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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 455.3, to increase its rates for pipeline transportation services within California.

Application 09-05-014  
(Filed May 12, 2009)

And Related Matters.

Application 08-06-008  
Application 08-06-009

**ADMINISTRATIVE LAW JUDGE'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**

**Background**

On September 15, 2011, I withdrew my previously issued proposed decision for further revision. On December 8, 2011, I issued a ruling directing the Applicants to supplement their application with additional information regarding their 2009 jurisdictional rate bases.

On December 23, 2011, SFPP, L.P. (SFPP) and Calnev Pipe Line L.L.C. (Calnev) filed an amended application which they characterized as being in accordance with my December 8, 2011 ruling, together with a motion by SFPP to supplement the record with information regarding a tentative decision in its right-of-way litigation with Union Pacific railroad. The amended application increased SFPP's 2009 jurisdictional rate base from \$222,554,000 to \$280,379,000

and Calnev's 2009 jurisdictional rate base from \$4,831,000 to \$6,139,000. The amended application also made changes in the applicants' 2009 costs of service. The bulk of the change in the 2009 jurisdictional rate base for the Applicants results from removal of an allowance for deferred income taxes (ADIT) from their 2009 expenses in accordance with the Commission's decision in D.11-05-045 that the Applicants were not entitled to such an allowance. I had earlier ruled that I would apply the Commission's resolution of the tax issue in Decision (D.) 11-05-045 to the facts of this case.

Shippers object to the amended application in general and to the modification of the 2009 jurisdictional rate base as a result of following the precedent set in D.11-05-045 in particular. While shippers do not dispute the propriety of applying the same tax treatment to the applicants in the years beginning in 2009 as we applied to them in the earlier years covered by D.11-05-045, they argue that the full amount of the proposed increase in the 2009 rate base resulting from this change represents an over-collection that should be refunded to shippers<sup>1</sup> and that the application to increase the rate base should be denied unless it is accompanied by an order directing the refund.

While disallowing the ADIT provides the bulk of the proposed adjustments to the Applicants' 2009 jurisdictional rates bases, they also ask that we make other adjustments totaling nearly \$15,000,000 for SFPP and \$800,000 for

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<sup>1</sup> See Declaration of Peter K. Ashton, Attachment A to the Comments of Tesoro Refining and Marketing Company with respect to SFPP, LP's Amended Application at 3 and Declaration of Mathew P. O'Loughlin attached to Comments of Air Transport Association of America, Inc.; Chevron Products Company; ConocoPhillips Company; Southwest Airlines Co; Valero Marketing and Supply Company; and Ultramar, Inc., in Opposition to Amended Applications of SFPP, LP and Calnev Pipe Line L.L.C. at 10.

Calnev relating to Carrier Property in Service (CPIS) balances. Shippers object to this retroactive increase in rate base and point to prior Commission decisions denying motions to re-open the record to make similar modifications.

Finally, SFPP's motion to supplement the record asks that we modify SFPP's 2009 cost of service to reflect a tentative decision in litigation between SFPP and Union Pacific Railroad regarding right-of-way expense. Shippers object to this proposed modification as well.

### **Discussion**

The treatment of the ADIT in D.11-05-045 is the law of this case. It would be anomalous and confusing to deny the ADIT for the years prior to 2009 and allow it from 2009 forward. Adopting the same treatment of the ADIT in this docket as the Commission adopted in D.11-05-045 makes the 2009 rate base numbers consistent with the rate base numbers from the prior years.

As noted above, shippers object to making this change unless it is accompanied by an order directing refunds of the alleged over-collection. Applicants dispute shippers' right to the funds. Whatever the ultimate resolution of this question, which is currently before the commission in the A.03-02-027 proceeding, it is still necessary and desirable for ratemaking purposes to construct a 2009 rate base that is correct from an accounting point of view. Doing so requires increasing the rate base by the amount of the ADIT. Shippers do not dispute the accuracy of the proposed ADIT adjustment.

With regard to the other rate base adjustment sought by the amended application, the proposed modifications in CPIS balances are not a sufficient reason to re-open the record and schedule additional hearings to determine how much, if any, of the proposed adjustment should be allowed. Applicants had the opportunity to introduce this evidence during the evidentiary hearings and

chose not to do so. Similarly, the tentative decision in the right-of-way litigation with Union Pacific is not a sufficient basis for re-opening the record to change SFPP's 2009 cost of service numbers. As of the date of this ruling, the decision is not yet final and SFPP has indicated its intention to appeal the final decision.

Accordingly,

**IT IS RULED** that:

1. The 2009 rate base for SFPP, L.P. is \$265,550,000.
2. The 2009 rate base for Calnev Pipe Line L.L.C. is \$5,263,000.
3. The amended application of SFPP, L.P. and Calnev Pipe Line L.L.C. to increase the amount of 2009 jurisdictional rate base by the amount of the Allowance for Deferred Income Taxes is accepted.
4. The amended application of SFPP, L.P. and Calnev Pipe Line L.L.C. to increase the amount of 2009 jurisdictional rate base by the amount of proposed adjustments to Carrier in Service Property is rejected.
5. The motion of SFPP, L.P. to supplement the record and increase the amount of SFPP L.P.'s 2009 cost of service to reflect the tentative decision in its litigation with Union Pacific Railroad is denied.

Dated March 1, 2012, at San Francisco, California.

/s/ KARL J. BEMESDERFER

Karl J. Bemesderfer  
Administrative Law Judge