

DRAFT

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION

**Agenda ID 14087
RESOLUTION O-0062 (Rev. 1)
August 13, 2015**

R E S O L U T I O N

Resolution O-0062. San Pablo Bay Pipeline Company, LLC proposes introduction of a new common carrier pipeline service for the transportation of crude petroleum.

PROPOSED OUTCOME:

- This Resolution approves the requested new service and the tariff revisions consistent with it.

SAFETY CONSIDERATIONS:

- The transportation of crude oil involves inherent safety risks. The service requested by San Pablo Bay Pipeline Company enables the use of crude oil that has been transported by rail into California and then by pipeline into the company's common carrier pipeline system. There are specific safety risks associated with shipping crude by rail.
- The use of crude oil produces harmful emissions.
- It is the utility's responsibility to adhere to all Commission rules, decisions, General Orders, and statutes including Public Utility Code Section 451 to take all actions "...necessary to promote the safety, health, comfort, and convenience of its patrons, employees and the public."

ESTIMATED COST:

- Costs associated with the new service are the same as those for existing transportation services on the San Pablo Bay Pipeline System.

By Advice Letter 4 filed on July 31, 2014

SUMMARY

This Resolution approves the new service proposed in Advice Letter (AL) 4 and the related changes to its tariff and tariff terms and conditions to include and make available additional crude grade services within the San Pablo Bay Pipeline Company (SPBPC) system. With this approval two crude types will be added to the list of crude types that can be transported in the system.

BACKGROUND

SPBPC operates an intrastate pipeline system providing crude oil transportation services from points in the San Joaquin Valley to refineries in northern California.¹ SPBPC is an affiliate of Shell Pipeline Company (Shell).

On July 31, 2014, SPBPC filed AL 4 requesting authorization for a New Service Offering. The AL states that the proposed new service is in response to a “request from a shipper to move additional crude types on the system, specifically LDC [Light Domestic Crude] and DCB [Domestic Crude Blend].”² As explained in the AL, the new service will make use of a previously idled 10 - inch (10”) pipeline at the SPBPC system’s Olig Station and a previously idled storage tank at the station. Both the idled 10” pipeline and the idled storage tank referenced are currently part of the SPBPC common carrier system. Additionally, certain other storage tanks will be dedicated specifically for use by the new service.

On August 14, 2014, SPBPC provided the Energy Division additional information concerning the new service. This information included the following:³

¹ The system is also referred to as the San Joaquin Valley or SJV System. The system also serves limited other locations such as the San Joaquin Refinery.

²San Pablo Bay Pipeline Company, LLC (PLC-29) Advice Letter No. 4; New Service Offering. July 31, 2014. p. 2. Page one of the AL explains that “LDC is crude petroleum produced domestically with an approximate API Gravity between 30° and 45°. DCB is crude petroleum consisting of LDC and San Joaquin Valley crude to be shipped as needed north of Coalinga.” Coalinga is a Station with significant storage capacity.

³ Additionally SPBPC provided information concerning the characteristics of LDC and DCB as well as an analysis demonstrating that after the dedication of storage tanks LDC

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1. The LDC to be shipped under the new service would be brought into California via rail to a new rail terminal owned by Plains All American Pipeline (Plains) and connected to the Plains Line 1. Plains Line 1 is a part of a Plains common carrier system.
2. Plains Line 1 connects with a proprietary pipeline. That proprietary pipeline connects with the SPBPC system and would deliver the LDC to the SPBPC Olig Station.
3. The proprietary pipeline delivering product to Olig is owned by an affiliate of Shell, and the current shipper on the line is also a Shell affiliate.

The proposed rates for the new service are the same as those charged for transportation using existing services on the SPBPC system. It should be noted that the rates for existing service have been put into effect as a result of Decision 11-05-026 and those rates were increased as a result of Decision 14-06-006.

NOTICE

Notice of AL 4 was made by publication in the Commission's Daily Calendar. SPBPC sent copies of AL 4 via First Class U.S. Postal Service or other means of agreed upon transmission to Application (A.) 08-09-024/Case (C.) 08-03-021 et al. as well as to SPBPC's shippers of record.

PROTESTS

AL 4 was timely protested by Chevron Products Company (Chevron) and Tesoro Refining and Marketing Company (Tesoro).

Chevron filed its protest on August 20, 2014. The protest asserted that AL 4 constituted an improper disposition of assets and that the relief requested in AL 4 was inappropriate for the advice letter process under Public Utilities Code Section 851. Chevron commented that the conversion of storage tanks to

significant, and SPBPC asserts, sufficient storage capacity would remain available for other products shipped on the system.

accommodate the new service was in essence a removal of “useful and necessary” assets from SPBPC’s regulated service.⁴

SPBPC replied to the Chevron protest on August 25, 2014. SPBPC’s reply noted that the tank to be converted to use for the new service will not be removed from public service. Further, the reply provided exhibits showing that the conversion will not impact the system’s ability to maintain service levels for existing services.

Chevron withdrew its protest on August 28, 2014. Chevron offered no explanation of its reasons for withdrawing its protest.

Tesoro filed a timely protest on August 18, 2014. The protest makes three assertions.

1. Tesoro contends that AL 4 “contains material omissions regarding the use of tariffed SPBPC pipeline assets to access new crude supplies through other pipeline assets which are now apparently alleged to be proprietary and exclusive to its marketing company, STUSCO, and fails to include the appropriate origination points...”⁵ Tesoro questions why the pipeline segments from the Plains Line 1 to what it refers to as “Shell Olig”⁶ are not included in the new service. It refers to these segments as the Shell/SPBPC 8 inch pipeline and the Shell/SPBPC 10 inch pipeline. It continues that since these segments connect to common carrier systems they should be included as a condition of the new service. Next Tesoro asserts that these “Shell/SPBPC” pipelines were ordered into public service by the Commission. Tesoro adds that “Shell/SPBPC” has not published tariffs for the segments their protest asserts are public. The protest contends that, as a result, shippers on the tariffed “Shell/SPBPC pipeline

⁴ Protest of Chevron Products Company to San Pablo Bay Pipeline Company LLC (PLC-29) Advice Letter No. 4. August 20, 2014, p. 1.

⁵ Protest of Tesoro Refining and Marketing Company to San Pablo Bay Pipeline Company LLC (PLC-29); Advice Letter No. 4, New Service Offering. August 18, 2014. p. 3. STUSCO is Shell Trading (United States) Company.

⁶ Throughout its protest Tesoro applies new nomenclature introducing “Shell” in reference to the SPBPC System and various components as well as to proprietary assets not part of the SPBPC system. This nomenclature does not appear in related proceedings or in any tariffs.

system” cannot use the new service unless shippers can access the segments that “Shell/SPBPC” have asserted are private. Tesoro comments that the actual origin point for the service is not “SPBPC Olig” but at the Pacific Lake Station, the connection point between the Plains Line 1 and the 8 inch line segment. This 8 inch segment then connects to the 10 inch line segment to Olig Station. Tesoro concludes that not including the connection between Plains Line 1 and the 8 inch segment and continuing 10 inch segment are “material omissions in the Advice Letter’s analysis.”⁷ Tesoro considers the failure to either add the two lines to the system or treat them as already part of the system constitutes the creation of a discriminatory service.

2. The protest asserts that the AL is “overly vague in ways that prevent a clear determination of the service that is proposed and how it will affect existing operations, services and product quality...”⁸ Tesoro comments that the new services will create a new, common stream on the pipeline but that tariff provisions are vague and the new stream may not meet the current tolerance limits for quality specifications. The protest further asserts that ambiguities in the tariff may allow SPBPC to downgrade the quality of Tesoro’s San Joaquin Valley Heavy (SJVH) petroleum product.

3. Finally, Tesoro’s protest argues that SPBPC is inappropriately using a Tier 1 Advice Letter to propose tariff modifications to the entire pipeline system rather than an initial tariff for a new service. The protest states that while Industry Rule 5.1(6) of General Order 96-B permits use of a Tier 1 AL for a new service it does not allow for modifications that affect the entire pipeline system.

Based on the above, the protest requests evidentiary hearings to resolve what it refers to as outstanding errors. In the alternative, Tesoro offers to withdraw its protest if the Commission directs SPBPC to include access to the pipeline assets from the Pacific Lake Station to “Shell Olig” in its service and add Pacific Lake Station as an origination point and; subject to the Energy Division conducting a workshop to address unspecified “outstanding tariff and operational issues.”⁹

⁷ Ibid., p. 4.

⁸ Ibid., p. 3.

⁹ Ibid., p.7.

On August 22, 2014 SPBPC filed a Reply to Tesoro's Protest. The SPBPC reply states that while Tesoro asks for an origin point as part of the SPBPC system at the Pacific Lake Station, SPBPC does not own any assets that originate at Pacific Lake Station (the Pacific Lake Station is the connection between what SPBPC asserts is a proprietary line, albeit owned by another Shell affiliate, and the Plains Line 1). As such, it is impossible to make the Pacific Lake Station an origin point on the SPBPC system. Further, the reply comments that there is no support for the Tesoro assertion that the 8 and 10 inch lines are part of the SPBPC or that they should be part of the system simply by nature of the fact that they are owned and used by a Shell affiliate. SPBPC further comments that there is nothing discriminatory about the new service. It notes that, as is commonly done, Tesoro can acquire crude from other parties and use a third party to transport the crude to its refinery or to the Olig origin point.

In reply to Tesoro's assertion that the AL is overly vague, SPBPC explains specifically how product under the new service will be treated. The reply concludes by commenting that the service "will not have any impact on the quality" of Tesoro's or any other shipper's crude.¹⁰

The SPBPC reply also disputes Tesoro's claim that AL 4 was improperly filed as a Tier 1 advice letter. The reply references General Order No. 96-B, Energy Industry Rule 5.1(6) noting that the rule specifically states "that a Tier 1 advice letter filing is appropriate for 'initial tariffs for a new service by an oil pipeline, including service on a pipeline segment commencing utility service.'"¹¹ SPBPC disputes Tesoro's claim that the proposed new service will impact existing customers or existing levels or quality of service.¹²

¹⁰ Reply of San Pablo Bay Pipeline Company, LLC (PLC-29) to Tesoro's Protest of Advice Letter No. 4. August 22, 2014. p. 5.

¹¹ Ibid., p. 6.

¹² Tesoro also submitted a "response" to the SPBPC reply. There are no provisions in Commission rules allowing for a response to a reply. Tesoro states that it is providing in order to correct material misstatements of fact and law in SPBPC's reply and to aid the Energy Division in its consideration of all issues material to its disposition of Advice Letter No. 4. The Tesoro response essentially repeats the arguments provided in its protest.

DISCUSSION

SPBPC AL 4 should be approved. The AL was properly filed and the new service described in the AL and accompanying tariffs address all of the assets included in its common carrier pipeline system. The service will be offered on a non-discriminatory basis. The 8 inch and 10 inch pipelines that Tesoro's protest relates to are proprietary and as such not part of the SPBPC common carrier pipeline system, nor are these lines necessary in order to provide the proposed service on a non-discriminatory basis. The new service will bring additional volume to the system thereby reducing pressure for rate increases.

Tesoro incorrectly argues that, as a consequence of the proposed new service, the proprietary 10 inch and 8 inch lines should become part of the regulated system. Tesoro provides no credible information supporting its key assertions that the 10 and 8 inch lines connecting the SPBPC system to Plains Line 1 should be or already are part of the common carrier system. As such Tesoro's protest does not support its argument that the proposed tariffs do not include all of the common carrier assets. Tesoro comments that "As both the 10 inch and 8 inch segments are connected to common carrier systems and seemingly available to transport shipments from BCT¹³ [the Plains rail terminal] through Pacific and SPBPC to the Bay Area refineries, unaffiliated shipper access to these pipeline segments should be included as a condition of the new service, and the Pacific Lake station [the Plains Pacific Line 1 delivery point for the rail shipment] should be added as an origin point on the Shell/SPBPC System."¹⁴ The protest fails to provide any basis to support this argument nor does it explain how assets *not owned by SPBPC* should be considered part of the SPBPC common carrier system.¹⁵ Taken to its logical conclusion the Tesoro argument would require any

¹³ The protest reference to "BCT" is explained as the Bakersfield Crude Terminal being built by Plains subsidiary, Bakersfield Terminal, LLC.

¹⁴ Op. cit., Protest of Tesoro. p. 2.

¹⁵ As discussed in following paragraphs, there is no supporting information to indicate that SPBPC owns the 10 and 8 inch lines, and Tesoro itself has previously presented information confirming that the lines are proprietary. In fact, the argument that the two lines need to be included in SPBPC service is tacit recognition that they are not part of the current SPBPC pipeline system. Additionally, Tesoro references a "Shell/SPBPC system" - however there is no reference to a "Shell/SPBPC system" in proceedings or

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proprietary line connecting to the common carrier SPBPC system, not just those owned by a Shell affiliate, to be made part of the common carrier system upon Tesoro's desire to use the proprietary line. Not only is this argument untenable, but it is also contrary to current accepted practice. As SPBPC noted in a follow up to an Energy Division data request, it is not uncommon in California to see private lines connect to and from common carrier systems. The data request response provided a specific example from 2011. In the example, crude was shipped via a Plains common carrier line to Pentland and then through a Shell affiliate (SOPUS) proprietary 12 inch line connecting to the 10 inch line referenced in the Tesoro protest. The crude next moved through this line to Olig and then into the SPBPC common carrier system. SPBPC states that, in the cited example, there was no assertion that the SOPUS proprietary lines were in common carrier service or should be converted to common carrier service.

Tesoro's assertion that while "SPBPC is not required to offer a new service, as a regulated utility, if it does, it has to offer it on a non-discriminatory basis." In order to do so, Tesoro argues that the 10 and 8 inch lines must be incorporated into the common carrier system. However, SPBPC notes that the new service as currently proposed, and without making the proprietary lines that it does not own part of the SPBPC common carrier system, will be available to all shippers on a non-discriminatory basis. As noted by SPBPC **the new service is not discriminatory, "Shippers/refiners are not limited by SPBPC in their ability to acquire the new common stream crude, whether it is LDC or DCB, just like shippers/refiners all acquire crude today from other parties that supply crude to the origin points or destination points on SPBPC."**¹⁶

While Tesoro repeatedly refers to the pipelines between Lake Station and Olig as "Shell/SPBPC" pipelines, Tesoro provides no accurate or specific reference

filings related to SPBPC. As there is no "Shell/SPBPC system" Tesoro appears to use "Shell/SPBPC system" as a convenience to acknowledge two entities, the common carrier SPBPC system and the separate Shell affiliate-owned line 10 inch line that connects to the SPBPC system at Olig and the affiliate-owned 8 inch line connecting to Plains Line 1 at its Lake Station. This is consistent with Tesoro's previous designation of the 10 inch line connecting at Olig as "*Private Line, Shell 10 inch P/L*" in A.08-09-024 Tesoro Exhibit 6, May 12, 2010.

¹⁶ op. cit. Reply of SPBPC to Tesoro protest, p. 2.

showing that these proprietary lines were ever included as part of the common carrier SPBPC system. Tesoro provided no information in its Protest that these pipelines are part of the SPBPC system, and SPBPC states in its Reply to Tesoro's protest that these lines are not owned by SPBPC. The Energy Division requested additional information from Tesoro via a data request to determine whether these lines are part of the SPBPC system. Tesoro did not provide any accurate or specific information that showed that these pipelines are part of the SPBPC system.

Failing to provide support for its arguments concerning the 10 inch and 8 inch lines, Tesoro's assertion that the AL omits facilities and that this is a material omission permitting protest under General Order 96-B Rule 7.4.2(3) has no merit.

The Tesoro protest is vague and limited to general statements of concern. Tesoro contends that the AL is vague. However, we agree with SPBPC's assertion in its reply to Tesoro's protest that Tesoro's statements concerning quality specifications are themselves vague and limited to unsupported broad general statements of concern. SPBPC's reply on this matter provides significant information concerning the operation and quality.

AL 4 was properly filed as a Tier 1 advice letter. AL 4 requests tariff changes introducing a new service to the SPBPC system. The Tesoro protest refers to the changes in AL 4 as tariff modifications to "the whole Shell/SPBPC system." As noted in footnote 15, there is no "Shell/SPBPC system." That said, consistent with General Order 96-B, Energy Industry Rule 5.1(6) the AL introduces a specific new service. Even if Tesoro were to appropriately reference the correct system, its assertion that a change is a modification that impacts an entire system and therefore not allowed under Rule 5.1(6) strains the credibility of the protest. Based on how Tesoro seeks to represent this rule, no new service could ever be introduced because any new service could arguably be said to impact an entire system. The rule does not make the muddled distinction Tesoro seeks to attribute to it.

Tesoro's request for hearings lacks merit. The basis for Tesoro's request is founded on arguments in its protest that are factually incorrect.

Chevron has withdrawn its protest. SPBPC filed a reply on August 25, 2014 to the Chevron protest of August 20, 2014. Subsequent to the reply, on

August 28, 2014, Chevron withdrew its protest. As previously indicated Chevron provided no explanation of its withdrawal.

COMMENTS

Public Utilities Code section 311(g)(1) provides that this resolution must be served on all parties and subject to at least 30 days public review and comment prior to a vote of the Commission.

Resolution O-0062 was mailed to parties for comment on June 19, 2015. On July 13, 2015 SPBPC provided comments supporting the Commission's adoption of draft Resolution O-0062 which approves SPBPC's AL 4.

On July 13, 2015 Tesoro provided comments asserting the Commission should not adopt the Draft Resolution. Tesoro restates its incorrect argument that the proprietary eight and ten inch lines connecting to the Olig Station are part of the common carrier SPBPC System. It makes these comments asserting that whether SPBPC owns the lines or not is irrelevant. Tesoro offers no suggestion on what authority SPBPC can incorporate assets it does not own or control into its common carrier system. Tesoro next comments that it need not provide support for its position but that it nonetheless provided material supporting its assertions that the lines assets are not proprietary. For example, the purported support includes a map with the eight and ten inch lines but the lines are clearly marked as "private." Tesoro references the Taft 8"/10" P/ shown in a Fixed Asset Database as proof that the lines are part of the SPBPC system. However Tesoro fails to note that Taft 8"/10"P/ are idled lines physically and geographically separate from and not connected to the SPBPC common carrier system. The support referenced is not credible.

FINDINGS

1. On July 1, 2014 San Pablo Bay Pipeline Company (SPBPC) filed Tier 1 Advice Letter (AL), AL 4. The Advice letter seeks approval to transport two new grades of crude oil on the SPBPC system.
2. The SPBPC system operates as a common carrier system.
3. SPBPC is an affiliate of Shell Pipeline Company (Shell).
4. The new grades of crude are delivered into California via rail and unloaded at a new rail terminal connected to the Plains Line 1. Plains Line 1 is a

common carrier line owned by Plains All American Pipeline, L.P. The crude will then be transported to the Plains Pacific Lake Station where it will initially enter a proprietary 8 inch pipeline that later connects to a proprietary 10 inch pipeline and be delivered into the SPBPC system at the system's Olig Station.

5. The proprietary 10 inch and 8 inch pipelines to be used to transport the new grades of crude oil from the common carrier Plains line to SPBPC are owned by a Shell affiliate. A Shell affiliate is also a shipper on these proprietary lines.
6. Upon delivery into the SPBPC system, the new service will use a previously idled 10 inch pipeline to transport the new grades from the system's Olig station to the system's Carneros Station. The new service will also use an idled storage tank located at the Olig station. Both the idled 10 inch line and storage tank are part of the common carrier system.
7. Chevron Products Company (Chevron) filed a timely protest to AL 4. The protest asserts that the proposed new service involves an improper disposition of assets. SPBPC replied to the protest noting that the assets will remain in common carrier service and service levels will not be impacted. Chevron withdrew its protest.
8. Tesoro Refining and Marketing Company (Tesoro) filed a timely protest to AL4. The protest asserts that: (1) the 10 and 8 inch pipelines between Plains and SPBPC should be included as part of the common carrier SPBPC system and are required to provide the new service on a non-discriminatory basis; (2) the AL's presentation of the new service is vague and does not allow for a clear determination of how it will impact operations, services; and (3) the AL proposes modifications to the entire pipeline system rather than the introduction of a new service and therefore is inappropriately filed as Tier 1.
9. Tesoro fails to provide credible information to support its assertion that the 10 and 8 inch lines are part of the SPBPC system.
10. The new service, as proposed, includes all of the assets necessary to provide service on a non-discriminatory basis. Tesoro and other customers may purchase the grades of crude from other suppliers at the origin or destination points just as they currently do with other grades of crude.
11. AL 4 provides sufficient information concerning the impact on operations. The Tesoro protest fails to define its concerns other than in highly general and abstract terms. AL 4 is properly filed as Tier 1. The AL proposes

changes to SPBPC tariffs in order to introduce a new service and conforms to Energy Industry Rule 5.1(6) of General Order 96-B. Tesoro fails to demonstrate that the AL proposes “a modification to the total system.”

12. AL 4 should be approved.

THEREFORE IT IS ORDERED THAT:

1. The request of the San Pablo Bay Pipeline Company to make changes to its tariffs in order to implement new services as requested in Advice Letter AL 4 is approved.

This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California held on August 13, 2015; the following Commissioners voting favorably thereon:

TIMOTHY J. SULLIVAN
Executive Director