Decision 11-10-019 October 6, 2011

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

Application of San Pablo Bay Pipeline Company LLC for Approval of Tariffs for the San Joaquin Valley Crude Oil Pipeline.	Application 08-09-024 (Filed September 30, 2008)
And Related Matters.	Case 08-03-021 Case 09-02-007 Case 09-03-027

**ORDER GRANTING MOTION FOR PARTIAL STAY
OF DECISION (D.) 11-05-026**

On July 5, 2011, San Pablo Bay Pipeline Company ("SPBPC") and Shell Trading Company ("STUSCO") timely filed separate applications for rehearing of the Decision (D.) 11-05-026 (or "Decision").[1] On August 8, 2011, SPBPC and STUSCO jointly filed a motion for partial stay of D.11-05-026, asking for a stay from the order that requires them to pay refunds that is estimated as over $100 million. They argue that the partial stay is warranted because of irreparable harm and the likelihood of success of their rehearing applications. In today's order, we only address the motion for partial stay, and grant that request.

D.11-05-026 involved Application (A.) 08-09-024, filed by San Pablo Bay Pipeline Company LLC ("SPBPC") for approval of tariffs for the San Joaquin Valley Crude Oil Pipeline ("Pipeline"). The proceeding also involved several complaint cases. In the Decision, the Commission (1) denied SPBPC's request to charge market-based

[1] On August 9, 2011, SPBPC and STUSCO filed an amendment to this motion, correcting a date on page 1.

rates for the transportation of heavy crude oil from the Pipeline; (2) set rates for the transportation of crude oil between the San Joaquin Valley and the San Francisco Bay Area at $1.34 per barrel; (3) resolved complaints filed by Independent Shippers[2] against SPBPC and Shell Trading US Company ("STUSCO")[3] and ordered refunds for past overcharges from April 1, 2005 to the effective date of D.11-05-026, and adopted tariffs for heated oil service; (4) approved the transfer of physical assets from the Pipeline's former owner to SPBPC; (5) denied SPBPC's request to exclude certain tanks and truck racks from the assets transferred to it; and adopted a tariff to govern the provision of heated oil transportation service by SPBPC.

We have carefully considered the partial stay motion of SPBPC and STUSCO and the other pleadings filed on this motion, and have reviewed the arguments contained therein. We have determined that a stay of the Decision is warranted pending resolution of the applications for rehearing.

Pursuant to Public Utilities Code section 1735, the Commission's authority to grant a stay is discretionary. That section provides that a Commission decision is not stayed during the pendency of an application for rehearing, "except in such cases and upon such terms as the commission by order directs." (Pub. Util. Code, § 1735.) Thus, the statute allows the Commission broad discretion to issue stays of its decisions.

In deciding whether to issue a stay the Commission considers:

> (1) whether the moving party will suffer serious or irreparable harm if the stay is not granted; (2) whether the moving party is likely to prevail on the merits of the application for rehearing; (3) a balance of the harm to the moving party (or the public interest) if the stay is not granted and the decision

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[2] "Independent Shippers" is the collective designation of Chevron Products Company ("Chevron"), Tesoro Refining and Marketing Company ("Tesoro" and Valero Marketing and Supply Company ("Valero") all of whom ship undiluted heavy crude oil on the Pipeline to their respective Bay Area refineries. (D.11-05-026, p. 3, fn. 1.)

[3] STUSCO is an affiliate of SPBPC, and both entities make up the "Shell Parties" that also include Shell Oil Products US ("SOPUS") and their parent corporation, Royal Dutch Shell ("Shell"). SPBPC was created to serve as the public utility; it is the successor of Equilon Enterprises LLC dba Shell Oil Products U.S. ("Equilon"), and Shell Trading (US) Company.

> is later reversed, against the harm to the other parties (or the public interest) if the stay is granted and the decision is later affirmed; and (4) other factors relevant to the particular case. [Footnote omitted.]

(*Pac-West Telecom, Inc. v. Pacific Centrex Services, Inc.* -- *Order Granting Stay of D.08-01-031* [D.08-04-044] (2008) ___ Cal.P.U.C.3d ___, p. 3 (slip op.); see also, *Order Granting Motion for Stay of Decision 10-12-056* [D.11-05-050] (2011) ___ Cal.P.U.C.3d ___, p. 2 (slip op.).)

After a review of the pleadings for the motion, we conclude that a partial stay of the payment of the refunds is warranted and should be granted. We are persuaded that the amount of the refunds and the calculation of these refunds justify further review. In these circumstances, we believe that a partial stay should be granted.

THEREFORE, IT IS ORDERED that:

1. Motion for Partial Stay of D.11-05-026 is hereby granted.
2. The determination regarding the payment of the refunds ordered in D.11-05-026 is stayed pending the Commission's resolution of the applications for rehearing.

This order is effective today.

Dated October 6, 2011, at Los Angeles, California.

MICHAEL R. PEEVEY
President
TIMOTHY ALAN SIMON
MICHEL PETER FLORIO
CATHERINE J.K. SANDOVAL
MARK J. FERRON
Commissioners