BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Chevron Pipeline Company (PLC-13) for Authorization to Increase Its Rates for Crude Oil Transportation and Gathering Services on Its California Pipelines Effective January 1, 2013.	Application 12-11-027 (Filed November 30, 2012)

DECISION GRANTING RATE INCREASE APPLICATION

Summary

We approve the application of Chevron Pipeline Company (Chevron Pipeline) for authority to increase its rates for transportation crude oil by 10% effective January 1, 2013.

1. Background

Chevron Pipeline seeks approval to increase its rates and charges for transportation and gathering of crude oil on its California pipeline system by 10% effective January 1, 2013. Pursuant to Pub. Util. Code § 455.3,[1] oil pipeline

[1] 455.3 (a) Notwithstanding any other provision of law, including, but not limited to Section 454, no later than January 1, 1998 the commission shall adopt rules and regulations that substantially revise the manner in which oil pipeline corporation may change and use rates.

(b) The revised rules and regulations shall adhere to the following criteria:

(1) Pipeline corporations shall be required to give the commission and all shippers no less than 30 days' notice of rate changes.

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corporations like Chevron Pipeline may increase pipeline transportation rates upon thirty days' notice to the Commission and prior to Commission approval, provided that the proposed increase does not exceed 10 % per 12-month period. Section 455.3 further provides the Commission with authority to suspend any such rate increase and use of the increased rate for a period of time not to exceed 30 days from expiration of the 30-day notice of increase provided by the oil pipeline corporation. Finally, Section 455.3 allows the Commission to subsequently evaluate the reasonableness of any rate increase affected prior to Commission approval, to disallow any portion of the rate increase that is ultimately deemed unreasonable, and to require refund of that portion of the

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(2) After the 30-day 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 rate change and use of the changed rate for a period of time not to exceed 30 days from the expiration of the 30-day 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% per 12-month period. The commission shall determine the appropriateness of allowing retroactive charge and collection of subsequently approved rate increases above 10%.

(c) It is the intent of the Legislature that oil pipeline corporations be permitted to use new rates after the period of the suspension of a rate change, if any, by the commission pursuant to paragraph (3) of

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increase found to be unreasonable. The application includes drafts of proposed tariffs 50 and 51 to replace existing tariffs 48 and 49 if the application is granted and the new rates are approved.

The application was protested by Tesoro Refining and Marketing Company (Tesoro) and responded to by Valero Marketing and Supply Company (Valero) pursuant to Rule 2.6 of the Commission's Rules of Practice and Procedure.[2] Both Tesoro and Valero are shippers on the Chevron pipelines. Neither the Tesoro Protest nor the Valero Response objected to any element of Chevron's cost of service showing, which was set out in the application. The

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subdivision (b) prior to commission approval, provided any disallowed portion of the new rate is fully refunded with interest.

[2] Rule 2.6:

(a) Unless otherwise provided by rule, decision or General Order, a protest or response must be filed within 30 days of the date the notice of the filing of the application first appears in the Daily Calendar.

(b) A protest objecting to the granting, in whole or in part, of the authority sought in an application must state the facts or law constituting, the grounds for the protest, the effect of the application on the protestant, and the reasons the protestant believes the application, or a part of it, is not justified. If the protest requests an evidentiary hearing, the protest must state the facts the protestant would present at an evidentiary hearing to support its request for whole or partial denial of the application.

(c) Any person may file a response that does not object to the authority sought in an application, but nevertheless present information that the person tendering the response believes would be useful to the Commission in acting on the application.

(d) Any person protesting or responding to an application shall state in the protest or response any comments or objections regarding the applicant's statement on the proposed category, need for hearing, issues to be considered, and proposed schedule.

unchallenged cost of service showing demonstrates that Chevron could justify a rate increase of up to 61% based on the data included in the application.

Simultaneously with the application, Chevron Pipeline filed Advice Letter (AL) 49 proposing extensive changes to its crude oil transportation tariff in response to a contamination incident that shut down the pipeline for most of the 4th quarter of 2012. The proposed tariff changes address safety issues identified as a result of the contamination incident and include changes in the method of pipeline operation designed to minimize the risk of a similar incident in the future. On March 25, 2013 Tesoro filed a protest of AL 49.

Also on March 25, 2013, the assigned Administrative Law Judge (ALJ) held a pre-hearing conference (PHC). At the PHC, Tesoro argued that it would be inappropriate to set rates for the pipeline in this proceeding without consideration of the safety-related tariff changes proposed by Chevron in AL 49. Chevron argued that the matters were severable and that this proceeding should confine itself to determining if it had made an adequate showing to support the 10% increase permitted by Section 455.3.

2. Discussion

2.1. The Tesoro Protest

As noted above, the Protest does not question any element of the cost of service showing in the Application. Nonetheless, it requests an evidentiary hearing to address the adequacy and reliability of pipeline service, the reasonableness of the pipeline's charges when compared to those of other intra-state pipelines, and the adequacy of the existing tariff to deal with similar contamination incidents in the future. For reasons set out below, we reject the request for evidentiary hearings on these issues.

As the statute itself makes plain, it was the intent of the legislature in enacting Pub. Util. Code § 455.3 to create a simple, streamlined procedure by which pipeline corporations may raise rates up to 10% per annum without prior commission approval. The statute provides a safeguard against unreasonable rate increases in the form of after-the-fact review and mandatory refund, with interest, of excessive charges. It does not address any other aspect of pipeline operations such as the adequacy and reliability issues raised by the protest. Inclusion of such issues in reviewing an application that otherwise falls within the automatically permitted 10% range defeats that statute's goal of creating a simplified form of ratemaking for these specific regulated entities, effectively turning the simplified proceeding into a full-blown operations review, no different in scope from any other rate case filed by any other utility which does not have the benefit of the special proceeding created by Pub. Util. Code § 455.3.

Turning to the other issues raised by the protest, we find that (a) rates charged by other pipeline corporations are irrelevant to a proceeding in which rates are set on a cost of service basis and (b) the creation of new tariff language aimed at preventing future contamination issues is already underway in the commission's review of Chevron AL 49. Tesoro has protested AL 49 and will have the opportunity to participate in the development of new tariff language. Accordingly, we reject the Tesoro protest.

2.2. The Valero Response

Rule 2.6(c) allows the filing of a "response" by a party that "does not object to the authority sought in the application." It further provides that the limited purpose of such a "response" is to allow the party to present "information" that such respondent "believes would be useful to the Commission in acting on the application." The only "information" put forward

by Valero in the Response is the claim that Chevron is basing its rate increase request on Federal Energy Regulatory Commission (FERC) pipeline indexing methodology and that doing so is inappropriate in a state proceeding. Valero also objects to the use of a 12-month non-calendar-year as the base period on which to calculate the pipeline's cost of service. In its reply to Valero and again at the PHC, Chevron explicitly stated that no part of its cost of service calculation employed the FERC methodology. Also at the PHC, the ALJ ruled that use of the non-calendar-year 12-month period was appropriate in this case because of the distortions in operating costs introduced by the pipeline's near total shutdown during the last quarter of 2012. Thus both pieces of "information" proffered by Valero in the Response have been effectively removed from this proceeding.

Chevron Pipeline's sole burden in this Application is to provide evidentiary support for the requested 10% increase in its rates and gathering charges. In the Application and its Exhibits, Chevron Pipeline provides unchallenged evidence demonstrating that it would be entitled to an increase of 61% in its rates and gathering charges on a cost of service basis. This evidence is sufficient to satisfy Chevron's burden of proof regarding its requested 10% increase.

3. Categorization and Need for Hearing

In ALJ Resolution 176-3306 adopted December 20, 2012 the proceeding was preliminarily categorized as ratesetting and it was preliminarily determined that hearings are necessary. We confirm the preliminary categorization and change the hearing determination to "not necessary."

4. Comments on Proposed Decision

The proposed decision of the ALJ in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed by Chevron Pipeline Company and Tesoro Refining and Marketing Company on June 13, 2013. Reply comments were filed by Chevron Pipeline Company on June 18, 2013. Chevron's comment pointed out that the date "January 1, 2013" in Finding of Fact No. 1 in the proposed decision should be revised to "February 1, 2013." Tesoro's comments repeated arguments rejected in the proposed decision and were given no additional weight.

5. Assignment of Proceeding

Michael R. Peevey is the assigned Commissioner and Karl J. Bemesderfer is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. Pursuant to the authorization granted by Pub. Util. Code § 455.3, Chevron Pipeline Company increased its crude oil transportation rates by 10% subject to refund as of February 1, 2013.

2. The application was protested by Tesoro Refining and Marketing Company and responded to by Valero Marketing and Supply Company pursuant, in each case, to Rule 2.6 of the Commission's Rules of Practice and Procedure.

3. No party objected to any portion of the cost of service showing in the application.

Conclusions of Law

1. Chevron Pipeline Company is an oil pipeline corporation as that term is defined in Pub. Util. Code § 455.3.

2. Oil pipeline corporations are authorized by § 455.3 of the Pub. Util. Code to increase transportation rates by up to 10% per 12-month period, subject to Commission review for reasonableness and potential refund to customers.

3. Section 455.3 authorizes Chevron Pipeline Company to raise its rates by 10% subject to refund with interest, as of January 1, 2013.

4. Neither the protest of Tesoro Refining and Marketing Company nor the response of Valero Marketing and Supply Company raises issues that require evidentiary hearings to resolve.

5. Application 12-11-027 should be approved.

O R D E R

IT IS ORDERED that:

1. The application of Chevron Pipeline Company to increase its rates and charges for transportation of crude oil on its California pipelines by 10% effective February 1, 2013 is approved.

2. The hearing determination is changed to "not necessary."

3. Application 12-11-027 is closed.

This order is effective today.

Dated _____, at San Francisco, California.