

Decision 07-12-047 December 20, 2007

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

Application of WesPac Pipelines – Los Angeles LLC for an order granting it public utility status as a common carrier pipeline corporation and authorizing it to file a tariff with market-based rates for its jet fuel pipeline transportation services.

Application 07-04-003  
(Filed April 3, 2007)

**INTERIM OPINION GRANTING PUBLIC UTILITY STATUS TO  
WESPAC PIPELINES – LOS ANGELES LLC**

**Summary**

This interim order declares applicant WesPac Pipelines – Los Angeles LLC (WesPac) to be a common carrier pipeline corporation, and thus a public utility, subject to the jurisdiction of the Commission.

**Background**

WesPac is a limited liability company organized under the laws of the State of Nevada, and is authorized to do business in California. It is owned by WesPac Pipelines LLC, a Nevada limited liability company. WesPac affiliates operate jet fuel pipelines in several states, although its sole California affiliate is a proprietary (i.e., non-common carrier) jet fuel pipeline in San Diego.

WesPac proposes to construct a 24-inch jet fuel pipeline in Los Angeles County to serve the Los Angeles International Airport Airline Consortium (LAXFUEL) and its member airlines operating at Los Angeles International Airport (LAX). The pipeline and associated facilities are yet to be built, and

details of the proposed pipeline construction and operation are not final, because the project is currently undergoing environmental review. The County of Los Angeles is the lead agency conducting the environmental review.

WesPac filed this application on April 3, 2007, asking the Commission for interim and final relief. First, WesPac requests the Commission issue an interim order to establish that, as a common carrier pipeline corporation, it is a public utility. WesPac also requests a final order, following completion of environmental review, authorizing it to file a tariff with the Commission for market-based rates for its transportation services. The City of Gardena filed a timely protest challenging, *inter alia*, WesPac's contention that it should be accorded common carrier status, but the City subsequently withdrew its protest. Consequently, the application is unopposed.

### **Discussion**

This Interim Order addresses WesPac's request for an interim declaration that it is a common carrier pipeline corporation. Although WesPac appears to have no assets dedicated to public use at this time, we have previously declared under very similar circumstances that an applicant's intention to acquire a pipeline and operate it as a common carrier was sufficient to satisfy the requirement of present ownership and control of pipeline assets under Public Utilities Code Section 227. (*Application of Wickland Pipelines LLC* (1999) Cal. P.U.C. Dec. No. 99-12-038.) The rationale for our authority to do so is that a pipeline corporation is not required to obtain a preconstruction certificate of public convenience and necessity pursuant to Public Utilities Code Section 1001, as are other transportation concerns. (*Id.*, unpublished decision at 2, citing *Pacific Pipeline System, Inc.* (1992) Cal. P.U.C. Dec. No. 92-10-048 at 2.) The

Commission's practice of conferring public utility status upon such prospective pipeline ventures has been consistent. (*Id.*)

For the foregoing reasons, we conclude that WesPac is a pipeline corporation within the meaning of Public Utilities Code Section 228, and is therefore a public utility within the meaning of Section 216.

### **Categorization**

In Resolution ALJ 176-3190, dated April 12, 2007, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that no hearings are necessary.

### **Waiver of Comment Period**

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Section 311(g)(2) of the Public Utilities Code and Rule 14.6(c)(2) of the Commission's Rules of Practice and Procedure, the otherwise applicable 30-day period for public review and comment is waived.

### **Assignment of Proceeding**

Timothy Alan Simon is the assigned Commissioner, and Victor D. Ryerson is the assigned Administrative Law Judge.

### **Findings of Fact**

1. WesPac is a limited liability company organized under the laws of the State of Nevada and is authorized to do business in California.
2. WesPac affiliates operate jet fuel pipelines in several states.
3. WesPac proposes to construct a 24-inch jet fuel pipeline in Los Angeles County to serve the Los Angeles International Airport Airline Consortium (LAXFUEL) and its member airlines operating at Los Angeles International Airport (LAX). The pipeline and associated facilities are not yet built, and details

of the proposed pipeline construction and operation are not final, because the project is currently undergoing environmental review.

**Conclusions of Law**

1. WesPac is a pipeline corporation within the meaning of Public Utilities Code Section 228, and is therefore a public utility within the meaning of Section 16, by reason of the circumstances set forth in Findings of Fact 1 through 3.

2. The Commission should issue an interim order declaring that WesPac is a pipeline corporation and a public utility, subject to a declaration to the contrary in our final order or thereafter if WesPac fails to construct the pipeline proposed in the application, or fails to dedicate that pipeline to public use.

**INTERIM ORDER**

**IT IS ORDERED** that the applicant, WesPac Pipelines – Los Angeles LLC, is declared to be a pipeline corporation within the meaning of Public Utilities Code Section 228, and thus a public utility within the meaning of Public Utilities Code Section 216, subject to a declaration to the contrary in our final order or thereafter if the applicant fails to construct the pipeline proposed in the application, or fails to dedicate that pipeline to public use.

This order is effective today.

Dated December 20, 2007, at San Francisco, California.

MICHAEL R. PEEVEY  
President  
DIAN M. GRUENEICH  
JOHN A. BOHN  
RACHELLE B. CHONG  
TIMOTHY ALAN SIMON

Commissioners