *Id.* at 8.

⁷ This figure is based on the Presiding Judge’s Proposed Decision. In his March 1, 2012 Ruling, ALJ Bemserderfer allowed SFPP to use a zero ADIT balance in deriving its 2009 test year rate base, which increased its rate base from \$222.6 million to \$265.6 million. The higher rate base increases SFPP’s 2009 test year cost of service by \$3.8 million thus reducing the overrecovery to \$27.6 million or 29.2% relative to the cost of service.

Figure 1

**SFPP's 2009 Test Year Cost of Service and Revenue
Based on Proposed Decision of ALJ Bemserfer**

Item		Amount (\$ Millions)
[1]		[2]
Total Cost of Service	[a]	\$91.0
Average Revenues	[b]	\$122.4
Revenue Surplus	[c]	\$31.4
Percentage Revenue Surplus	[d]	34.5%

Sources and Notes:

[a], [b]: Proposed Decision of ALJ Bemserfer dated 6/22/2011 at pp. 8 & 18.

[c] = [b] - [a]

[d] = [c]/[a]

9. If SFPP's final rates in the A.09-05-14, *et al.* proceedings are based on the Presiding Judge's June 22, 2011 proposed decision, they would need to be set at 74.3% of SFPP's collected rates in the A.09-05-014 proceeding to eliminate the overrecovery of \$31.4 million. If SFPP's final rates in the A.09-05-014 proceeding are based on the Presiding Judge's June 22, 2011 proposed decision and his March 1, 2012 ruling, they would need to be set at 77.4% of SFPP's collected rates in the A.09-05-014, *et al.* proceedings to eliminate the overrecovery.

10. As a consequence, SFPP's proposed rates in this proceeding (A.12-01-015) are, on average, a 25.5% increase relative to the rates that would result from the Presiding Judge's Proposed Decision in the A.09-05-014, *et al.* proceedings. See Figure 2 below.

Figure 2
Comparison of SFPP CPUC Rates

6/22/11 ALJ Decision Rates (74.3% of SFPP's CalPUC No. 113 and 116 and 117 114 Rates)						
Origin	Destination		CalPUC No. 113 and 114 Rates)	CalPUC No. 116 and 117	Difference	Percent Change
[1]	[2]		[3]	[4]	[5] = [4] - [3]	[6] = [5] / [3]
Richmond Concord	Bradshaw	[a]	\$0.2923	\$0.3667	\$0.0744	25.4%
Benicia Richmond	Brisbane	[b]	\$0.2016	\$0.2529	\$0.0513	25.5%
	Calnev PL	[c]	\$0.2473	\$0.3102	\$0.0629	25.4%
Richmond Concord	Chico	[d]	\$0.5186	\$0.6504	\$0.1318	25.4%
Watson East Hynes	Colton	[e]	\$0.2473	\$0.3102	\$0.0629	25.4%
Richmond Concord	Fresno N	[f]	\$0.8939	\$1.1213	\$0.2274	25.4%
Bakersfield	Fresno S	[g]	\$0.2558	\$0.3208	\$0.0650	25.4%
Watson East Hynes	Imperial	[h]	\$0.6004	\$0.7532	\$0.1528	25.5%
Watson East Hynes	Miramar Jct.	[i]	\$0.5441	\$0.6826	\$0.1385	25.4%
Watson East Hynes	Miramar Station	[j]	\$0.5441	\$0.6826	\$0.1385	25.4%
Watson East Hynes	Mission Valley	[k]	\$0.5771	\$0.7240	\$0.1469	25.4%
Benicia Richmond	Oakland	[l]	\$0.1786	\$0.2240	\$0.0454	25.4%
Benicia Richmond	Oakland Airport	[m]	\$0.1799	\$0.2257	\$0.0458	25.4%
Benicia Richmond	Oakland Jeff St	[n]	\$0.1786	\$0.2240	\$0.0454	25.4%
Watson East Hynes	Ontario AP	[o]	\$0.2458	\$0.3083	\$0.0625	25.4%
Watson East Hynes	Orange	[p]	\$0.1806	\$0.2266	\$0.0460	25.5%
Benicia	Richmond	[q]	\$0.1739	\$0.2182	\$0.0443	25.5%
Richmond Concord	Roseville Yd	[r]	\$0.3728	\$0.4677	\$0.0949	25.5%
Richmond Concord	Sacramento	[s]	\$0.2923	\$0.3667	\$0.0744	25.4%
Richmond Concord	Sacto Airport	[t]	\$0.2918	\$0.3666	\$0.0748	25.6%
Watson East Hynes	San Diego	[u]	\$0.6027	\$0.7560	\$0.1533	25.4%
Benicia Richmond	San Francisco AP	[v]	\$0.2016	\$0.2529	\$0.0513	25.5%
Richmond Concord	San Jose	[w]	\$0.2112	\$0.2650	\$0.0538	25.5%
Richmond Concord	Stockton	[x]	\$0.2666	\$0.3344	\$0.0678	25.4%

Sources:

No tariff information is available for military bases.

11. While the Presiding Judge's Proposed Decision was withdrawn, the evidence in the A.09-05-014, *et al.* proceedings indicates that SFPP's current (May 12, 2009) rates result in a substantial overrecovery and the final rates are likely to be significantly reduced. By characterizing its current Application as a request for rate decrease to eliminate an overrecovery of \$8.0 million, SFPP mischaracterizes the true nature of its proposed rate change. Had SFPP first adjusted its rates to conform to the Presiding Judge's June 22,

2011 proposed decision in the A.09-05-014, *et al.* proceedings, SFPP's Application could be characterized as a request to increase SFPP's Commission jurisdictional rates by approximately 25.5%.

III. PUBLICLY AVAILABLE DATA INDICATES THAT SFPP MAY BE OVERSTATING ITS COST OF SERVICE AND UNDERSTATING ITS REVENUE IN ITS APPLICATION

12. SFPP witness Turner proposes to use a capital structure of 46.11% equity and 53.89% debt.⁸ He states that he relied on Professor James H. Vander Weide for these capital structure figures (no declaration by Professor Vander Weide was attached to SFPP's Application). No explanation is provided as to how the capital structure was developed, or whether it represents SFPP's capital structure, or that of Kinder Morgan Energy Partners, L.P.'s (KMEP's) capital structure, or that of a proxy group. No explanation is provided as to the date of measurement of the capital structure; it is not known if the 46.11% equity and 53.89% debt figures were measured at the end of Mr. Turner's base period (October 31, 2011) or some other point in time.
13. In D.11-05-045, the Commission adopted a capital structure meant to represent that of KMEP, stating: "it best reflects the structure of the actual financing source."⁹ In his Proposed Decision in A.09-05-014, *et al.*, the Presiding Judge also used the capital structure of KMEP (adjusted for purchased accounting adjustments "PAAs").¹⁰ Based on KMEP's most recent publicly available filing with the Securities and Exchange Commission for the period ending December 31, 2011 (and even without adjusting for PAAs nor including the current portion of long-term debt, both of which would further reduce the equity percentage) I calculate a capital structure of 40.21% equity and 59.79% debt¹¹ as opposed to Mr. Turner's 46.11% equity and 53.89% debt figures (see figure 3

⁸ Application, Exhibit A, Declaration of Thomas A. Turner, Attachment A, p. 1, l. 12 and 13

⁹ D.11-05-045 at p. 33.

¹⁰ Proposed Decision of ALJ Bemserfer dated 6/22/2011 at 6.

¹¹ Using the publicly available filing with the Securities and Exchange Commission for the quarter ending September 30, 2011 I calculate a capital structure of 41.18% equity and 58.82% debt.

below).¹² SFPP's unexplained use of a 46.11% equity percentage in its capital structure appears to increase its weighted cost of capital, allowed return on rate base, and overall cost of service, and as a result, SFPP's cost of service of \$110.4 million in its Application appears to be overstated.

Figure 3
Kinder Morgan Energy Partners Capital Structure
December 31, 2011
(\$ Millions with No PAA Removed)

Item	Balance		Source
	Sheet Data	Proportion	
[1]	[2]	[3]	[4]
<u>Long-term Debt</u>			
Total Long-term Debt	[a]	\$11,160	KMEP 10-K December 31, 2011
<u>Partners' Capital</u>			
Common Units	[a]	4,347	KMEP 10-K December 31, 2011
Class B Units	[b]	42	KMEP 10-K December 31, 2011
i-Units	[c]	2,857	KMEP 10-K December 31, 2011
General Partner	[d]	259	KMEP 10-K December 31, 2011
		7,504	
<u>Capital Structure Calculations</u>			
Long Term Debt	[e]	11,160	59.79%
Partners' Capital	[f]	7,504	40.21%
Total Capital	[g]	18,664	100.00%

Source: KMEP 10-K, December 31, 2011.

14. SFPP witness Turner proposes to use a nominal return on equity of 13.21%.¹³ He states that he relied on Professor James H. Vander Weide for this return on equity figure. Beyond that, SFPP does not explain the basis of the estimate nor does it provide workpapers or a data source for the figure. This figure is 60 basis points higher than the 12.61% return on equity figure adopted by the Commission in D.11-05-045.¹⁴ It is 78

¹² SFPP witness Vander Weide calculates a 2010 year end capital structure of 39.06% equity and 60.94% debt in a recent FERC proceeding, Docket No. IS11-444-001 Exhibit No. SWI-38 (dated Dec. 13, 2011), that includes the current portion of long-term debt in his capital structure calculation. See Attachment B.

¹³ Application, Exhibit A, Declaration of Thomas A. Turner, Attachment A, at 1, l. 15.

¹⁴ D.11-05-045 at p. 30.

basis points higher than the 12.43% return on equity figure specified by the Presiding Judge in his June 22, 2011 proposed decision in A.09-05-014, *et al.* Further, Dr. Vander Weide recently filed testimony at FERC where he calculates SFPP's 2010 nominal cost of equity to be 9.91%¹⁵ and states that this is the cost of equity SFPP used in developing its 2010 FERC Form 6 page 700 return figures. Given the above, SFPP's unexplained use of a 13.21% nominal return on equity appears to increase its weighted cost of capital, allowed return on rate base, and overall cost of service, and as a result, SFPP's cost of service of \$110.4 million in its Application appears to be overstated.

15. Mr. Turner proposes a Test Year 2012 operating expense totalling \$74.1 million.¹⁶ Mr. Turner states that he began with SFPP's recorded base period (November 2010 to October 2011) operating expenses and made certain "regulatory adjustments" to arrive at this amount. However, Mr. Turner does not provide actual expenses for the November 2010 to October 2011 period. He also does not provide the nature or magnitude of his regulatory adjustments. As shown in Figure 4 below, SFPP proposed a 2009 Test Year operating expense of \$66.5 million in its A.09-05-014, *et al.* September 21, 2009 testimony. In its recently-filed Amended Application in A.09-05-014, *et al.*, Mr. Turner's proposed operating expense amount was \$72.2 million. Thus, his proposal in this proceeding reflects an increase over both figures in the A.09-05-014, *et al.* proceedings.

¹⁵ FERC Docket No. IS11-444-001, Exh. No. SW1-021 at 21. *See* Attachment B.

¹⁶ Application, Exhibit A, Declaration of Thomas A. Turner, Attachment A, at 4, l. 18.

Figure 4

**SFPP, L.P. CPUC-Jurisdictional Operating Expenses by FERC Account
(\$ Millions)**

Account	Description		SFPP A.09-05- 014 Revised	SFPP Amended Application 12/23/11	SFPP Application 1/30/12	Difference between SFPP's 1/30/12 Application and A.09	Difference between SFPP's 1/30/12 and 12/23/11 Amended Applications
[1]	[2]	[3]	[4]	[5]	[6]=[5]-[3]	[7]=[5]-[4]	
OPERATIONS AND MAINTENANCE							
300	Salaries and Wages	[a]	\$8.3	\$8.3	\$9.5	\$1.2	\$1.2
310	Materials and Supplies	[b]	\$3.3	\$3.3	\$1.6	(\$1.7)	(\$1.7)
320	Outside Services	[c]	\$16.6	\$16.6	\$13.6	(\$3.0)	(\$3.0)
330	Operating Fuel and Power	[d]	\$13.0	\$13.0	\$12.2	(\$0.7)	(\$0.7)
340	Oil Losses and Shortages	[e]	(\$1.3)	(\$1.3)	(\$1.4)	(\$0.1)	(\$0.1)
350	Rentals	[f]	\$4.6	\$10.3	\$8.0	\$3.4	(\$2.3)
390	Other Expenses	[g]	\$0.8	\$0.8	\$1.0	\$0.2	\$0.2
	Total Operations Expense	[h]	\$45.2	\$50.9	\$44.6	(\$0.6)	(\$6.3)
GENERAL							
500	Salaries and Wages	[i]	N/A	N/A	\$4.3	N/A	N/A
510	Materials and Supplies	[j]	N/A	N/A	\$0.2	N/A	N/A
520	Outside Services	[k]	\$17.5	\$17.5	\$12.6	(\$4.8)	(\$4.8)
530	Rentals	[l]	N/A	N/A	\$0.3	N/A	N/A
540	Depreciation Expense	[m]	\$11.7	\$11.7	\$11.8	\$0.1	\$0.1
550	Employee Benefits	[n]	N/A	N/A	\$5.5	N/A	N/A
560	Insurance	[o]	N/A	N/A	\$0.9	N/A	N/A
580	Pipeline Taxes	[p]	\$3.1	\$3.1	\$4.4	\$1.3	\$1.3
590	Other Expenses	[q]	\$0.7	\$0.7	\$1.3	\$0.6	\$0.6
	Total General Expense	[r]	\$33.0	\$32.9	\$41.3	\$8.3	\$8.3
	Total Operating Expenses	[s]	\$78.2	\$83.8	\$85.8	\$7.7	\$2.0
	Total Operating Expense, Excl. Depr.	[t]	\$66.5	\$72.2	\$74.1	\$7.6	\$1.9

Sources:

[3]: Prepared Rebuttal Testimony of T. Turner, Attachment A, p. 4.

[4]: December 23, 2011 Amended Application, Attachment A, Exhibit 3.

[5]: January 30, 2012 Application, Attachment A, p. 4.

16. As shown in Figure 4 above, Mr. Turner proposes to increase SFPP's Account 350 expenses, which include right-of-way expenses, from \$4.6 million in the A.09-05-014, *et al.* proceedings (row [f], col. [3]) to \$8.0 million (row [f], col.[5]). Presumably, some of that increase is due to an increase in UPRR right-of-way expenses that SFPP recently claimed in its December 23, 2011 Amended Application.¹⁷ There, Mr. Turner proposed an Account 350 expense level of \$10.3 million (row [f], col. [4]). SFPP subsequently admitted that "the scope and amount of its exposure for increased 2009 costs related to right-of-way ("ROW") expenses are not known at this time to a degree of precise

¹⁷ See SFPP's Amended Application dated 12/23/11, Attachment A, p. 11.

certainty. ... it may be premature for the Commission to agree to include a specific amount of increased ROW expenses in determining SFPP's authorized COS...."¹⁸ Given SFPP's admitted uncertainty around its right-of-way expenses, discovery is necessary to determine the basis for the level used by Mr. Turner in this proceeding as well as any regulatory adjustments he may have made to booked levels.

17. Overhead expenses also appear to be at the same level or higher than SFPP proposed in the A.09-05-014, *et al.* proceedings, which relied on SFPP's proposed methodology of directly assigning and allocating overhead costs from its parent entities (KMEP and KMI) to SFPP. In the A.09-05-014, *et al.* proceedings SFPP recorded all of its overhead expenses to Account 520 (Outside Services), which for its 2009 Test Year totalled \$17.5 million and included some other expenses such as rate case expenses.¹⁹ Since SFPP has no employees of its own and did not record any Account 500 (Salaries and Wages) expense in A.09-05-014, *et al.* all of the KMI employee costs were included in Account 520 in A.09-05-014, *et al.* As shown in Figure 4 above, in its current Application, despite SFPP not having any employees and contrary to its prior general administrative expenses proposed in the A.09-05-014, *et al.* proceedings, SFPP proposes Account 500 (Salaries and Wages) expense of \$4.3 million, Account 550 (Employee Benefits) expense of \$5.5 million, Account 560 (Insurance) expense of \$0.9 million, and Account 520 (Outside Services) expense of \$12.6 million, for a total of \$23.3 million. This appears to be an increase in overall overhead expense of \$5.8 million relative to its 2009 Test Year proposed level in the A.09-05-014, *et al.* proceedings (\$17.5 million in Account 520 expenses). In the A.09-05-014, *et al.* proceedings, shippers argued for the use of the objective Massachusetts ("Mass") Formula to allocate overhead costs as opposed to SFPP's subjective and unverifiable methodology. The Presiding Judge's June 22, 2011 proposed decision in the A.09-05-014, *et al.* proceedings adopted a Mass Formula methodology, but permitted the direct assignment of legal expenses, which reduced SFPP's proposed overhead expense by approximately \$6.5 million. Discovery and a

¹⁸ See Reply of SFPP, L.P. and Calnev Pipe Line L.L.C. to Shippers' Opposition to Amended Applications and Motion to Supplement the Record, January 13, 2012, p.4, Docket A.09-05-014, *et al.*

¹⁹ See Figure 4 above.

hearing are necessary to determine whether the levels of other expense categories proposed by SFPP are at reasonable levels.

18. SFPP eliminates the Accumulated Deferred Income Tax (“ADIT”) balance adjustment to rate base in its Application,²⁰ ignoring the fact that the correct treatment of the ADIT balance in this proceeding depends on the Commission’s disposition of SFPP’s ADIT balance in the A.03-02-027, *et al.* and A.09-05-014, *et al.* proceedings. SFPP removed ADIT from the rate base in its Amended Application, arguing that if “SFPP has no tax allowance recoverable in rates, then there can be no deferred tax liability that would have to be paid in the future.”²¹ It is true that because SFPP and its parent entities do not pay income taxes, and therefore, there is not a deferred tax liability that would have to be paid in the future. However, the ADIT balance represents the prepayment of income taxes that was collected by SFPP in its past rates. If there is to be no income tax allowance collected in rates, which the Commission’s D.11-05-045 directed, then the entire ADIT balance which was collected in prior rates is overfunded and should be refunded to ratepayers.²² In the March 1, 2012 Ruling of Judge Bemesderfer, he allowed SFPP to use a zero ADIT balance in deriving its 2009 rate base but noted that “the ultimate resolution of this question [whether the existing ADIT balance should be refunded] ... is currently before the commission in the A.03-02-027 proceeding.”²³
19. Thus, the correct treatment is to recognize that the ADIT balance is overfunded and to amortize the balance back to ratepayers by reducing the pipeline’s cost of service by the amortization amount. If the Commission decides to amortize the refunding of the entire ADIT balance over the period for which the A.03-02-027, *et al.* rates apply (October 22,

²⁰ Application, Attachment A, at 3.

²¹ SFPP’s Amended Application, p. 5, dated December 23, 2011.

²² In my Answering Testimony in the A.09-05-014, *et al.* proceedings (Exhibit No. CCS-2, at MPO-1, p.37), I explained that the ADIT balance represents funds previously collected from ratepayers, stating: “The ADIT balance that is deducted from rate base is a rate-making mechanism which allows a pipeline to “normalize” the income tax allowance collected in its rates. During the early years of plant life, the income tax allowance for regulatory purposes is based on normal book depreciation – e.g., straight line depreciation – even though a pipeline’s actual income tax liability is lower through the accelerated depreciation rates allowed in the tax code. The difference between the normalized income tax allowance collected from shippers and the lower income tax actually paid by the pipeline is accumulated in an ADIT account. In recognition of the fact that the ADIT account is funded by rate payers, the ADIT balance is deducted from the rate base on which the pipeline earns its return.”

²³ ALJ’s Ruling in A.09-05-014, *et al.* dated March 1, 2012.

2002 to the start of the A.09-05-014, *et al.* rates), the appropriate ADIT balance (to be deducted from net plant in deriving the rate base) to be used in designing the A.09-05-014, *et al.* rates (and the A.12-01-015 rates as well) is zero. This treatment is consistent with the Presiding Judge's March 1, 2012 Ruling in the A.09-05-014, *et al.* proceedings where Judge Bemserderfer allowed SFPP to reflect a zero ADIT balance in its 2009 Test Year rate base. Alternatively, if the Commission decides (in the A.03-02-027, *et al.* proceedings) to amortize the refunding of none or only a portion of the ADIT balance over the period for which the A.03-02-027, *et al.* rates apply, the appropriate ADIT balance to be used in designing the rates in A.09-05-014, *et al.* and in this proceeding will have to be calculated by starting from the October 22, 2002 ADIT balance and reducing it for any portion of the amortized ADIT amounts during the A.03-02-027, *et al.* period, or during the A.09-05-014, *et al.* period.²⁴ SFPP can do these calculations in the context of compliance filings in the A.03-02-027, *et al.* and A.09-05-14, *et al.* proceedings, which will impact the appropriate balance for use in this A.12-01-015 proceeding.

20. If the Commission decides to amortize only a portion of the ADIT balance during the A.03-02-027, *et al.* period, I recommended that the remaining balance in A.09-05-014, *et al.* be amortized over a five- year period.²⁵ I am aware of prior CPUC proceedings where the Commission permitted the amortization of an overfunded ADIT balance over a ten-year period, where the ten-year period did not appear to be related to the remaining life of the assets.²⁶ Given that the A.03-02-027, *et al.* period is approximately five years, my recommendation to amortize the A.09-05-014 *et al.* remaining balance over a subsequent five year period is efficient and generally consistent with the Commission's prior use of a ten year period over which to amortize the entire balance. Because the A.09-05-014, *et al.* rates will have been in effect for less than five years because of SFPP's filing of new rates in this proceeding, the ADIT balance would not be fully amortized in this scenario and the unamortized portion the ADIT balance should be a deduction from rate base in

²⁴ The A.09-05-014, *et al.* period will run from the end of the A.03-02-027, *et al.* period until SFPP's proposed rates in this proceeding are placed into effect.

²⁵ My January 9, 2012 declaration in the A.09-05-014 *et al.* proceeding, at PP 28-40.

²⁶ Pacific Telephone & Telegraph Co., 32 P.U.R. 4th 121 (C.P.U.C. 1979); *see also* General Telephone Co. of Calif., 37 P.U.R. 4th 127 (C.P.U.C. 1980).

this proceeding, as well as the amortization of the remaining ADIT balance being a deduction from SFPP's overall cost of service.

21. In its Application, SFPP adjusts its actual volumes during the period November 2010 – October 2011 at 5 locations, increasing volumes at 3 locations and decreasing volumes at 2 locations.²⁷ Overall, the result is a net increase in total volumes (relative to the actual base period (November 2010 - October 2011 level) of a half percent. SFPP's 2009 actual volumes were a total of 234.9 million barrels while volumes during the period November 2010 – October 2011 are reported to be 229.0 million barrels, and SFPP's adjusted Test Year volumes are 230.2 million barrels.²⁸ However, it is not clear how well SFPP's projected volumes reflect what volumes will be going forward as the economy is expected to recover. Indeed, SFPP's volume analysis in the A.09-05-014, *et al.* proceedings is based on the historical volume trend that was established during the recession and appears to ignore the effect of economic growth on petroleum product consumption.²⁹ This issue was a subject of the A.09-05-014, *et al.* proceedings and determining a reasonable level of volumes on which to base going-forward rates is a subject for discovery and a hearing.³⁰
22. In conclusion, then, my analysis above suggests that SFPP's Application fails to demonstrate that the proposed rates are just and reasonable. Without the benefit of discovery, I have no further comments on the Application.

²⁷ Application, at 6-11.

²⁸ *Id.* at 7.

²⁹ Prepared Direct Testimony of P. Dito in Docket No. A.09-05-014, *et al.* at p. 5. SFPP contended that a representative 2009 test year throughput level for developing forward-looking rates would approximately be 223,000,000 barrels. However, as SFPP's annual report filed with the Commission demonstrates, this SFPP-projected throughput level understated a representative level for 2009 and beyond. Specifically, the actual interstate volumes transported by SFPP in 2009 and 2010 were 234,831,663 and 232,067,585 barrels, respectively (see Attachment C).

³⁰ Judge Bemmesderfer's Proposed Decision from last June adopted projected test year volumes of 244.6 million barrels.

The statements in the foregoing declaration are true of my knowledge, except as to matters which are stated on information and belief, and to those matters, I believe them to be true. I declare under penalty of perjury, under the laws of the State of California that the foregoing is true and correct. Executed this 5th day of March, 2012 at Cambridge, Massachusetts.



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Mr. Matthew O'Loughlin consults to clients in the natural gas, petroleum pipeline, and electric power industries on matters of pricing and ratemaking, project and contract valuation, market assessment, and business strategy. He has assisted numerous clients with evaluations of the reasonableness of natural gas and petroleum pipeline rates, often testifying on such issues before the Federal Energy Regulatory Commission and state public utility commissions. In addition, Mr. O'Loughlin has analyzed claims of market power and anticompetitive behavior in natural gas, NGL, and petroleum pipeline markets. He has extensive energy asset and contract valuation experience and has testified in federal and state courts and arbitration proceedings on commercial damages matters.

Mr. O'Loughlin holds an M.A. in Finance from The Wharton School at the University of Pennsylvania and a B.A. in Economics and Business from Saint Anselm College. He also completed all of the course work and examination requirements towards a Ph.D. in Finance from the Wharton School, University of Pennsylvania. Mr. O'Loughlin previously served as president and chief executive officer of *The Brattle Group*.

AREAS OF EXPERTISE

- ♦ *Pricing and Ratemaking*
- ♦ *Project and Contract Evaluation*
- ♦ *Market Assessment*
- ♦ *Business Strategy*

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EXPERIENCE

Pricing and Ratemaking

- ◆ Mr. O'Loughlin has extensive experience in preparing as well as evaluating natural gas and oil pipeline cost of service studies. He has testified in numerous proceedings regarding rate base derivation, appropriate operations and maintenance expense levels (including parent company overhead cost allocations), allowed return, test year billing determinants, and the appropriate treatment of discounts. He has also analyzed and addressed cost allocation procedures in testimony, including allocation between non-jurisdictional and jurisdictional activities as well as amongst separate jurisdictional systems. His work often involves testifying as to the appropriate rate design methodology.
- ◆ In the context of settlement negotiations, Mr. O'Loughlin has modeled the transportation rates of several gas pipelines and large local distribution companies including British Gas, El Paso Natural Gas, Gaz Metropolitan, Iroquois Gas Transmission, SoCalGas, and Tennessee Gas Pipeline. He frequently uses these rate models to check the sensitivity of rates to alternative rate designs or alternative cost of service assumptions. For example, he has examined the rate effects of alternative depreciation schedules, zone pricing proposals, and capacity turn-back scenarios.
- ◆ For shippers of a large oil pipeline, Mr. O'Loughlin testified on the substantially changed circumstances test of the 1992 Energy Policy Act regarding grandfathered rates as well as on traditional cost of service issues. Mr. O'Loughlin's analysis covered cost allocation, rate base, operations and maintenance expense, return, and volume issues in the context of FERC's trended original cost methodology.
- ◆ For a state public utility commission, Mr. O'Loughlin was part of a team that provided policy advice in a docket regarding the pricing of LDC system interruptible transportation (IT) and LDC release of pipeline capacity. As part of the assignment, he conducted a survey of other states' LDC IT pricing policies and prepared seminars on LDC IT pricing and FERC's capacity release policy.
- ◆ On behalf of Columbia Gas Transmission and Columbia Gulf Transmission, Mr. O'Loughlin was part of a team that submitted influential papers on natural gas transportation pricing to the U.S. Federal Energy Regulatory Commission. The first paper, "Basic and Enhanced Services for Recourse and Negotiated Rates in the Natural Gas Pipeline Industry," recommended that the FERC authorize pipelines to negotiate customized services and prices with customers as a means of effectively responding to a rapidly changing industry environment. The paper also stressed the importance of a recourse offering as both a quality of service and price protection backstop, and the need for the FERC to carefully monitor discrimination concerns. The second paper, "Pipeline Pricing to Encourage Efficient Capacity Resource Decisions," proposed a movement away from flat equal monthly demand charges for pipeline capacity to other methods (such as term-differentiated and seasonalized rates) that better reflect peak and off-peak patterns usually found in the market value of pipeline capacity.
- ◆ On behalf of an oil pipeline shipper, Mr. O'Loughlin assisted in the evaluation of two oil pipelines' market-based rates applications. The applications were found deficient in numerous

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respects. Geographic markets were incorrectly identified and measures of concentration incorrectly calculated, both with the effect of understating the true level of concentration.

- ◆ Several proposed shared savings incentive mechanisms for determining shareholder earnings on demand-side management (DSM) programs were evaluated by Mr. O'Loughlin for a natural gas local distribution company. The analysis used Monte Carlo techniques to simulate actual DSM program performance along with the resulting earnings that would be achieved under the alternative mechanisms. Mr. O'Loughlin presented testimony on the results of the analysis and on the design of desirable mechanisms.
- ◆ To reduce the threat of bypass, Mr. O'Loughlin developed two competitor analysis models for the marketing unit of a major natural gas distribution company. One estimates a new entrant's likely rate so as to minimize the discount necessary to retain industrial customers while the other estimates a city's potential benefit from municipalization at the utility's current rates.
- ◆ Mr. O'Loughlin has evaluated the incentives inherent in the gas cost incentive mechanism of a large LDC. The analysis indicated that the mechanism provided inappropriate incentives in the wholesale natural gas market with respect to third party sales, hub transactions, and forward market behavior.

Project and Contract Evaluation

- ◆ On behalf of the Settling Claimants (California electric and gas utilities, Western states, and California class consumers) in the \$1.6 billion natural gas antitrust settlement with El Paso Corporation and its subsidiaries, Mr. O'Loughlin quantified both the damages sustained and the settlement consideration to be allocated to each major settling claimant group. He developed a methodology to allocate the settlement consideration according to the relative damage incurred by each major claimant group from uncompetitive, increased natural gas prices at the California Border during the March 2000 - May 2001 period, taking into account both the direct overpayment for natural gas and the indirect effect of higher natural gas costs on the market price of electricity in calculating damages. Mr. O'Loughlin also designed and processed the claims forms for the two dozen California municipal electric and gas utilities participating in the settlement. This entailed a careful review of their electricity and natural gas purchases and sales and the associated contractual agreements. He also provided industry background and valuation methodology expertise to the settlement administrator for the claims process for industrial gas users, as well as assisting the administrator in the design of the claims form that was sent to hundreds of industrial customers seeking settlement compensation. Throughout the process, he provided declarations to the Court explaining his methodology and results.
- ◆ On behalf of a major paper producer, Mr. O'Loughlin submitted an expert report which estimated the damages to the paper company that resulted from the breach of an energy supply contract by the owner of a natural gas-fired electricity cogeneration plant. Under the contract, the price of steam to the paper company was based formulaically on the price of four fixed-price, fixed-escalation natural gas supply contracts entered into by the cogeneration facility. When a natural gas supplier terminated one of these supply contracts, the cogeneration facility entered into replacement supply contracts that were indexed to monthly gas prices. These indexed

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replacement contracts resulted in higher gas prices and, consequently, higher steam prices. Mr. O'Loughlin estimated damages to the paper company that resulted from the higher steam prices.

- ◆ Mr. O'Loughlin has assisted creditor groups with the valuation of energy firms in bankruptcy. For a producer-creditor of a major interstate natural gas pipeline, he evaluated alternative claims valuation methodologies for rejected long-term gas supply contracts in the context of a court-appointed claims quantification proceeding. For the bondholders' committee of a project-financed independent power producer, Mr. O'Loughlin participated in the development of overall case strategy as well as the valuation of the debtor's single generating asset and the evaluation of the debtor's pre-petition power marketing efforts. For an electric utility's creditor group, he assisted in the valuation of the utility's assets following declaration of bankruptcy and in the evaluation of numerous restructuring proposals.
- ◆ Mr. O'Loughlin prepared a valuation of a natural gas pipeline in a dispute involving a right-of-first-refusal (ROFR) clause to purchase the pipeline. In performing the valuation, Mr. O'Loughlin examined current market conditions, including the business plans of the ROFR holder, and developed multiple scenarios relating to new pipeline interconnections and LNG supply developments.
- ◆ In arbitrations concerning the price of natural gas under long term contract, Mr. O'Loughlin has helped prepare expert testimony on the market value of the gas as well as the amount of damages resulting from the breach of supply contracts. Mr. O'Loughlin has also critiqued damages estimates provided by opposing witnesses.
- ◆ Mr. O'Loughlin has valued several large, residual oil-fired generating stations, often to evaluate the possible conversion to natural gas or other fuels. In these analyses, the expected pre- and post-conversion station values are computed using a range of market electricity price and fuel cost conditions. Mr. O'Loughlin has also advised on the strategy to be followed by the station with regard to its post-conversion fuel supply and transportation arrangements.
- ◆ For an electric utility contemplating the buyout of an expensive wood-fired QF power supply contract, Mr. O'Loughlin quantified the value of the excess payments stemming from the contract being "above-market." A complex spreadsheet model was developed to simulate the uncertainty in both future market electricity prices (from underlying load growth and fuel cost uncertainty) and in the QF's future fuel and O&M costs. The model also took into account contract termination and conversion options held by the utility.
- ◆ For an electric utility evaluating stranded cost investigation alternatives, Mr. O'Loughlin directed the development of a detailed operational and financial model which calculates generating station revenue requirements and stranded costs, computes cost-recovery rates, balances energy supply and demand, and projects the utility's financial performance. The model includes the flexibility to analyze several different scenarios characterized by timing and extent of access, electricity market price, generating station performance, and regulatory recovery rules.

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Market Assessment

- ◆ Mr. O'Loughlin has evaluated the competitive implications of several natural gas pipeline and vertical (electricity and natural gas) proposed mergers. Relevant product and geographic markets were defined and assessments made of competitive impacts. Such work has been done on behalf of merger proponents in some instances and for concerned third parties in other.
- ◆ Mr. O'Loughlin analyzed the anti-competitive incentives that would result from the proposed combination of two general partners of partnerships involved in natural gas liquids (NGL) fractionation, transportation, storage and trading. He examined the incentives the merged entity would have to manipulate the commodity price, as well as the information advantage the merged entity would have regarding the positions of other market participants.
- ◆ Mr. O'Loughlin has evaluated the market, economic, and competitive conditions surrounding several proposed project-financed natural gas pipelines and existing pipeline expansions in the California, Midwest, Northeast and Florida markets. For some, he has prepared market assessments that have been used to support certification of the new pipelines or to evaluate the desirability of taking an equity position in the pipeline. In other instances, his analyses have identified uneconomic projects that depend on cross-subsidies for viability.
- ◆ On behalf of a concerned group of market participants, Mr. O'Loughlin assisted in an investigation of the NYMEX Henry Hub natural gas futures contract (following its then-unprecedented price behavior from 2000-2003) for possible price manipulation, with an emphasis on schemes designed to drive up the price. The work involved an extensive series of well-known economic and statistical tests for manipulation, examining publicly-available data on natural gas futures contracts' volumes and prices, agricultural products futures contracts' volumes and prices, natural gas cash market (physical) transactions at Henry Hub and other trading centers, weekly position and concentration data on commercial and non-commercial Henry Hub futures' traders, natural gas storage inventories, week-to-week deviations in nationwide weather levels from normal, and changes in trading controls. Subject to the limitations imposed by having only publicly-available data, the analysis found that the data did not support a view of chronic or systematic manipulation of the NYMEX Henry Hub contract during 2000-2003.
- ◆ For a large electric utility, Mr. O'Loughlin analyzed the potential for vertical market power abuse arising from the proposed merger of two neighboring utilities. The circumstances surrounding the proposed merger were somewhat unique in that the state was moving to a deregulated wholesale electricity market where the marginal plant would set the clearing price for all generation, natural gas-fired electric generating plants were often the marginal source of supply, and one of the two merger partners, a large natural gas local distribution company (LDC), transported gas to all gas-fired plants in the area. The analysis demonstrated that the LDC had a number of means by which to influence the delivered price of natural gas, thereby potentially allowing it to favor an unregulated marketing or generation affiliate at the expense of other competitors.
- ◆ For a firm considering independent power production opportunities, Mr. O'Loughlin evaluated the likely need and sources of supply for new capacity in the Mid-Atlantic region. This involved

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a utility-by-utility evaluation of future growth possibilities and an examination of the likely viability of already proposed projects.

- ◆ Mr. O'Loughlin has extensively studied the California natural gas market. He has prepared several reports detailing anticompetitive activity by the affiliate of a large interstate pipeline that enters California. This anticompetitive behavior arose as a result of the large block of pipeline capacity that was held by the affiliate.
- ◆ For a several hundred megawatt Midwest retail customer, Mr. O'Loughlin directed an analysis examining the likely range of future industrial power prices in the Ohio River basin. The analysis took into account the likely tightness of market conditions in the region by examining longstanding economic and power demand growth patterns and existing and planned capacity additions and retirements. To establish price bounds, the analysis also considered unit construction costs, unit heat rates, the price and availability of natural gas and coal in the region, and future environmental regulation.
- ◆ On behalf of a major electric utility, Mr. O'Loughlin helped assess natural gas market conditions in California as part of a statewide restructuring proceeding. Mr. O'Loughlin analyzed competitive conditions in transmission, storage, and procurement, including the alternatives available to shippers in meeting transmission company balancing requirements. The study proposed several changes to increase competition and limit opportunities for anticompetitive behavior.
- ◆ For an electric utility holding company investigating new investment opportunities for its unregulated subsidiary, Mr. O'Loughlin was part of a team that prepared a "survey" of twenty different sectors of the energy industry. For each sector, the survey described the market, its key players, its growth potential, and the future opportunities and risks it presented. The material was presented at a two-day client workshop designed to winnow the list down to a handful of sectors identified as priorities for further investigation. Mr. O'Loughlin subsequently participated in the investigation of these priority areas.
- ◆ For an investment bank evaluating investment opportunities in Northeast regional energy projects, Mr. O'Loughlin helped prepare an analysis of several proposed natural gas pipeline projects competing to serve the Northeast.

Business Strategy

- ◆ Mr. O'Loughlin has worked with an electric utility preparing for retail access to develop appropriate business and regulatory strategies. To evaluate alternative stranded cost mitigation strategies, he facilitated client workgroup sessions that developed a consistent set of scenarios describing the future restructured world, with emphasis on market price uncertainty, the timetable of industry deregulation, and the measurement and recovery of stranded costs. From there, alternative mitigation strategies across key functional business areas were developed and assessed under each of the scenarios. For the same client, Mr. O'Loughlin coordinated the development of the utility's initial regulatory position on retail access. The utility's position was developed through an internal consensus building process that addressed a wide range of specific access-related topics including market structure, customer choice alternatives, disposition of generation,

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obligations during the transition period, stranded cost measurement and recovery, ratemaking and rate design, state/federal issues, and social programs. This position was used as a guide by the utility's representatives at state-level negotiating sessions designed to foster consensus on retail access.

- ◆ Mr. O'Loughlin has led utility management groups through the Electric Power Research Institute's CATALYST planning process on such topics as Transmission Access, Accelerated Environmental Regulation, EMF, and Capacity Contingency Planning.
- ◆ Mr. O'Loughlin co-managed a team assessing strategic opportunities and risks for a Midwestern combination utility evaluating both industry restructuring and a specific merger proposal. The assignment included: (1) organizing and facilitating an off-site retreat with the utility's senior executives to assess the utility's market position, identify key industry-related future uncertainties, and understand the interdependence of its regulatory and business strategies; (2) conducting a benchmark analysis to quantify the client's strengths and weaknesses by lines of business relative to immediate competitors and the region as a whole; (3) simulating the regional generation market to forecast likely competitive market prices and their sensitivity to factors such as nuclear outages and changes in transmission constraints; (4) valuing the utility and its potential merger partner on both a scenario-specific and business-segment-specific basis; and (5) simulating alternative business strategies' impacts on the company's earnings and overall financial performance.
- ◆ For the independent power producer (IPP) funding unit of a major financial services firm, Mr. O'Loughlin developed a conceptual model of energy markets, tracing through its implications for the IPP market. This model provided the unit with a broader overview of its market and led to a reformulation of its credit analysis process.
- ◆ For an electric utility seeking to reduce its power costs, Mr. O'Loughlin investigated the economic and market feasibility of remarketing natural gas that is currently under long-term contract to non-utility generators (NUGs) supplying electricity to the utility. Remarketing the gas would effectively convert the must-run NUGs to dispatchable status, thereby lowering the utility's costs.
- ◆ For a number of electric utilities, Mr. O'Loughlin has evaluated strategic acquisition and divestiture alternatives. He has been principally involved in the development and measurement of the financial and operational criteria used to assess the alternatives.
- ◆ For an electric utility defending itself against a hostile takeover, Mr. O'Loughlin helped prepare testimony and analysis demonstrating both the poor financial health (and impending financial difficulties) of the acquirer and the lack of any power supply benefits from the proposed acquisition.
- ◆ Mr. O'Loughlin assisted the developer of a large scale electric storage technology with its bidding strategy in a utility's supply RFP for option purchase agreements. The value of the storage technology to the utility's system was quantified under several scenarios. These valuations served as the basis for approximating the option value of the technology in the bid development process.

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PRIOR EXPERIENCE

Prior to joining *The Brattle Group* and its predecessor, Incentives Research Inc., Mr. O'Loughlin was with Putnam, Hayes & Bartlett, Inc. Mr. O'Loughlin also worked as the assistant to the Vice President of Engineering & Planning for a natural gas distribution subsidiary of EnergyNorth, Inc. There, his responsibilities included preparing the company's fuel cost adjustment filing and assisting in the preparation and analysis of the annual operating and capital budgets. Earlier, Mr. O'Loughlin worked for the New Hampshire Governor's Council on Energy in the hydropower and resource recovery programs.

TESTIMONY

Declaration before the California Public Utilities Commission on behalf of Chevron Products Company, ConocoPhillips Company, Valero Marketing and Supply Company, Ultramar Inc., Southwest Airlines Co., and Air Transport Association of America, Inc. d/b/a Airlines for America to evaluate SFPP's Proposed Test Year 2009 rate base and cost of service in Application 09-05-014, January 2012.

Reply Evidence before the National Energy Board of Canada on behalf of BP Canada Energy Company evaluating the toll-related evidence regarding Enbridge Southern Lights pipeline in RH-1-2011, September 2011.

Affidavit before the Federal Energy Regulatory Commission on behalf of Chevron Products Company evaluating whether there is evidence of substantial change in the economic circumstances which were the basis for SFPP's North and Oregon Line grandfathered interstate pipeline rates, Docket No. OR11-16-000, June 2011.

Affidavit before the Federal Energy Regulatory Commission on behalf of ConocoPhillips Company evaluating whether there is evidence of substantial change in the economic circumstances which were the basis for SFPP's North and Oregon Line grandfathered interstate pipeline rates, Docket No. OR11-13-000, June 2011.

Testimony before the Federal Energy Regulatory Commission on behalf of Southern California Edison evaluating the reasonableness of El Paso Natural Gas Company's proposed rate design, Docket No. RP10-1398-000, June 2011, August 2011, September 2011.

Expert Report before the United States District Court of Harris County, Texas in Scott D. Martin, et al. vs. Martin Resource Management Corporation, et al., Cause No. 2008-53948, March 2011.

Testimony before the Federal Energy Regulatory Commission on behalf of Southern California Edison Company evaluating the changes to El Paso Natural Gas Company's fuel charge rate design proposed by Texas Gas Services and Commission Staff. Docket No. RP10-951-000, March 2011.

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Affidavit before the Federal Energy Regulatory Commission on behalf of Valero Marketing and Supply Company analyzing and recommending the appropriate index for annual changes to oil pipeline rate ceilings in the Commission's Five Year Review of Oil Pipeline Pricing Index, Docket No. RM10-25-000, August 2010, September 2010, October 2010.

Affidavit before the Federal Energy Regulatory Commission on behalf of BP Products North America Inc. evaluating the reasonableness of the rates for Enbridge Pipelines' Southern Lights project, Docket No. IS10-399-000, June 2010.

Testimony before the California Public Utilities Commission on behalf of Chevron Products Company, in a matter evaluating the reasonableness of San Pablo Bay Pipeline Company LLC's proposed Commission-jurisdictional rates for its SJV Pipeline, Application No. 08-09-024, December 2009, April 2010.

Testimony before the Federal Energy Regulatory Commission on behalf of Chevron Products Company, ConocoPhillips Company, Southwest Airlines Co., and Valero Marketing and Supply Company, evaluating the reasonableness of SFPP's proposed Commission-jurisdictional rates for its interstate movements on SFPP's East Line, Docket No. IS09-437-000, March 2010.

Testimony before the California Public Utilities Commission on behalf of Chevron Products Company, ConocoPhillips Company, and Southwest Airlines Co. evaluating the reasonableness of SFPP's proposed justification of its intrastate rates in A.08-06-008 as well as SFPP's request for a rate increase in A.09-05-014, December 2009.

Affidavit before the Federal Energy Regulatory Commission on behalf of Chevron Products Company, ConocoPhillips Company, Southwest Airlines Co., and Valero Marketing and Supply Co. evaluating the justification of SFPP's East Line rate increase, Docket No. IS09-437-000, August 2009.

Testimony before the Federal Energy Regulatory Commission on behalf of Southern California Edison evaluating the reasonableness of El Paso Natural Gas Company's proposed rate design, Docket No. RP08-426-000, May 2009, August 2009.

Testimony before the Federal Energy Regulatory Commission on behalf of Continental Airlines, Inc., Northwest Airlines, Inc., Southwest Airlines Co., US Airways, Inc., Chevron Products Company, ConocoPhillips Company, and Valero Marketing and Supply Company evaluating the reasonableness of SFPP's West Line interstate Commission-jurisdictional rates, Docket No. IS08-390-002, January 2009.

Testimony before the Federal Energy Regulatory Commission on behalf of Valero Supply and Marketing Company calculating damages related to unduly discriminatory treatment, Docket No. OR08-4-000, November 2008.

Testimony before the Federal Energy Regulatory Commission on behalf of Chevron Products Company and ConocoPhillips Company evaluating the reasonableness of SFPP's interstate Commission-jurisdictional rates, Docket No. OR03-5, *et al.*, December 2007, April 2008, June 2008, October 2008.

Affidavit before the Federal Energy Regulatory Commission on behalf of America West Airlines, Inc. and US Airways, Inc., Chevron Products Company, ConocoPhillips Company, Continental Airlines, Inc., Northwest Airlines, Inc., Southwest Airlines Co., and Valero Marketing and Supply Co. evaluating the

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reasonableness of Calnev Pipe Line L.L.C.'s interstate pipeline rates, Docket No. OR07-19-000, *et. al.*, August 2007, February 2008, April 2008.

Expert Report before the United States District Court for the Southern District of Texas, Houston Division in United States of America vs. James Patrick Phillips, Wesley C. Walton and James Brooks, Defendants, Criminal Action No. H-04-512-S, September 2007.

Testimony before the Federal Energy Regulatory Commission on behalf of National Propane Gas Association, AmeriGas Propane, L.P., CHS Inc., ConocoPhillips Company, Ferrellgas, L.P., and Targa Liquids Marketing and Trade evaluating the reasonableness of Mid-America Pipeline Company, LLC's proposed Commission-jurisdictional rates, Docket Nos. IS05-216-003, *et. al.*, March 2007.

Testimony before the Federal Energy Regulatory Commission on behalf of Chevron Products Company, ConocoPhillips Company, Tosco Corporation, and Ultramar Inc. and Valero Marketing and Supply Company, evaluating SFPP's March 7, 2006 Compliance Filings in Docket Nos. OR92-8, *et al.* and OR96-2, *et al.*, April 2006.

Expert Report before the United States District Court for the Southern District of Texas, Houston Division in United States of America vs. Greg Singleton, Defendant, Criminal Action No. H-04- H-06-80, March 2006.

Expert Report before the United States District Court for the Southern District of Texas, Houston Division in United States of America vs. Michelle Valencia, Defendant, Criminal Action No. H-04-514, March 2006.

Expert Report before the United States District Court for the Southern District of Texas, Houston Division in United States of America vs. Jerry Alfred Futch, Jr., Defendant, Criminal Action No. H-04-511, February 2006.

Testimony before the California Public Utilities Commission on behalf of Southern California Edison, Docket No. I.02-11-040, November 2005, in *Order Instituting Investigation into the Gas Market Activities of Southern California Gas Company, San Diego Gas and Electric, Southwest Gas, Pacific Gas and Electric, and Southern California Edison and their Impact on the Gas Price Spike Experience at the California Border from March 2000 through May 2001.*

Testimony before the Federal Energy Regulatory Commission on behalf of Chevron Products Company, ConocoPhillips Company, and Valero Marketing and Supply Company evaluating the reasonableness of SFPP's proposed Commission-jurisdictional rate for its interstate movements on SFPP's North Line Docket No. IS05-230-000, November 2005.

Testimony before the Federal Energy Regulatory Commission on behalf of Chevron Products Company, ConocoPhillips Company, Tosco Corporation, Ultramar Inc., and Valero Marketing and Supply Company evaluating the reasonableness of SFPP's Commission-jurisdictional rate for its Watson drain dry facilities in Docket No. OR92-8-025, October 2005.

Affidavit before the Federal Energy Regulatory Commission on behalf of Continental Resources Inc. to analyze Bridger Pipeline LLC's current rates and the June 30, 2005 cost of service accompanying the pipeline's tariff filing in Docket No. IS05-474, *et al.*, September 2005.

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Testimony before the Federal Energy Regulatory Commission on behalf of Chevron Products Company, ConocoPhillips Company, and Valero Marketing and Supply Company, Docket No. IS05-230-000, in a rate proceeding of SFPP, L.P., May 2005.

Testimony before the Federal Energy Regulatory Commission on behalf of Ultramar Inc., ChevronTexaco Products Company and Tosco Corporation, in Docket Nos. OR96-2-012, OR96-17-005, and IS98-1-000, in a proceeding regarding SFPP, L.P., January 2005.

Affidavit before the California Public Utilities Commission on behalf of Valero Marketing and Supply Company, Ultramar Inc., and ChevronTexaco Products Company, Application A.04-11-017, in the matter of the Application of SFPP, L.P., December 2004.

Declaration before the Superior Court of the State of California in support of Ex Parte Application for Entry of Second Distribution Order in Natural Gas Anti-Trust Cases I, II, III & IV, December 2004.

Testimony before the Federal Energy Regulatory Commission on behalf of Ultramar Inc., ChevronTexaco Products Company and Tosco Corporation, Docket Nos. IS98-1-000, *et al.*, in a rate proceeding of SFPP, L.P., December 2004.

Affidavit before the Federal Energy Regulatory Commission on behalf of ConocoPhillips Company evaluating the reasonableness of SFPP's rates on in Docket Nos. OR05-5, December 2004.

Testimony before the Federal Energy Regulatory Commission on behalf of Ultramar Inc. and ChevronTexaco Products Company, Docket Nos. OR96-2-012, and OR96-17-005, in a complaint proceeding regarding SFPP, L.P., October 2004.

Affidavit before the Federal Energy Regulatory Commission on behalf of the America West Airlines, Inc., Southwest Airlines Co., Northwest Airlines, Inc., and Continental Airlines, Inc., in a complaint regarding SFPP, L.P., September 2004.

Declaration in an arbitration proceeding on behalf of a major oil company regarding the value of indemnity claims, August 2004.

Declaration before the American Arbitration Association on behalf of a large energy company regarding the fair market value of a natural gas pipeline, June 2004.

Declaration before the Superior Court of the State of California on behalf of the Settling Claimants in Natural Gas Antitrust Cases I, II, III, and IV [J.C.C.P. Nos. 4221, 4224, 4226 & 4228], June 2004.

Declaration in Support of Plaintiff's Motion to Require Objector Ernest Thayer to Post a Bond on Appeal before the Superior Court of the State of California on behalf of the Settling Claimants in Natural Gas Antitrust Cases I, II, III, and IV [J.C.C.P. Nos. 4221, 4224, 4226 & 4228], March 2004.

Declaration before the Superior Court of the State of California on behalf of the Settling Claimants in Natural Gas Antitrust Cases I, II, III, and IV [J.C.C.P. Nos. 4221, 4224, 4226 & 4228], November 2003.

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Testimony before the California Public Utilities Commission on behalf of BP West Coast Products LLC, Exxon Mobil Oil Corporation, Valero Marketing and Supply Company, Ultramar Inc., and Chevron Products Company, Application No. 0302027, August 2003, in the matter of the Application of SFPP, L.P., Pursuant to Commission Resolution No. O-0043.

Testimony before the United States District Court for the Northern District of Illinois, Eastern Division, on behalf of International Paper Company in *International Paper Company v. Androscoggin Energy LLC*, Case No. 00C 6215, May 2003.

Testimony before the California Public Utilities Commission on behalf of BP West Coast Products LLC, Exxon Mobil Oil Corporation, Valero Marketing and Supply Company, Ultramar Inc., and Chevron Products Company, Application No. 0302027, March 2003, in a matter relating to SFPP, L.P.'s rates.

Testimony before the State of California Senate Select Committee to Investigate Price Manipulation of the Wholesale Energy Market, November 2002.

Testimony before the Superior Court for the State of Washington in and for the County of Thurston on behalf of Tosco Corporation in *Olympic Pipe Line Company v. Washington Utilities and Transportation Commission*, November 2002.

Affidavit before the Federal Energy Regulatory Commission on behalf of Tosco Corporation, Docket No. OR01-8-000, evaluating the reasonableness of Calnev Pipe Line, L.L.C.'s interstate rates, January 2002.

Affidavit before the Federal Energy Regulatory Commission on behalf of Ultramar, Inc., Docket No. OR01-8-000, evaluating the reasonableness of Calnev Pipe Line, L.L.C.'s interstate rates, January 2002.

Testimony before the Federal Energy Regulatory Commission on behalf of Ultramar Diamond Shamrock Corporation and Tosco Corporation, Docket Nos. OR96-2-000, *et al.*, April - September 2001, in a complaint proceeding regarding SFPP, L.P.

Testimony before the Federal Energy Regulatory Commission on behalf of Southern California Edison, Docket No. RP00-241-000, May 2001, in a complaint proceeding regarding El Paso Natural Gas Company and its merchant energy affiliates.

Testimony before the California Assembly, Subcommittee on Energy Oversight, April 2001, in an investigative hearing regarding the California Public Utilities Commission's allegations against El Paso Natural Gas and its merchant energy affiliates exercise of market power.

Testimony before the Federal Energy Regulatory Commission on behalf of Southern California Edison, Docket No. RP00-241-000, August 2000, in a complaint proceeding regarding El Paso Natural Gas Company and its merchant energy affiliates.

Affidavit before the Federal Energy Regulatory Commission on behalf of Ultramar, Inc., Docket No. OR00-08-000, August 2000, in a complaint proceeding regarding SFPP, L.P.

Affidavit before the Federal Energy Regulatory Commission on behalf of Tosco Corporation, Docket No. OR00-09-000, August 2000, in a complaint proceeding regarding SFPP, L.P.

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Affidavit before the Federal Energy Regulatory Commission on behalf of Ultramar, Inc., Docket No. OR98-2-000, January 2000, in a complaint proceeding regarding SFPP, L.P.

Affidavit before the Federal Energy Regulatory Commission on behalf of Tosco Corporation, Docket No. OR98-13-000, January 2000, in a complaint proceeding regarding SFPP, L.P.

Affidavit before the Federal Energy Regulatory Commission on behalf of Ultramar, Inc., Docket No. OR97-2-000, January 2000, in a complaint proceeding regarding SFPP, L.P.

Testimony before the Federal Energy Regulatory Commission on behalf of Southern California Edison, Docket No. RP95-363-015, June 1999, in the remanded rate proceeding of El Paso Natural Gas Company.

Testimony before the California Public Utilities Commission on behalf of Ultramar, Inc., Docket No. A.98-10-012, March 1999, in the matter of the Application of Southern California Gas Company for Authority to Revise its Rates Effective August 1, 1999, in its Biennial Cost Allocation Proceeding.

Testimony before the California Public Utilities Commission on behalf of Southern California Edison, Docket No. A.98-01-015, November 1998, in the matter of the Application of Southern California Gas Company for Authority Pursuant to Public Utilities code Section 851 to Sell its Storage Field in Montebello, California.

Testimony before the Massachusetts Department of Telecommunications and Energy on Behalf of Colonial Gas Company, Docket No. M.D.T.E. 97-112, July-September 1998, in the Matter of the Recovery of Lost Base Revenues Associated With Demand-Side Management Programs.

Testimony before the California Public Utilities Commission on behalf of Southern California Edison Company, Docket No. R.98-01-011, July-September 1998, in the Rulemaking on the Regulatory Structure Governing California's Natural Gas Industry.

Testimony before the Federal Energy Regulatory Commission, on behalf of Selkirk Cogen Partners, L.P. and MASSPOWER, Docket No. RP97-126, May 1997, in the rate proceeding of Iroquois Gas Transmission System, L.P.

Testimony before the California Public Utilities Commission, on behalf of Southern California Gas Company, Docket No. R91-08-003, February 1994, in the Rulemaking on establishing rules and procedures governing utility demand-side management.

PUBLICATIONS AND PRESENTATIONS

2002-2006 Editorial Advisory Board, *Natural Gas & Electricity*.

“Evaluation of the Proposed Regulations Governing Open Seasons for Alaska Natural Gas Transportation Projects,” (in part with several authors) prepared on behalf of BP Exploration (Alaska) Inc., ConocoPhillips Company, and Exxon Mobil Corporation, FERC Docket No. RM05-01, December 17, 2004.

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“Improving the Performance of Natural Gas Markets in Electricity System Reliability” (with Daniel S. Arthur and Elizabeth Lacey), *Electric & Natural Gas Business: Using New Strategies, Understanding the Issues!*, Robert E. Willett, Editor, 2004.

“Oil Pipeline Complaint Procedures Are Being Clarified,” (with Daniel S. Arthur and Steven H. Levine), *Natural Gas*, Vol. 20, No. 2, (September 2003).

“Long-Term, Fixed-Price Supply Contracts for LDCs Solves Problems,” (with Steven H. Levine), *Natural Gas*, Vol. 19, No. 7, (February 2003).

“Gas Use in Electricity Generation: Increases Uncertain in Northeast, Midwest” (with Daniel S. Arthur and Steven H. Levine), *Natural Gas Industry Analysis for Gas Year 2000-2000*, Robert E. Willett, Editor, 2000.

“Fostering Market Center Development and Integration of the Natural Gas Grid through Improved Pipeline Ratemaking,” (with Peter Fox-Penner), prepared for NorAm Gas Transmission Company, May 1998.

“Anticompetitive Implications of the El Paso - NGC Transaction for the Southwest Capacity Release Market,” (in part with several authors) filed on behalf of Southern California Edison in Federal Energy Regulatory Commission, Docket No. RP97-287-010, March 20, 1998.

“Likely Trends in Canadian Natural Gas Imports,” (with Paul R. Carpenter and Gao-Wen Shao), *Natural Gas*, Vol. 14, No. 8, (March 1998).

“Pipeline Pricing to Encourage Efficient Capacity Resource Decisions,” (with Paul R. Carpenter and Frank C. Graves), filed on behalf of Columbia Gas Transmission Corporation and Columbia Gulf Transmission Company, with its comments on *Financial Outlook for the Natural Gas Pipeline Industry*, FERC Docket No. PL98-2-000, February 1998.

“New and Expanding Pipelines,” prepared for Pipeline Market Power: *Gas Daily's* Annual Gas Transportation Conference, Houston, Texas, November 19-20, 1997.

“The Outlook for Imported Natural Gas,” (with Paul R. Carpenter and Gao-Wen Shao), prepared for The INGAA Foundation, Inc., July 1997.

“The Fundamentals of Alternative Ratemaking for Natural Gas Pipelines,” AIC Conference on Natural Gas Pipeline Capacity, Houston, Texas, June 19, 1997.

“The Future of Energy in New Jersey: Lessons from Other Industries and Jurisdictions,” 1997 presented at the NJAEE Energy Futures Forum, April 17, 1997.

“Lessons from Gas Industry Restructuring,” presented at the *EPRI Think Tank on Energy Storage in a Deregulated Electric Utility Industry*, Chicago, Illinois, June 18-19, 1996.

“Basic and Enhanced Services for Recourse and Negotiated Rates in the Natural Gas Pipeline Industry” (with Paul R. Carpenter, Frank C. Graves, and Carlos Lapuerta), filed on behalf of Columbia Gas

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Transmission Corporation and Columbia Gulf Transmission Company, in its *Comments on Negotiated Rates and Terms of Service*, FERC Docket No. RM96-7, May 29, 1996.

Utility Capital Budgeting Notebook (in part with several authors), EPRI TR-104369, Palo Alto, California: Electric Power Research Institute, July 1994.

“Emission Allowance Markets,” Executive Enterprises’ Conference on Understanding the Clean Air Act Amendments, Washington, D.C., September 17-18, 1992 and March 29-30, 1993 and Chicago, Illinois, April 15-16, 1993.

“Lotus Spreadsheet Templates to Accompany *Principles of Corporate Finance, 4th Edition* by Richard A. Brealey and Stewart C. Myers,” New York: McGraw-Hill, Inc., 1992.

“Evaluation of Demand-Side Management Programs” (with A. Lawrence Kolbe), Demand-Side Management Conference, Canadian Electrical Association, Halifax, Nova Scotia, September 18-19, 1990.

“Evaluation of Demand-Side Options” (with A. Lawrence Kolbe and Stephen W. Chapel), prepared for the Utility Planning Methods Center, Palo Alto, California: Electric Power Research Institute, September 1989.

“Financial Constraints and Electric Utility Capital Requirements” (with A. Lawrence Kolbe), Proceedings of the 1989 Electric Power Research Institute Strategic Issues Forum, Kansas City, Missouri, April 11-12, 1989.

“Capital Requirements for the U.S. Investor-Owned Electric Utility Industry, 1985-2005” (with A. Lawrence Kolbe and Sarah K. Johnson), prepared for the Utility Planning Methods Center, Palo Alto, California: Electric Power Research Institute, November 1987.

“Are Regulatory Risks Excessive? A Test of the Modern Balance Between Risk and Reward for Electric Utility Shareholders” (with A. Lawrence Kolbe), prepared for the Division of Coal and Electric Policy, U. S. Department of Energy, May 1986.

March 5, 2012

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

SFPP, L.P.

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Docket No. IS11-444-001

**PREPARED DIRECT TESTIMONY OF
JAMES H. VANDER WEIDE
ON BEHALF OF SFPP, L.P.**

December 13, 2011

1 **E. Flotation Costs**

2 **Q.** Is it appropriate to include flotation costs in estimating the cost of equity?

3 **A.** Yes. All firms that have sold securities in the capital markets have incurred some level of
4 flotation costs, including underwriters' commissions, legal fees, printing expense, etc.
5 These costs are withheld from the proceeds of the stock sale or are paid separately, and
6 must be recovered over the life of the equity issue. Costs vary depending upon the size of
7 the issue, the type of registration method used and other factors, but in general these costs
8 range between three and five percent of the proceeds from the issue.²

9
10 **Q.** Do you include an allowance for flotation costs in your DCF analysis?

11 **A.** No. Since the Commission typically does not include a flotation cost allowance, to be
12 conservative, I do not include a flotation cost allowance in my DCF calculations.

13
14 **F. Cost of Equity Results**

15 **Q.** Please summarize the results of your application of the Commission's DCF model to the
16 proxy groups of oil pipeline companies for the years 2000 through 2010, as set forth in
17 Exhibit No. SWI-23.

18 **A.** The median results of my application of the Commission's DCF model to the proxy
19 groups of oil pipeline companies for each year from 2000 through 2010 are summarized
20 in the second column of TABLE 2 below. The values in this column reflect estimates of
21 SFPP's nominal cost of equity based on the Commission's DCF model as reflected in

² See Lee, Inmoo, Scott Lochhead, Jay Ritter, and Quanshui Zhao, "The Costs of Raising Capital," *The Journal of Financial Research*, Vol. XIX No 1 (Spring 1996), 59-74, and Clifford W. Smith, "Alternative Methods for Raising Capital," *Journal of Financial Economics* 5 (1977) 273-307.

1 Opinion No. 511. As noted above, the data supporting these estimates of SFPP’s nominal
 2 cost of equity are contained in Exhibit Nos. SWI-24 through SWI-36 and in my work
 3 papers.

TABLE 2
SUMMARY OF NOMINAL AND REAL COST OF EQUITY ESTIMATES
AT YEAR END 2000—2010

YEAR	NOMINAL MEDIAN COST OF EQUITY	INFLATION FACTOR	REAL MEDIAN COST OF EQUITY
2000	14.54%	3.39%	11.15%
2001	13.67%	1.55%	12.12%
2002	14.93%	2.38%	12.55%
2003	11.87%	1.88%	9.99%
2004	12.65%	3.26%	9.39%
2005	11.57%	3.42%	8.15%
2006	11.42%	2.54%	8.88%
2007	11.07%	4.08%	6.99%
2008	14.22%	0.09%	14.13%
2009	11.50%	2.72%	8.78%
2010	9.91%	1.50%	8.41%

4

5 **Q.** Do the nominal and real costs of equity set forth in TABLE 2 for 2000 through 2010 match
 6 the nominal and real costs of equity used to calculate the total costs of service on Page
 7 700 of SFPP’s 2010 FERC Form No. 6?

8 **A.** Yes.

9

10 **Q.** What cost of equity input values do you recommend for the periods 1984 through 1999 in
 11 the refined cost-of-service analyses?

12 **A.** As cost of equity input values in the refined cost-of-service analyses, I recommend:
 13 (1) the cost of equity input values filed by SFPP for the periods 1984 through 1994 in

1 **Q.** Based on your assessment of KMEP’s capital structure ratios, what capital structure ratios
2 do you find for the years 2000 through 2010 for use in the refined cost-of-service
3 analyses?

4 **A.** I find that SFPP should use the capital structure ratios shown below in TABLE 3 in the
5 refined cost-of-service analyses. The capital structure calculations are set forth in Exhibit
6 No. SWI-38, and the backup data for these calculations are contained in Exhibit Nos.
7 SWI-25 at 51-52, SWI-26 at 64-65, SWI-27 at 78-79, SWI-28 at 76, SWI-29 at 76,
8 SWI-30 at 71-72, SWI-31 at 81, SWI-32 at 82-83, SWI-33 at 81-82, SWI-34 at 93-94,
9 and SWI-35 at 108-109.

TABLE 3
SUMMARY OF CAPITAL STRUCTURE
AT YEAR-END 2000—2010

CAPITAL SOURCE	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
%Debt	47.36	47.47	51.39	54.08	52.03	52.66	54.15	55.30	57.49	60.08	60.94
%Equity	52.64	52.53	48.61	45.92	47.97	47.34	45.85	44.70	42.51	39.92	39.06

10

11 **Q.** Do the debt and equity ratios set forth in TABLE 3 for 2000 through 2010 match the debt
12 and equity ratios used to calculate the total costs of service on Page 700 of SFPP’s 2010
13 FERC Form No. 6?

14 **A.** Yes.

15

16 **Q.** Do you add expiring long-term debt and commercial paper to the debt component of
17 KMEP’s capital structure for 2000 through 2010?

18 **A.** Yes. I do not believe that this is the appropriate treatment of those debt items for capital
19 structure purposes; however the Commission ruled in Opinion No. 511 that these debt

Attachment B
Page 5 of 5

Exh. No. SWI-38
Docket No. IS11-444-001
Page 1 of 1

SFPP, L.P.
Summary of Capital Structure
Periods Ending December 31, 2000, through December 31, 2010
(\$Millions)

Line No.	Description	Source	2000 11	2001 12	2002 13	2003 14	2004 15	2005 16	2006 17	2007 18	2008 19	2009 10	2010 11
1	Long-Term Debt Outstanding	KMEP Annual Reports	\$1,255	\$2,237	\$3,660	\$4,317	\$4,722	\$5,221	\$4,384	\$6,456	\$8,275	\$9,998	\$10,277
2	Current Portion of LTD	KMEP Annual Reports	\$649	\$560	\$0	\$2	\$0	\$0	\$1,359	\$610	\$289	\$595	\$1,262
3	Total Debt	Sum Lines (1 thru 2)	\$1,904	\$2,797	\$3,660	\$4,319	\$4,722	\$5,221	\$5,743	\$7,066	\$8,564	\$10,592	\$11,540
Partners' Capital:													
4	Common Units	KMEP Annual Reports	\$1,957	\$1,895	\$1,845	\$1,946	\$2,438	\$2,680	\$2,744	\$3,048	\$3,459	\$4,058	\$4,282
5	Class B Units	KMEP Annual Reports	\$126	\$126	\$124	\$121	\$117	\$110	\$103	\$102	\$94	\$79	\$63
6	i-Units	KMEP Annual Reports	\$0	\$1,020	\$1,421	\$1,516	\$1,695	\$1,784	\$1,906	\$2,401	\$2,577	\$2,682	\$2,808
7	General Partner	KMEP Annual Reports	\$34	\$55	\$72	\$84	\$103	\$120	\$110	\$161	\$203	\$221	\$244
8	Total Equity Capital	Sum Lines (4 thru 7)	\$2,117	\$3,095	\$3,461	\$3,667	\$4,354	\$4,693	\$4,863	\$5,712	\$6,333	\$7,039	\$7,397
9	Total Capitalization	Lines (3 + 8)	\$4,021	\$5,892	\$7,121	\$7,986	\$9,076	\$9,914	\$10,607	\$12,778	\$14,897	\$17,632	\$18,937
Capital Structure:													
10	Percentage Debt in Capital Structure	Lines (3 / 9)	47.36%	47.47%	51.39%	54.08%	52.03%	52.66%	54.15%	55.30%	57.49%	60.08%	60.94%
11	Percentage Equity in Capital Structure	Lines (8 / 9)	52.64%	52.53%	48.61%	45.92%	47.97%	47.34%	45.85%	44.70%	42.51%	39.92%	39.06%
12	Total	Lines (10 + 11)	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%

11 See Exhibit No. SWI-25, p. 51

12 See Exhibit No. SWI-26, p. 64.

13 See Exhibit No. SWI-27, pp. 78 - 79.

14 See Exhibit No. SWI-28, p. 76.

15 See Exhibit No. SWI-29, p. 76.

16 See Exhibit No. SWI-30, pp. 71 - 72.

17 See Exhibit No. SWI-31, p. 81.

18 See Exhibit No. SWI-32, pp. 82 - 83.

19 See Exhibit No. SWI-33, pp. 81 - 82.

10 See Exhibit No. SWI-34, pp. 93 - 94.

11 See Exhibit No. SWI-35, pp. 108 - 109.

GOODIN,
MACBRIDE,
SQUERI, DAY &
LAMPREY, LLP

James D. Squeri, Attorney at Law

May 25, 2011

HAND DELIVERED

Julie Fitch
Director, Energy Division
California Public Utilities Commission
505 Van Ness Avenue, Room 5203
San Francisco, CA 94102

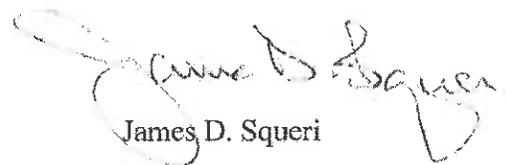
Re: Decision No. 07-05-061; Compliance Filing of SFPP/Calnev

Dear Ms. Fitch:

Ordering Paragraph 3 of Decision No. 07-05-061 issued by the Commission in A. 06-09-016/A. 06-09-021 on May 24, 2007 requires SFPP, L.P. ("SFPP") and Calnev Pipeline, LLC ("Calnev") to submit to the Director of the Commission's Energy Division, concurrently with the filing by SFPP and Calnev of every Federal Energy Regulatory Commission ("FERC") Form 6 filed after the effective date of D. 07-05-061, a public document that discloses, in a format equivalent to Page 700 of FERC Form 6, cost of service, volume, and revenue data for the California intrastate market. By this correspondence, the referenced equivalents of Page 700 of FERC Form 6 for both SFPP and Calnev, are hereby submitted in compliance with D. 07-05-061.

Should you have any questions with respect to the subject compliance submittal or require clarification of any of the matters referenced herein, please contact me.

Sincerely,



James D. Squeri

Enclosures

cc: President Peevey (hand delivery)
ALJ Jean Vieth (hand delivery)
Service List in A. 06-09-016/A. 06-09-021 (electronic delivery)

2539/005/X129023.v1

SFPP, L.P.
Annual Cost of Service Based Analysis Schedule
FERC Form No. 6, Page 700 Format for CPUC Intrastate
For the Period Ending December 31, 2010

Line No.	Item (a)	Restated		
		Current Year Amount (b)	Prior Year Amount (c)	Prior Year Amount (d)
1	Operating and Maintenance Expenses	\$75,572,843	\$68,741,920	\$65,222,797
2	Depreciation Expense	\$11,139,561	\$11,877,877	\$11,877,877
3	AFUDC Depreciation	\$566,892	\$572,992	\$572,992
4	Amortization of Deferred Earnings	-	-	-
5	Rate Base	\$221,949,337	\$223,417,197	\$223,417,197
6	Rate of Return	8.83%	10.14%	10.14%
7	Return on Rate Base	\$19,602,119	\$22,663,132	\$22,663,132
8	Income Tax Allowance	\$8,400,365	\$10,409,250	\$10,409,250
9	Total Cost of Service	\$115,281,780	\$114,265,171	\$110,746,048
10	Total Intrastate Operating Revenues	\$122,063,099	\$120,303,959	\$120,303,959
11	Throughput in Barrels	232,067,585	234,831,663	234,831,663
12	Throughput in Barrel - Miles	20,795,934,520	20,953,507,909	20,953,507,909

SFPP changed the methodology of certain allocations between FERC and CPUC jurisdictional services as a result of 134 FERC ¶ 61,121 (Opinion No. 511) issued by the FERC on February 17, 2011. Prior year amounts have been restated, accordingly.

Calneve Pipe Line, LLC
Annual Cost of Service Based Analysis Schedule
FERC Form No. 6, Page 700 Format for CPUC Intrastate
For the Period Ending December 31, 2010

Line No.	Item (a)	Current Year Amount (b)	Prior Year Amount (c)
1	Operating and Maintenance Expenses	\$3,152,448	\$2,494,519
2	Depreciation Expense	\$271,669	\$282,789
3	AFUDC Depreciation	\$5,730	\$6,055
4	Amortization of Deferred Earnings	-	-
5	Rate Base	\$5,230,661	\$4,992,054
6	Rate of Return	8.83%	10.14%
7	Return on Rate Base	\$461,961	\$506,387
8	Income Tax Allowance	\$198,504	\$233,249
9	Total Cost of Service	\$4,090,312	\$3,522,999
10	Total Intrastate Operating Revenues	\$1,885,874	\$1,916,674
11	Throughput in Barrels	4,605,194	4,854,753
12	Throughput in Barrel - Miles	331,340,202	354,908,861

Service List A.06-09-016 & A.06-09-021
Last Updated 2/8/11

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