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

In the Matter of the Application of  
Crimson California Pipeline L.P. (PLC-26),  
for Authority to Increase Rates for its  
Crude Oil Pipeline Services.

Application 16-03-009  
(Filed March 11, 2016)

**SCOPING MEMORANDUM AND RULING OF ASSIGNED COMMISSIONER  
AND JOINT RULING WITH ADMINISTRATIVE LAW JUDGE**

**Summary**

This Scoping Memo and Ruling sets forth the category, issues, need for hearing, schedule and other matters necessary to scope this proceeding pursuant to Public Utilities Code § 1701.1 and Article 7 of the California Public Utilities Commission's (Commission) Rules of Practice and Procedure.<sup>1</sup>

**1. Background**

Section 455.3 of the California Public Utilities Code<sup>2</sup> authorizes California oil pipeline companies to increase rates by not more than 10 percent within a 12-month period, without seeking prior Commission approval, upon 30 days' notice to the Commission and all shippers.<sup>3</sup> Such an increase remains subject to

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<sup>1</sup> Hereinafter, Rule or Rules.

<sup>2</sup> All section references are to the California Public Utilities Code unless otherwise noted.

<sup>3</sup> § 455.3(b)(1)-(5) provides that: (1) Pipeline corporations shall be required to give the Commission and all shippers no less than 30 days' notice of rate changes. (2) After the 30 days' notice of rate change, pipeline corporations shall be permitted to change rates and use those rates prior to commission approval. (3) The commission shall have the authority to suspend a

*Footnote continued on next page*

retroactive Commission adjustment and refund with interest, as appropriate.

On January 29, 2016, Crimson California Pipeline L.P. (Applicant or Crimson) filed Advice Letter No. 16-O to implement such an increase effective March 1, 2016.<sup>4</sup> Subsequently, on March 11, 2016, Crimson filed an Application seeking authority to further increase rates and charges for its intrastate crude oil transportation services by an additional 50 percent. Thus, Crimson requests an aggregate rate increase of sixty (60) percent effective on the first day of the month following a Commission decision in this proceeding.

Protests to the Application were filed on or before April 18, 2016 by the California Independent Petroleum Association (CIPA), Valero Marketing and Supply Company (Valero), Phillips 66 Company (Phillips) and Tesoro Refining & Marketing Company LLC (Tesoro). Crimson filed its reply to the protests on April 25, 2016.

A prehearing conference (PHC) was set by a ruling dated May 5, 2016 and the parties were subsequently directed to file PHC statements. The parties filed

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rate change and use of the changed rate for a period of time not to exceed 30 days from expiration of the 30 days' notice period specified in paragraph (1). (4) Pipeline corporations shall refund, with interest, any portion of the rate change that is subsequently disallowed by the Commission to all shippers within 30 days of the Commission's decision becoming final. Interest shall accrue from the date the new rate is first charged. (5) Any increase in the shipping rate charged by an oil pipeline corporation prior to Commission approval shall not exceed 10 percent per 12-month period. The Commission shall determine the appropriateness of allowing the retroactive charge and collection of subsequently approved rate increases above 10 percent.

<sup>4</sup> Crimson's rate increase request was suspended for a period of 30 days, therefore, by operation of the statute, the suspension expired March 31, 2016. At the PHC, Tesoro argued that because the Commission's Energy Division website indicates that Crimson's Advice Letter is still suspended, it is not required to include the rate increase in its payments to Crimson. This issue is included within the scope of the proceeding but will not be addressed if the Energy Division or the parties resolve it prior to commencement of the evidentiary hearing.

PHC statements on May 16, 2016.<sup>5</sup> The PHC was held on May 23, 2016, to identify the parties, discuss the scope, the schedule and other procedural matters pertinent to this proceeding.

## **2. Scope**

Based on the application, the parties' protests, Crimson's replies and the discussions by the parties at the PHC, the following issues shall be included within the scope of this proceeding:

- a. Is Crimson's aggregate proposed rate increase of 60 percent reasonable?
  - i. Does Crimson propose a reasonable capital structure allocation between equity and debt and is Crimson's projected rate of return on equity and debt investments supported?
  - ii. Does Crimson provide adequate justification for its proposed operating expenses and costs of service, including throughput levels and depreciation?
  - iii. Does Crimson propose reasonable Pipeline Loss Allowance percentages in its assumptions?
- b. Should Crimson's rate design vary by shipper?
- c. Should Crimson's proposed rate increase be implemented immediately or spread over several years?
- d. Is Crimson permitted to include an allowance for corporate income tax expense in its cost projections?
- e. Is Crimson entitled to collect a 10 percent rate increase effective March 31, 2016 pursuant to its Advice Letter, notwithstanding language that does or does not appear on the Commission's website?

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<sup>5</sup> PHC statements were filed by Crimson, CIPA, Valero, Phillips and Tesoro.

**3. Categorization and Need for Hearing**

In Resolution ALJ 176-3374, dated March 17, 2016, the Commission preliminarily categorized this proceeding as ratesetting and preliminarily determined that hearings were necessary.

This scoping memorandum confirms the categorization. Anyone who disagrees with this categorization must file an appeal of the categorization no later than ten days after the date of this scoping ruling. (See Rule 7.6)

**4. Ex Parte Communications**

In a ratesetting proceeding such as this one, *ex parte* communications with the assigned Commissioner, other Commissioners, their advisors and the Administrative Law Judge (ALJ) are only permitted as described at § 1701.3(c) and Article 8 of the Rules.

**5. Intervenor Compensation**

Pursuant to § 1804(a)(1), a customer who intends to seek an award of compensation must file and serve a notice of intent to claim compensation by June 22, 2016, 30 days after the PHC.

**6. Assigned Commissioner and Presiding Officer**

Michel Peter Florio is the assigned Commissioner and Patricia B. Miles is the assigned ALJ in this proceeding. Pursuant to § 1701.3 and Rule 13.2, Patricia B. Miles is designated as the Presiding Officer.

**7. Filing, Service and Service List**

The official service list has been created and is on the Commission's website. Parties should confirm that their information on the service list is correct, and serve notice of any errors on the Commission's Process office, the service list, and the ALJ. Persons may become a party pursuant to Rule 1.4.

When serving any document, each party must ensure that it is using the current official service list on the Commission's website.

This proceeding will follow the electronic service protocols in Rule 1.10, which are set forth in Section 8. All parties to this proceeding shall serve documents and pleadings using electronic mail, whenever possible, transmitted no later than 5:00 p.m., on the date scheduled for service to occur. Parties are reminded, when serving copies of documents, the document format must be consistent with the requirements set forth in Rules 1.5 and 1.6. Additionally, Rule 1.10 requires service on the ALJ of both an electronic and a paper copy of filed or served documents.

Rules 1.9 and 1.10 govern service of documents only and do not change the Rules regarding the tendering of documents for filing. Parties can find information about electronic filing of documents at the Commission's Docket Office at [www.cpuc.ca.gov/PUC/efiling](http://www.cpuc.ca.gov/PUC/efiling). All documents formally filed with the Commission's Docket Office must include the caption approved by the Docket Office and this caption must be accurate.

Persons who are not parties but wish to receive electronic service of documents filed in the proceeding may contact the Process Office at [process\\_office@cpuc.ca.gov](mailto:process_office@cpuc.ca.gov) to request addition to the "Information Only" category of the official service list pursuant to Rule 1.9(f).

Discovery may be conducted by the parties consistent with Article 10 of the Commission's Rules. Any party issuing or responding to a discovery request shall serve a copy of the request or response simultaneously on all parties. Electronic service under Rule 1.10 is sufficient, except Rule 1.10 does not apply to the service of discovery and discovery shall not be served on the ALJ. Deadlines for responses may be determined by the parties. Motions to compel or limit discovery shall comply with Rule 11.3.

## **8. Electronic Submission and Format of Supporting Documents**

The Commission's web site now allows electronic submittal of supporting documents (such as testimony and work papers).

Parties shall submit their testimony or work papers in this proceeding through the Commission's electronic filing system.<sup>6</sup> Parties must adhere to the following:

- The Instructions for Using the "Supporting Documents" Feature, (<http://docs.cpuc.ca.gov/SearchRes.aspx?docformat=ALL&DocID=158653546>) and
- The Naming Convention for Electronic Submission of Supporting Documents, (<http://docs.cpuc.ca.gov/SearchRes.aspx?docformat=ALL&DocID=100902765>).
- The Supporting Document feature does not change or replace the Commission's Rules of Practice and Procedure. Parties must continue to adhere to all rules and guidelines in the Commission's Rules of Practice and Procedures including but not limited to rules for participating in a formal proceeding, filing and serving formal documents and rules for written and oral communications with Commissioners and advisors (i.e. "*ex parte* communications") or other matters related to a proceeding.

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<sup>6</sup> These instructions are for submitting supporting documents such as testimony and work papers in formal proceedings through the Commission's electronic filing system. Parties must follow all other rules regarding serving testimony. Any document that needs to be formally filed such as motions, briefs, comments, etc., should be submitted using Tabs 1 through 4 in the electronic filing screen.

- The Supporting Document feature is intended to be solely for the purpose of parties submitting electronic public copies of testimony, work papers and workshop reports (unless instructed otherwise by the ALJ), and does not replace the requirement to serve documents to other parties in a proceeding.
- Unauthorized or improper use of the Supporting Document feature will result in the removal of the submitted document by the Commission.
- Supporting Documents should not be construed as the formal files of the proceeding. The documents submitted through the Supporting Document feature are for information only and are not part of the formal file (i.e. "record") unless accepted into the record by the ALJ.

All documents submitted through the "Supporting Documents" Feature shall be in PDF/A format. The reasons for requiring PDF/A format are:

- Security - PDF/A prohibits the use of programming or links to external executable files. Therefore, it does not allow malicious codes in the document.
- Retention - The Commission is required by [Resolution L-204](#), dated September 20, 1978, to retain documents in formal proceedings for 30 years. PDF/A is an independent standard and the Commission staff anticipates that programs will remain available in 30 years to read PDF/A.
- Accessibility - PDF/A requires text behind the PDF graphics so the files can be read by devices designed for those with limited sight. PDF/A is also searchable.

Until further notice, the “Supporting Documents” do not appear on the “Docket Card.” In order to find the supporting documents that are submitted electronically, go to:

- Online documents, choose: “[E-filed Documents](#),”
- Select “Supporting Document” as the document type, (do not choose testimony),
- Type in the proceeding number and hit search.

Please refer all technical questions regarding submitting supporting documents to:

- Kale Williams ([kale.williams@cpuc.ca.gov](mailto:kale.williams@cpuc.ca.gov))  
(415) 703- 3251 and
- Ryan Cayabyab ([ryan.cayabyab@cpuc.ca.gov](mailto:ryan.cayabyab@cpuc.ca.gov))  
(415) 703-5999

## **9. Public Advisor**

Any person interested in participating in this proceeding who is unfamiliar with the Commission’s procedures or who has questions about the electronic filing procedures is encouraged to obtain more information at <http://consumers.cpuc.ca.gov/pao/> or contact the commission’s Public Advisor at 866-849-8390 or 415-703-2074 or 866-836-7825 (TTY), or send an e-mail to [public.advisor@cpuc.ca.gov](mailto:public.advisor@cpuc.ca.gov) .

## **10. Proceeding Schedule**

At the PHC, the parties were directed to meet and confer to provide a proposed schedule for the proceeding to the ALJ by close of business June 6, 2016. The adopted schedule shall be as follows:

EVENT	DATE
<b>Prehearing Conference</b>	May 23, 2016
<b>Crimson Testimony Served</b>	August 17, 2016
<b>Intervenor Testimony</b>	October 16, 2016
<b>Crimson Rebuttal Testimony</b>	November 29, 2016
<b>Evidentiary Hearing</b>	March 6-10, 2017 @ 10:00 a.m. Commission Courtroom State Office Building 505 Van Ness Avenue San Francisco, CA 94102
<b>Concurrent Opening Briefs</b>	April 10, 2017
<b>Deadline for Requesting Final Oral Argument</b>	April 10, 2017
<b>Concurrent Reply Briefs</b>	May 1, 2017
<b>Proposed Decision Issued</b>	3 <sup>rd</sup> Quarter 2017
<b>Anticipated Commission Meeting/Decision</b>	3 <sup>rd</sup> Quarter 2017

It is the Commission's intent to complete this proceeding within 18 months of the date of this Scoping Memo. This deadline may be extended by order of the Commission (§ 1701.5(a).)

The proceeding will stand submitted for decision by the Commission upon the filing of reply briefs, unless oral argument is scheduled. In such case, the proceeding will stand submitted upon conclusion of oral argument.

The assigned Commissioner or assigned ALJ may modify this schedule as necessary to promote the efficient management and fair resolution of this proceeding. If there are any workshops in this proceeding, notice of such workshops will be posted on the Commission's Daily Calendar to inform the public that a decision maker or an advisor may be present at those meetings or workshops. Parties shall check the Daily Calendar regularly for such notices.

### **11. Settlement and Alternative Dispute Resolution**

While the schedule does not include specific dates for settlement conferences, it does not preclude parties from meeting at other times provided notice is given consistent with our Rules.

The Commission offers Alternative Dispute Resolution (ADR) services consisting of mediation, facilitation, or early neutral evaluation. Use of ADR services is voluntary, confidential, and at no cost to the parties. Trained ALJs serve as neutrals. The parties are encouraged to visit the Commission's ADR webpage at <http://www.cpuc.ca.gov/adr/>, for more information.

If requested, the assigned ALJ will refer this proceeding, or a portion of it, to the Commission's ADR Coordinator. Alternatively, the parties may contact the ADR Coordinator directly at [adr\\_program@cpuc.ca.gov](mailto:adr_program@cpuc.ca.gov). The parties will be notified as soon as a neutral has been assigned; thereafter, the neutral will contact the parties to make pertinent scheduling and process arrangement.

### **12. Final Oral Argument**

Motions for final oral argument shall be filed and served concurrently with opening briefs. The motion shall state the request, subjects to be addressed, amount of time requested, recommended procedure and order of presentations, and anything else relevant to the motion. The motion shall contain all the information necessary for the Commission to make an informed ruling on the

motion. If more than one party plans to file such a motion, parties shall use their best efforts to present a joint motion, including a joint recommendation on procedure, order or presentation and anything else relevant to the motion. A response to the motion may be filed concurrently with the reply briefs.

**IT IS RULED** that:

1. The category of this proceeding is ratesetting. Appeals as to category, if any, must be filed and served within ten days from the date of this scoping memo.
2. Administrative Law Judge Patricia B. Miles is designated as the Presiding Officer.
3. The scope of the issues for this proceeding is set forth in Section 2 of this ruling.
4. Hearings are necessary.
5. The schedule for the proceeding is set forth in Section 10 of this ruling. The assigned Commissioner or Presiding Officer may adjust this schedule as necessary for efficient management and fair resolution of this proceeding.
6. *Ex parte* communications are permitted subject to the restrictions and reporting requirements specified in Article 8 of the Rules.
7. Motions for final oral argument shall be filed and served concurrently with opening briefs.

8. Parties shall adhere to the instructions provided in Section 8 of this ruling for submitting supporting documents, including testimony.

Dated June 24, 2016, at San Francisco, California.

/s/ MICHEL PETER FLORIO

Michel Peter Florio  
Assigned Commissioner

/s/ PATRICIA B. MILES

Patricia B. Miles  
Administrative Law Judge