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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the Test Year 2009 General Rate Application of **SFPP, L.P.** (PLC-9 Oil)	))	Application No. 08-06-008

MOTION OF INDICATED SHIPPERS TO DISMISS REQUEST FOR FUTURE "LIGHT-HANDED" REGULATION

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July 14, 2008

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

In the matter of the Test Year 2009 General Rate Application of **SFPP, L.P.** (PLC-9 Oil)	))	Application No. 08-06-008

MOTION OF
INDICATED SHIPPERS TO DISMISS
REQUEST FOR FUTURE "LIGHT-HANDED" REGULATION

Pursuant to Rules 1.7 and 11.1 of the California Public Utilities Commission's ("Commission") Rules of Practice and Procedure, BP West Coast Products LLC, Chevron Products Company, ExxonMobil Oil Corporation, Southwest Airlines Co., Ultramar Inc., and Valero Marketing and Supply Company (together, "Indicated Shippers") hereby severally and jointly move to dismiss the requests of SFPP, L.P. ("SFPP") and Calnev Pipe Line L.L.C. ("Calnev") for Commission consideration and adoption of "light-handed" rate regulation, as contained in their respective rate filings in the SFPP and Calnev applications in A.08-06-008 and A.08-06-009, respectively. SFPP's and Calnev's Applications in Docket Nos. A.08-06-008 and A.08-06-009 were noticed in the Commission's Daily Calendar on June 12, 2008. Concurrent with this motion, Indicated Shippers also are filing separate protests of the Applications in their respective dockets, as well as motions to consolidate both proceedings, and to hold both proceedings in abeyance.

I. BACKGROUND AND SUMMARY

On June 6, 2008, pursuant to this Commission's decision D.07-05-061 issued May 24, 2007 in Docket Nos. A.06-09-016, *et al.*, involving the transfer of ownership of SFPP and Calnev, SFPP filed Application No. A.08-06-008 and Calnev filed Application No. A.08-06-009, both tendering a test year 2009 general rate application to the Commission, and, at the same time, seeking (1) to justify and support their respective *existing* rates as just and reasonable; and (2) to recommend Commission consideration and adoption of additional "light-handed" ratemaking mechanisms, including an "indexing" regime, for the purpose of evaluating the reasonableness of *future* requests by SFPP and Calnev to increase their intrastate pipeline rates. Neither SFPP nor Calnev submitted new tariffs. In their protest submitted concurrently with the instant Motion to Dismiss, Indicated Shippers oppose all of the above claims in the Applications and call for a full hearing, if any of the claims, including for light-handed ratemaking, are not summarily dismissed.

II.

MOTION

Indicated Shippers respectfully move that SFPP's and Calnev's requests that the Commission consider and adopt in the future light-handed rate regulation (including an indexing mechanism as "presumptively determinative of the reasonableness of future general rate increases"), SFPP Application at 7-11; Calnev Application at 3-7, be summarily rejected for the following basic, but independent reasons.

First, SFPP and Calnev are seeking an advisory decision that will cover some future case, yet to be filed, with a decision now that will prejudice the shippers affected by the future filing. Indeed, the claim is beyond the scope of this Commission's Decision D.07-05-061 in Docket Nos. A.06-09-016, *et al.*, to justify current rates on a cost-of-service basis and to prove that none of the costs of the transfer of control are being shifted to consumers. Having to litigate this claim, which will not even apply to the current rates, as the public utilities admit, would merely sap resources of both the Commission and the ratepayers, diluting the focus on compliance with the Commission's order.

Second, if the Commission is disposed to consider issuing an advisory decision, then there are already two fully tried cases now pending decision where the same subject was litigated. The Commission can address the question there. Concurrent with this motion Indicated

Shippers are filing a motion to hold the present rate case filing in abeyance until the cases now pending before the Commission are adjudicated.

Third, there is simply no merit to the claim that trucking or any other form of surface transportation—ships, barges, railroads—can supplant the underground, high volume product pipelines, either in cost or efficiency of operation. It cannot be denied that SFPP's pipeline system in California is the overwhelming and, along with its sister pipeline Calnev, the only common carrier pipeline system that reaches virtually throughout the State, from San Diego to Chico, from Los Angeles to Imperial. There very well may be some limited instances where trucking can compete with SFPP for very marginal barrels at destinations close to the source of supply -- the coastal area around Long Beach and the coastal area east of San Francisco. In its pleading, Calnev seeks to expand this concept with the claim that a large shipper stopped shipping to Calnev's terminal at Barstow on Calnev and instead trucks from SFPP's destination at Colton, claiming that "trucking" has displaced its pipeline and, therefore, trucking is a competitive factor. This is transparently false. What this shows is that there is competition between two destinations on the exclusive pipeline access to Colton and to Barstow owned by Kinder Morgan subsidiaries. The only "competition" here is between the two Kinder Morgan pipeline subsidiaries.

Further reasons are set forth in the Protests filed concurrently by Indicated Shippers in the respective rate application dockets (A.08-06-008 (SFPP) and A.08-06-009 (Calnev)). Pursuant to Commission Rule 1.7, which requires separate pleadings when asking the Commission or Administrative Law Judge to take "essentially different types of action," and out of an excess of caution, Indicated Shippers are filing this separate Motion to explicitly ask for rejection, while also including argument against the pipelines' proposal in the Indicated Shippers' Protests of the pipelines' rate filings.

WHEREFORE, Indicated Shippers respectfully request that SFPP's and Calnev's requests, in their respective rate filings in Application Nos. 08-06-008 and 08-06-009, for Commission consideration and adoption of "light-handed" rate regulation, to become effective at some undetermined time in the future, be dismissed, for the reasons stated herein and in the Indicated Shippers' respective Protests in the rate filing proceedings.

Respectfully submitted,

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Dated: July 14, 2008

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document by facsimile on Mr. Peter Dito at (714) 560-4602, and by electronic mail or FEDEX upon each of the following persons:

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Dated at Washington, D.C., this 14th day of July, 2008

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