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Ratesetting

TO PARTIES OF RECORD IN APPLICATION 16-03-009 ET. AL.:

This is the proposed decision of Administrative Law Judge Patricia Miles. Until and unless the Commission hears the item and votes to approve it, the proposed decision has no legal effect. This item may be heard, at the earliest, at the Commission's November 19, 2020 Business Meeting. To confirm when the item will be heard, please see the Business Meeting agenda, which is posted on the Commission's website 10 days before each Business Meeting.

Parties of record may file comments on the proposed decision as provided in Rule 14.3 of the Commission's Rules of Practice and Procedure.

The Commission may hold a Ratesetting Deliberative Meeting to consider this item in closed session in advance of the Business Meeting at which the item will be heard. In such event, notice of the Ratesetting Deliberative Meeting will appear in the Daily Calendar, which is posted on the Commission's website. If a Ratesetting Deliberative Meeting is scheduled, ex parte communications are prohibited pursuant to Rule 8.2(c)(4)(B).

/s/ ANNE E. SIMON
Anne E. Simon
Chief Administrative Law Judge

AES:avs

Attachment

Decision PROPOSED DECISION OF ALJ MILES (Mailed 10/16/20)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
Crimson California Pipeline L.P.
(PLC-26) for Authority to Increase Rates
for Its Crude Oil Pipeline Services.

Application 16-03-009

And Related Matters.

Application 17-02-009
Application 18-04-023
Application 19-03-023

**DECISION GRANTING CRIMSON CALIFORNIA PIPELINE, LP
APPLICATION FOR RATE INCREASE WITH MODIFICATIONS**

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DECISION GRANTING CRIMSON CALIFORNIA PIPELINE, LP APPLICATION FOR RATE INCREASE WITH MODIFICATIONS

Summary

Crimson California Pipeline, L.P. seeks authority under Public Utilities Code Section 454 to increase its rates and charges for its intrastate crude oil pipeline transportation services by an aggregate total of 60 percent, which it estimates will result in an annual revenue increase of \$12 million.

As will be discussed below, while Crimson has met its burden to show that its request is reasonable, we do not agree with every element of its forecast. We reject the fair value method for determination of certain assets, we adopt a reduced return on equity, make reductions to certain operating expenses, and deny the inclusion of the income tax allowance (ITA) as part of Crimson's cost of service.

This proceeding is closed.

1. Background

Crimson California Pipeline, L.P. (Applicant or Crimson) is a California limited partnership authorized to do business in the State of California as a pipeline corporation (as defined by Pub. Util. Code § 228).¹ Crimson owns and operates a network of common carrier crude oil pipeline systems, in Southern California.²

¹ Crimson is wholly owned by Crimson Midstream Operating, LLC (Midstream). Crimson's principal place of business is 3760 Kilroy Airport Way, Suite 300, Long Beach, CA 90806.

² For purposes of this proceeding, Crimson breaks its system into five asset groups: (1) Thums 8" pipeline system transporting crude oil from Long Beach Harbor area to refineries and terminals in the Los Angeles area; (2) Wilmington (Ventura) 10" gathering system transporting crude oil produced in Fillmore and Ventura areas to Crimson's Ventura tank farm; (3) Ventura 10" system transporting crude oil from the Ventura tank farm and Inglewood areas to refineries in Los Angeles area; (4) Lines 600/700 which include pipelines, storage tanks and

Crimson's pipeline system comprises approximately 424 miles of pipeline over which it provides transportation service from crude oil fields in the Los Angeles Basin to refineries owned by Valero Marketing and Supply Company (Valero), Phillips 66 Company (Phillips) and Tesoro Refining & Marketing Company LLC (Tesoro) collectively ("joint shippers"). Crimson seeks to increase rates throughout its system. Crimson says its rates have been unchanged since 2009.³ Crimson claims that its current rates do not enable it to recover its operating expenses or to obtain a return on its utility investment. It contends that the significant increase which it seeks, is justified by increased expenses for safety (including testing, repair and anticipated replacement of older pipeline segments) and capital investment to ensure that it can provide adequate delivery options to producers utilizing its system. Crimson also contends that the increase is necessary to address forecasted declines in volumes and throughput within its system. Crimson initially anticipated that its requested rate increase would yield an overall rate of return of approximately 9.9 percent and a return on equity (ROE) of approximately 11.3 percent. However, in filed testimony, Crimson witness Dr. Michael Webb computes an overall rate of return of 12.37 percent with ROE assumed to be 14.7 percent.⁴

crude oil truck unloading facilities;(5) Chevron Northam, Inglewood and #3 - 6" lines originating in Orange and Los Angeles counties. *See* Applications (A.) 16-03-009 at 5; A.17-02-009 at 4; A.18-04-023 at 3-4 and A.19-03-023 at 4.

³ Crimson's last request for an increase in rates, prior to 2016 concerned Line 600 and Line 700 (including Brea Crude) pipeline systems, which the Commission authorized in D.09-02-022 and was projected to result in an annual revenue increase of \$4.13 million, a 3.45percent overall rate of return (ROR) including a 5.46percent return on equity (ROE). The previous request for increase occurred in 1992.

⁴ *See* A.16-03-009 at 7. Also *see* CRI-007, Direct Testimony of Webb, Exhibit MJW-2, Schedule 3.

1.1. The Applications

Section 455.3(b)(5) of the California Public Utilities Code⁵ authorizes California oil pipeline companies to increase rates, without seeking prior Commission approval, by not more than ten percent within a 12-month period, upon 30 days' notice to the Commission and all shippers. Such an increase remains subject to retroactive Commission adjustment and refund with interest, as appropriate.

On January 29, 2016, Crimson filed Advice Letter 16-O to implement such an increase effective March 1, 2016.⁶ Subsequently, on March 11, 2016, Crimson filed an A.16-03-009 seeking authority to further increase rates and charges for its intrastate crude oil transportation services by an additional 50 percent.

On February 27, 2017, Crimson filed Advice Letter 19-O to implement an additional 10 percent increase effective April 1, 2017 (April 2017 Advice Letter). Simultaneously, on February 27, 2017, Crimson filed A.17-02-009 seeking authority to increase rates and charges for its intrastate crude oil transportation services on its Southern California systems pipelines by an additional ten percent.⁷ Crimson intended that the increase requested in its April 2017 Advice Letter and A.17-02-009, be subject to Commission review along with the

⁵ All section references are to the California Public Utilities Code unless otherwise noted.

⁶ Crimson's rate increase request was suspended for a period of 30 days, therefore, by operation of the statute, the suspension expired March 31, 2016. At the PHC, Tesoro argued that because the Commission's Energy Division website indicates that Crimson's Advice Letter is still suspended, it is not required to include the rate increase in its payments to Crimson. This issue is included within the scope of the proceeding but will not be addressed if the Energy Division or the parties resolve it prior to commencement of the evidentiary hearing.

⁷ See A.17-02-009 at 1.

10 percent increase it requested in A.16-03-009,⁸ therefore, the two applications were consolidated.

Crimson subsequently filed Advice Letter 25-0 on March 30, 2018, and A.18-04-023, on April 24, 2018. In A.18-04-023, Crimson acknowledges the pendency of its proceedings A.16-03-009 and A.17-02-009, noting that the additional 10 percent rate increase is needed due to declines in throughput.⁹

Crimson filed Advice Letter 31-O and A.19-03-023, on March 29, 2019. Its application, like those filed before it, cites declines in throughput and requests that a 10 percent rate increase be granted pursuant to statute, subject to reasonableness review.¹⁰ The rate increase proposed in Crimson's 2019 application is anticipated to increase its revenue by approximately \$2.3 million for the 12-month period commencing May 1, 2019.¹¹

With the 10 percent granted pursuant to statute under each of its prior advice letters in the previous proceedings, Crimson has now received a combined 46.41 percent in rate increases since 2016.¹²

⁸ Crimson's 2016 Advice Letter request for a 10 percent rate increase under § 455.3, took effect April 1, 2016. The 10 percent increase which took effect in 2016, was a fraction of a total 60 percent increase in rates sought by Crimson in A.16-03-009. In A.17-02-009, Crimson acknowledges that the 10percent increase sought in Crimson's 2017 Advice Letter, is properly within the Commission's retroactive review of the 60percent rate increase sought in A.16-03-009.

⁹ Application at 5 citing Declaration of David Allison. Declining throughput is one of the reasons given for the rate increase sought in the earlier applications. In addition, the six pipeline systems that are the subject of the rate increase sought in this proceeding, A.18-04-023, are the same as those under A.16-03-009 and A.17-02-009.

¹⁰ See A.19-03-023 at 5.

¹¹ *Id.*

¹² The combined increase somewhat exceeds 46percent due to compounding. For instance, the 10percent increase sought in A.16-03-009 would raise existing rates by 10 percent. The increase sought in A.17-02-009 has the effect of increasing rates

Crimson's initial application claimed that it needs a total of 60 percent increase to its rates because it has not increased its rates in over six years. For this reason, Crimson asserts is unable to earn any return on its utility investment or to recover its Commission-jurisdictional cost of service costs with existing rates.¹³ Judicial economy and efficient use of the Commission's and the public's resources, led us to consolidate Crimson's applications A.18-04-023, A.17-02-009 and A.16-03-009 because all three proceedings address the same pipeline systems. As noted above, because the issues in Crimson's A.19-03-023 are substantively the same as those in A.16-03-009, A.17-02-009, A.18-04-023, and because the parties in A.19-03-023 were also parties to one or more of the earlier proceedings, A.19-03-023 was consolidated with the earlier cases over the objection of the parties.¹⁴

1.2. The Parties' Protests

As previously noted, protests to each of Crimson's applications were timely filed by one or more of the joint shippers who utilize Crimson's network.¹⁵

10 percent above the 10percent increase sought in A.16-03-009 (effectively 11 percent more); the 10 percent increase sought in A.18-04-023 has the effect of increasing rates 10 percent above the 11 percent increase sought in A.17-02-009 (effectively 12.1 percent more) and the 10percent increase sought in A.19-03-023 has the effect of increasing rates 10 percent above the 12.1percent increase sought in A.18-04-023 (effectively 13.31 percent more). Thus, to date, there have been rate increases of approximately 46.41 percent. The increases are subject to review within this decision as part of the overall 60percent request in A.16-03-009.

¹³ A.16-03-009 at 2.

¹⁴ See Scoping Memorandum and Ruling of Assigned Commissioner Consolidating Proceedings dated July 2, 2020.

¹⁵ In the joint protest to Crimson's A.19-03-023 filed by Tesoro and Phillips 66, the joint shippers protest the 2019 application because it is duplicative of relief requested in prior proceedings and is not supported by the evidence. The 2019 application seeks the same

The California Independent Petroleum Association (CIPA), a nonprofit trade association comprised of independent oil and gas companies, also filed a protest to one or more of the applications.

1.2.1. Tesoro

Tesoro is a shipper of crude oil over all six of Crimson's routes. It contends that it faces an increase of more than \$4.5 million in its transportation costs as a result of the proposed increase, due in part to the configuration of Crimson's system, through which (Tesoro says) a shipper accrues multiple tariffs as it moves through each leg of the pipeline system. Tesoro disagrees that the cost of service submitted with A.16-03-009 demonstrates adjustments in operating expenses and rate base due to increased spending in safety, precautionary repairs and capital investment. Tesoro contends that the cost of service simply demonstrates an increase in general expenses. Tesoro complains that there is inadequate analysis of Crimson's base period expenses to determine whether the expenses listed are normal and recurring expenditures. It disagrees with Crimson's achieved return analysis and contends that Crimson's expert erroneously assumed base period expenses were Crimson's normal, recurring operating expenses. Tesoro argues that Crimson uses an overly rich capital structure (60 percent) and return on equity (14.5 percent) and that Crimson overstates its debt to produce inflated overall capital return and income tax allowance figures.

Tesoro challenges Crimson's use of the "fair value" method for determining components of Crimson's rate base, which it contends creates

rate increase as prior applications, justified by updated actual throughput figures. For this reason, we consolidated it herein.

inflated original cost data.¹⁶ As a result, Tesoro argues that there is lack of support for Crimson's cost of service figure because the rate base figure used in the cost of service analysis uses the fair value method to support the calculations.

Tesoro challenges Crimson's depreciation analysis/depreciable life calculation that results in full recovery of all plant over the next 20 years, arguing that it is greatly overstated, in part because Crimson has not demonstrated that the depreciable life of the facilities is 20 years.

Tesoro also questions Crimson's figures for decreased volumes and pipeline loss allowance (PLA), noting that Crimson does not provide adequate support for its forecast.

1.2.2. Phillips

Phillips 66 Company (Phillips) is also a shipper on pipelines within Crimson's system and ships crude oil over Line 600/700.¹⁷ It agrees with Tesoro that Crimson's cost of service and rate base are not supported by appropriate assumptions and valuation of Crimson assets. Phillips shares Tesoro's disagreement with Crimson's use of the "fair value" method and Crimson's depreciation analysis, pricing forecasts and forecasted declines in volumes shipped.

1.2.3. Valero

Valero joins the other shippers in protesting that Crimson has overstated or failed to justify several cost-of-service components, such as its throughput and

¹⁶ See Tesoro Opening Brief dated April 10, 2017 (Tesoro 2017 OB) at 8. Tesoro cites D.12-08-038, Application of San Pablo Bay Pipeline Company LLC for Approval of Tariffs for the San Joaquin Valley Crude Oil Pipeline and Related Matters, 2012 Cal. PUC LEXIS 80, in which it says the Commission determined that a fair value analysis is not a traditionally accepted method for calculating a utility's rate base.

¹⁷ See Protests of Phillips 66 dated April 18, 2016 and July 15, 2016.

revenue projections. Valero echoes Tesoro's skepticism regarding Crimson's projected throughput declines. Valero offers the analysis of its own expert, who challenges Crimson's projected decline and argues that Crimson's forecasts are undermined by the fact that Crimson returned idled pipelines to service, which (Valero contends) suggests an increase in volumes relative to prior periods.¹⁸

Valero requests that, if Crimson's rate increase is placed into effect during the pendency of the proceeding, then the rate increases should be made subject to full refund.

1.2.4. CIPA

CIPA is a non-profit trade association representing several hundred independent oil and natural gas companies, which CIPA claims are responsible for 70 percent of the state's oil production and 100 percent of the natural gas production within the state of California. CIPA notes that the 60 percent rate increase requested by Crimson will affect not just the six common carrier pipelines, but over 15 different pipelines, gathering systems and trunk lines. It expresses concern that Crimson asks for a 60 percent increase rather than incremental increases, which would be easier for producers to absorb.¹⁹

1.3. Procedural History

Advice letters, applications and protests were filed as described in Sections 1.1 and 1.2 above. Prehearing conferences were held on May 23, 2016 in A.16-03-009, on April 28, 2017 in A.17-02-009, on September 24, 2018 in A.18-04-023 and on June 1, 2020 in A.19-03-023. A.18-04-023 and A.19-03-023 were consolidated with the prior applications over the parties objections,

¹⁸ Refer to page 5 of the Valero protest and the disagreement with opinions of Dr. Webb by Valero's expert Dr. Arthur.

¹⁹ See April 15, 2016 Protest of CIPA.

primarily because the applications and party protests made clear that the issues and requested rate increase therein were sufficiently similar to those addressed by, and within the scope of, the prior applications.

The parties filed various motions and briefing during April and May 2017. Oral arguments were held May 24, 2017. On July 9, 2020 a ruling issued to amend the evidentiary record to admit Crimson data responses to data requests from the Commission's Energy Division. The parties filed additional briefing in July and August 2020 concerning the data responses.

2. Standard of Review

In an application seeking new rates, the applicant bears the burden of proof to demonstrate by a preponderance of the evidence that its rate increase request is just and reasonable and that the ratemaking mechanisms are fair. The joint shippers contend that Crimson has failed to meet its burden of proof with respect to: (1) operating expenses; (2) throughput projections; (3) the valuation of assets within its rate base;²⁰ (4) its cost of capital and (5) its entitlement to an income tax allowance.

3. Does Crimson Provide Adequate Justification for its Proposed Operating Expenses?

Crimson contends that its operating expenses for Test Year 2016 should be \$30.3 million.²¹ This figure represents its audited financial data for 2015, adjusted

²⁰ The joint shippers contend that Crimson improperly includes assets that Crimson does not own in rate base and that Crimson uses an outdated method of valuation and an inappropriate depreciation methodology. Specifically, they claim that Brea West and Huntington Beach should not be included in rate base because, at the time of the filing of the original application, these assets were owned by Cardinal Pipeline Company, which is not regulated by the Commission.

²¹ See CRI-007, Direct Testimony of Webb, Exhibit MJW-3, Schedule 1. We note that Test Year (TY) 2016 is discussed for purposes of this Decision, because the request for a

downward to remove business development expenses and to reflect lower overhead costs, decreased fuel and power costs related to decreased volumes. The figure is then adjusted upward to reflect increased insurance costs, and

60 percent increase based upon that TY, encompasses the subsequent requests, which, to date, total 46.41percent.

litigation costs related to this rate case proceeding.²² Significant aspects of Crimson's operating expenses are discussed below.

3.1. Environmental

Crimson seeks approval to include \$3.6 million of environmental expenses within its cost of service, which it derives from actual remediation expenses incurred, net of amounts recovered from insurance and third parties.²³ The joint shippers challenge and seek reduction of \$2 million of the environmental expense, arguing that a portion of the expenses are related to specific, non-recurring incidents, and further, that these costs are recoverable through insurance or litigation.²⁴

Crimson's expert Dr. Webb testifies that possible future recovery of costs from third parties is not measurable, and in any event, would require incurring additional extensive litigation costs. He takes into account that Crimson's environmental remediation costs for pipeline incidents in 2013-2015 were \$5,925,449 for the events themselves, and another \$526,598 for legal fees.²⁵ He notes that, as of December 2016, Crimson recovered \$1,956,857 from insurance and third parties for the 2013 La Cienega incident,²⁶ and an additional \$3.6 million from insurance for the 2016 Ventura Grove incident.²⁷

Summary of Crimson Environmental Costs and Recovery as of 12/31/2016²⁸
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²² Crimson April 2017 OB at 19 -23. Crimson's 2015 audited report by KPMG reflects total combined operating expenses (page 4) of \$68.7 million for Crimson Pipeline, Cardinal Pipeline, Crimson California Pipeline and Crimson Gulf.

²³ See CRI-008-P, Rebuttal Testimony of Webb at 8-10. Webb testifies that the figure is representative of the annual expense Crimson should expect to incur per year.

²⁸ See CRI-2 Alexander Rebuttal Testimony, Exhibit 5; and TRM-2 Grasso Direct Testimony, Exhibit 10 - "Crimson Supplemental Response to Phillips 1-3."

Date	Incident	Cause	Estimated Cost	Breakdown (12/31/2016)	Recovered (12/31/2016)
10/25/2013	La Cienega	3 rd Party Damage	3.5 Million	\$3,151,163 \$488,910 Legal	\$1,176,857 i \$780,000 tpr
11/12/2014	Seal Beach	3 rd Party Damage	0.6 Million	\$578,642 \$159 Legal	ns
9/21/2015	Camarillo	Pin-Hole in Valve	0.3 Million	Ns	ns
12/8/2015	Hwy 118/Somis	3 rd Party Damage	2.2 Million	\$2,195,644 \$37,529 Legal	ns
6/23/2016	Ventura Grove	Contractor maintenance	14.1 Million	\$13,723,937 \$392,799 Legal	\$3,611,894 i

i - insurance recovery; ns - not specified; tpr - third party recovery

Dr. Webb further cites rebuttal testimony of Robert Waldron that Crimson's unreimbursed costs for the Ventura Grove incident are estimated to be between \$1.5 and \$4 million, and would likely result in \$600,000 of additional insurance premium costs as a result of this incident.²⁹ For these reasons, he argues that it is not reasonable to exclude \$2 million of environmental costs as proposed by the joint shippers.

In summary, Crimson's argument is that it is reasonable to conclude that, because of its location in the Los Angeles Basin, with proximity to densely populated areas, incidents arising from actions of third parties are likely to recur and that recovery of costs resulting from such incidents through insurance or litigation is not assured.³⁰ We agree that it is reasonable to consider

²⁵ See CRI-008-P at 8.

²⁶ *Id* at lines 10-20 (CCP recovered \$1,176,857 from insurance and an additional \$780,000 from the third party that caused the 2013 La Cienega incident).

²⁷ *Id* at 9, line 2.

²⁸ See CRI-2 Alexander Rebuttal Testimony, Exhibit 5; and TRM-2 Grasso Direct Testimony, Exhibit 10 - "Crimson Supplemental Response to Phillips 1-3."

²⁹ See CRI-004, Rebuttal testimony of Waldron at 11-12.

³⁰ Crimson April 17 OB at 25.

environmental costs such as those incurred by Crimson in 2013-2016 as recurring. For this reason, the Commission adopts Crimson's projected \$3.6 million of environmental expenses to be included in Crimson's operating expenses for the 2016 Test Year.

3.2. Rate Case Litigation Expenses

Crimson forecasts \$3.75 million of fees for litigation related to the general rate case (GRC), then amortizes this over five years to include \$750,000 per year

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of litigation expense in its cost of service.³¹ To arrive at this estimate, Crimson's expert, Dr. Webb starts with expenses of \$1.27 million actually incurred through December 2016,³² which does not yet include expenses: (1) incurred to prepare rebuttal testimony (work reflected in January and February 2017 bills), (2) associated with discovery, and (3) associated with preparation for and attendance at evidentiary hearings held during March 2017, post hearing briefing or the closing argument held May 2017.³³ Furthermore, Crimson subsequently filed two additional applications, for which additional prehearing conferences were held. Crimson's defense of the litigation expenses that it has incurred, is that those expenses were "driven by the intensity with which the joint shippers chose to pursue their challenges to Crimson's rate increase, filing over 600 discovery requests and opting to challenge a wide array of cost-of-service elements..."³⁴

A.16-03-009 Rate Case Litigation Fees³⁵				
Billing Month	Consulting Fees	Legal Fees		Total
February 2016	\$ 21,133	\$ 10,494		\$ 31,627
March 2016	\$ 77,947	\$ 14,191		\$ 92,138
April 2016	\$ 92,093	\$ 14,059		\$ 106,152
May 2016	\$ 49,023	\$ 14,966		\$ 63,989
June 2016	\$ 84,967	\$ 18,785		\$ 103,753
July 2016	\$ 55,516	\$ 16,668		\$ 72,184

³¹ See CRI-008-P, Rebuttal Testimony of Webb at 16-17. Mr. Webb explains that his estimate is approximately half of the \$7.7 million of expenses incurred for two oil pipeline cases before the Federal Energy Regulatory Commission, which were more complex than Crimson's GRC litigation.

³² See CRI-4 Waldron Rebuttal Testimony, Exhibit RLW-2.

³³ See CRI-008-P, Rebuttal Testimony of Webb at 16-17.

³⁴ Crimson April 2017 OB at 5

³⁵ See CRI-4 Waldron Rebuttal Testimony, Exhibit RLW-2.

August 2016	\$ 112,857	\$ 18,246	\$ 131,103
September 2016	\$ 168,260	\$ 31,715	\$ 199,975
October 2016	\$ 76,701	\$ 40,047	\$ 116,747
November 2016	\$ 122,721	\$ 72,539	\$ 195,260
December 2016	\$ 72,539	\$ 85,074	\$ 157,612
Total	\$ 933,756	\$ 336,783	\$1,270,539

Crimson's argument is persuasive. While the shippers are entitled to protect their interests with a vigorous challenge of those aspects of Crimson's application with which they disagree, Crimson is obviously entitled to defend its interests. In any proceeding, parties may ameliorate legal expenses by informally resolving/settling their differences. Where parties do not utilize alternate methods of resolving their disputes, but proceed with litigation, it is reasonably foreseeable that litigation expenses will be incurred by an Applicant.

The shippers' experts Mr. Grasso³⁶ and Ms. Palazzari³⁷ challenge Crimson's estimates, however, their estimates are not demonstrably more accurate than Crimson's estimate. Therefore, the Commission accepts Crimson's forecast of \$3.75 million of litigation expense, amortized over five years to include \$750,000 per year.

³⁶ See TRM-2 - Grasso Direct Testimony at 16. Tesoro's expert Mr. Grasso proposes \$450,000 of litigation expenses, amortized at \$150,000 over three years

³⁷ See P66-1P - Palazzari Testimony at 31-32. Phillips' expert Ms. Palazzari believes that Crimson's litigation expense should be \$1,440,00 or \$18,000 per month for roughly 18 months.

3.3. Asset Maintenance

Crimson includes \$5.872 million for asset maintenance within its operating expenses for TY 2016, which represents its actual costs for maintenance during 2015.³⁸

Experts for Tesoro and Phillips 66 challenge Crimson's figure, recommending that Crimson's asset maintenance expenses should be normalized over a three-year period because the expenses vary from year to year.

Ms. Palazzari (for Phillips 66) proposes averaging the actual expenses from 2014 and 2015 with the budgeted 2016 expenses. Mr. Grasso (for Tesoro) recommends averaging actual expenses from 2013 and 2015 with the budgeted 2016 expenses.

Crimson's expert, Dr. Webb contends that Crimson's asset maintenance expenses need not be normalized because they do not differ significantly from year to year. He notes that Crimson's actual asset maintenance expenses for 2015 were less than three percent higher than the average of such expenses for 2014, 2015 and 2016, therefore, including the actual expense amount in the cost of service does not generate an unreasonable result.³⁹

He points out that the normalized asset maintenance expense figure proposed by the shippers are neither consistent nor demonstrably more appropriate than Crimson's asset maintenance expense figure. He says Ms. Palazzari's figure (which results in a reduction of \$880,000) is based on erroneous calculations.⁴⁰ Mr. Grasso's recommendation (resulting in a reduction

³⁸ See Crimson April 2017 OB at 30.

³⁹ See CRI-8P Webb Rebuttal Testimony at 20 - 21.

⁴⁰ *Id.* Also see P66-1p, Testimony of Palazzari at 20.

of \$620,337), excludes Crimson's 2014 expenses from his normalized figure.⁴¹ Neither figure differs significantly from Crimson's own figure.

We agree that Crimson's rationale for its asset maintenance expense is reasonable. The Commission adopts \$5.872 million for asset maintenance costs.

3.4. Property Tax Expense

Crimson included property tax expense of \$821,842 in its cost of service - the accrued amount on its books as of 2015.⁴² Phillip's expert Ms. Palazzari recommends that actual property tax payments - not accrued amounts - should be included in the cost of service.⁴³ Crimson clarifies that it made cash property tax payments of \$734,530 in 2015. However, some of the payments were inadvertently omitted from the response to Phillips 1-29.⁴⁴ Crimson is willing to concede to Phillips' recommendation that its cash payments of \$734,530 for property taxes be included in the cost of service.

The Commission adopts \$734,530 as Crimson's property tax expense.

Comparison of Crimson Response to Phillips 1-29 and 2015 Actual Cash Property Tax Payments⁴⁵

Location	Phillips 1-29	2015 Cash Payments
Kern County	\$ 12,414	\$ 12,414
Kern County	\$ 9,489	\$ 9,489
Kern County	-	\$ 99
Total Kern County	\$ 21,903	\$ 22,003
Los Angeles County	\$ 168,774	\$ 168,774
Los Angeles County	-	\$ 16,668
Los Angeles County	-	\$ 18,246

⁴¹ *Id.* Also see TRM-2, Testimony of Grasso at 17.

⁴² See Crimson April 2017 OB at 31 and CRI-8P Webb Rebuttal Testimony at 23.

⁴³ See P66-1p, Testimony of Palazzari at 34-35. Palazzari's \$357,819 figure is based on Crimson's response to Phillips Data Request 1-29.

⁴⁴ See Crimson April 2017 OB at 32 and CRI-004 Rebuttal Testimony of Waldron at 10.

⁴⁵ See Table 1 in CRI-004 Waldron Rebuttal Testimony at 10.

Total LA County	\$ 168,774	\$ 349,860	
Orange County	\$ 29,393	\$ 29,393	
Orange County	\$ 12,709	\$ 12,709	
Orange County	-	\$ 28,295	
Total Orange County	\$ 42,102	\$ 70,397	
Ventura County	-		
Ventura County	\$125,039	\$125,039	
Ventura County	-	\$ 42,534	
Total Ventura County	\$125,039	\$29,270	
TOTAL PAID	\$357,819	\$734,530	

We will accept the \$734,530 of property taxes that Crimson paid in 2015.

3.5. Charitable Contributions

Crimson includes \$72,777 in its cost of service, which it says are denoted as “charitable” but actually serve the business function of promoting awareness of its safety-oriented 811 “Call Before You Dig” message. Crimson’s expert Mr. Alexander testified that the contributions are necessary to promote safety awareness with intent to prevent third party damage to Crimson’s and other pipelines.⁴⁶ Mr. Grasso (for Tesoro) argues that, because these contributions are not related to the operation of the pipeline, they must be eliminated. He notes that the Commission excludes “philanthropic” activities from cost of service.⁴⁷

We note that several cases confirm that the Commission has excluded charitable donations from authorized rate recovery,⁴⁸ a policy which has been

⁴⁶ See Crimson April 2017 OB at 33, citing Transcript at 178, lines 19-26.

⁴⁷ See TRM-2, Direct Testimony of Grasso at 15-16, fn 11, citing Application of Southern California Edison Company for Authority to, Among Other Things, Increase Its Authorized Revenues for Electric Service in 2003, and to Reflect That Increase in Rates; Investigation on the Commission’s Own Motion Into the Rates, Operations, Practices, Service and Facilities of Southern California Edison Company, D.04-07-022, 2004 Cal. PUC LEXIS 325, **53, 307,325-326,347.

⁴⁸ See D.08-07-046 and D.09-06-052 in A.06-12-009, et. al. Application of San Diego Gas & Electric for Authority to Update its Gas and Electric Revenue Requirement and Base Rates Effective January 1, 2008 citing

upheld by the California Supreme Court in *Pacific Tel. & Tel. Co. v Public Util. Comm.* (1965).⁴⁹ Occasionally, the Commission has upheld settlements which included charitable contributions, so long as those contributions serve the broader public interest.⁵⁰

It is not entirely clear why these amounts were denoted as “charitable” but, we tend to agree with Crimson that the 811 program is a reasonable and appropriate expense that is obviously related to Crimson’s safe, reliable operation of its pipeline. We note that Crimson’s expert, Mr. Alexander testifies that its charitable contribution to Sander Resources was made in support of its National 811 Day Media Campaign, and that several donations were also made to the Boys & Girls Clubs of Southern California for promotion of the 811 “Call Before You Dig” message.⁵¹

The Commission accepts Crimson’s figure of \$72,777 for charitable contributions.

⁴⁹ 62 Cal.2d 634 at 669.

⁵⁰ See D.09-07-018 in A.06-08-010 In the Matter of the Application of San Diego Gas & Electric Company for a Certificate of Public Convenience and Necessity for the Sunrise Powerlink Transmission Project, at 10.

⁵¹ See CRI-002, Rebuttal Testimony of Alexander at 20.

3.6. Amortization of Allowance for Funds Used During Construction (AFDUC)

Crimson's expert Dr. Webb includes \$27,121 of AFDUC in Crimson's cost of service. AFDUC reflects funds spent on property which has not yet been placed into public service. It is calculated annually based on the prevailing cost of capital and amortized over time.⁵² He testifies that he determines the annual amount of AFDUC by application of the same factors that he relies upon for calculation of depreciation, which he then applies to the balances of debt AFDUC and equity AFDUC.⁵³ Dr. Webb uses a 60 percent equity/40 percent debt capital structure. To determine the historical costs of equity and debt for the period 2005 to 2015, he uses returns on equity/debt based on the same proxy group of large oil companies and analysis that he relies on to calculate Crimson's test year cost of capital.⁵⁴

Tesoro's expert Mr. Grasso recommends reduction of the AFDUC to \$15,642. While he also utilizes a 40% debt/60% equity capital structure, he relies on a proxy group calculation based on opinions of his colleague Mr. Sullivan, and the CPUC benchmark determinations from 2005 forward.⁵⁵

⁵² See Crimson OB at 35 and CRI-007, Direct Testimony of Webb at 30.

⁵³ See CRI-007, Direct Testimony of Webb at 30 and Exhibit MJW-2 Schedule 7.

⁵⁴ See Crimson OB at 62 and Direct Testimony of Webb at 18-22, indicating that he uses Buckeye Partners, LP, Enbridge Energy Partners, LP, Enterprise Products Partners, LP, Magellan Midstream Partners, LP, NuStar Energy Partners, LP, Plains All American Pipeline, LP and Sunoco Logistics Partners, LP in the proxy group.

⁵⁵ See TRM-2, Direct Testimony of Grasso at 18. Therefore, he follows the recommendation of Mr. Sullivan to utilize a cost of debt of 4.5 percent (using an average of the 6 month and 10 month 2016 Moody's Public Utility Bond yields as a proxy for the cost of debt for Crimson. See TRM-1, Direct Testimony of Sullivan at 27-29.

Phillips' expert Ms. Palazzari recommends that Dr. Webb's AFDUC be excluded and reduced to zero, as she concludes that Dr. Webb's calculations are not supported for the historical period 2005-2015.⁵⁶

The Commission adopts Crimson's AFDUC forecast of \$27,121.

3.7. Fuel and Power

Fuel and power expenses are loosely correlated with the amount of volumes that Crimson ships. Because volumes shipped are estimated to decrease, Crimson projects that its fuel and power expenses will decrease by approximately 8.77 percent to \$1,135,375 for test year 2016 (compared to 2015). This represents a reduction of \$109,144.⁵⁷

The Commission adopts Crimson's fuel and power forecast of \$1,135,375.

3.8. Bonuses

Crimson includes \$1,214,924 of bonus expense reflecting what it actually paid in 2015. Phillips' expert would reduce the expense by \$105,625 to normalize it to reflect bonus expense amounts budgeted for 2014 and 2016. Crimson's expert Dr. Webb testifies that the 2015 expense is consistent with bonus expense for prior periods and should not be normalized when the actual amount of expense is known and varies year to year.⁵⁸

The Commission adopts Crimson's bonus expense figure of \$1,214,924.

3.9. Field Labor/Benefit

Crimson includes field labor costs of \$2,375,858, representing the actual costs incurred in 2015. It assigns field labor costs by assigning a percentage of costs based on managerial assessment of the time each employee spends to

⁵⁶ See P66-1, Testimony of Palazzari at 77-78.

⁵⁷ See Crimson April 2017 OB at 22 and CRI-007 Exhibit MJW-2, Schedule 2, line 4.

⁵⁸ *Id* at 41 citing Exh CRI-008-P Rebuttal Testimony of Webb at 21.

support Crimson or other entities.⁵⁹ Phillips argues that Crimson's figure should be adjusted to reduce field labor costs by \$142,550 and to reduce related benefits costs by \$50,500. Phillips expert assumes that operation costs for Crimson and KLM pipeline should be the same.⁶⁰

Crimson disagrees, noting that there are meaningful differences between Crimson's and KLM's operation. Crimson's lines are located in high-population areas, while KLM is located in rural areas. Crimson has 83 active receipt points and 8 active delivery points, while KLM has only 12 active receipt points and 3 delivery points.⁶¹

Crimson has demonstrated that its more direct labor requirements, warrant a higher labor/benefit cost than KLM. Accordingly, the Commission adopts Crimson's field labor and benefits cost forecast of \$2,375,858.

3.10. Overhead Allocation

Crimson allocates \$919,607 of overhead costs derived from an allocation factor calculated for each pipeline based on the total assets, gross margin and number of direct operating employees that each has. This represents a downward adjustment of approximately \$1.89 million from Crimson's 2015 overhead allocation to account for the 2016 acquisition of KLM.⁶²

Phillips' expert contends that the allocation factor should be based on the regulatory gross plant amount rather than total asset amount reflected on

⁵⁹ See Crimson April 2017 OB at 38, citing Exh CRI-004 Rebuttal Testimony of Waldron.

⁶⁰ See Exh P66-1P, Testimony of Palazzari at 18. On cross examination during EH, Ms. Palazzari concedes that she did not consider operational differences between the two entities. (See Transcript at 530, lines19-23.)

⁶¹ See Crimson April 2017 OB at 38.

⁶² See Exh CRI-003 Direct Testimony of Waldron at 11

Crimson's balance sheet. However, Crimson contends that the majority of entities that are allocated overhead costs are not regulated and do not have a cost of service gross plant amount. Therefore, if Phillips' approach is adopted, this would lead to inconsistent bases for the asset factors assigned to each entity.⁶³

The Commission adopts Crimson's overhead allocation figure of \$919,607.

3.11. Payroll Tax Expense

Crimson includes \$456,773 of payroll tax within its cost of service. To correspond to Dr. Webb's adjustment to corporate overhead costs, Crimson is willing to reduce its estimate of payroll taxes by 25% or \$116,080. Payroll tax expense should be adjusted from \$456,773 to \$340,693, as proposed by Phillips' expert, Ms. Palazzari.⁶⁴

The Commission adopts Crimson's agreed reduced payroll tax expense figure of \$340,693.

3.12. Determination

We generally accept the analyses and figures utilized by Mr. Alexander, Mr. Petersen, Mr. Waldron and Dr. Webb, which they have satisfactorily explained in the record, and conclude that Crimson's approach and rationale in support of its operating expenses, is reasonable, with the adjustments set forth above.

4. Volumes/Throughput

Crimson argues that, to recover its operating expenses and earn a reasonable return on its investments, it is important that an appropriate volume level be adopted.

⁶³ *Id.* Also See Crimson April 2017 OB at 22 and 40.

⁶⁴ See Crimson OB at 33, citing P66-1 at 34.

Throughput is an important factor in determining rates. Throughput projects the volumes reasonably expected to be moved in the future by analyzing factors that might affect available supplies to be moved, and then comparing past usage to anticipated future use. Rates are calculated by dividing the anticipated cost of service by future volumes that are anticipated to be moved.

The joint shippers suggest, in their briefing and through testimony of its experts, that Crimson adopts an overly pessimistic estimate of its future throughput levels. Tesoro's expert Sullivan acknowledges that Energy Information Administration (EIA) data in the Los Angeles region reflects a long-term downward trend in California oil production over the course of 30 years.⁶⁵ However, he describes ways in which technological advances have resulted in new stimulation of oil production in fields once believed to be nearly depleted. Citing to a US Geological Survey (USGS) report which estimates that there are still 1.4 billion barrels of oil remaining in the LA Basin, Sullivan expresses belief that there is good reason to be optimistic about the potential for increased oil production in the future.

Crimson contends that the volumes that it is shipping are steadily decreasing due to the decline in California's crude oil production.⁶⁶ In its initial briefing in A.16-03-009, Crimson forecast that the appropriate volume to utilize to set rates should be 49 million barrels (based on volumes shipped between

⁶⁵ See Tesoro April 10, 2017 Opening Brief at 17; TRM-1 Sullivan Direct at 26 and testimony of Barry Sullivan Transcript at 747, lines 6-20.

⁶⁶ April 10, 2017 Opening Brief of Crimson California Pipeline LP (Crimson April 2017 OB) at 4, citing Exhibit P66-34 showing there are 6 active drilling rigs in California as of January 2016, compared to 47 in 2014.

January and July 2016).⁶⁷ This forecast is very close to the actual volume of 47.7 million barrels which Crimson shipped in 2016 (a decrease of 11% compared to the volume shipped in 2015).

Crimson credibly argues that there is not a definitive correlation between crude oil prices and the volume of crude that Crimson may expect to ship. Despite a marginal increase in crude oil prices from 2015 to 2016, Crimson's volumes continued to decline. Crimson demonstrates that historical trends show that the production of crude oil in California has been declining for more than 20 years despite pricing fluctuations during the same period.⁶⁸ In addition, actual data for 2017 and 2018 reflect that Crimson continues to see a decrease in volumes. In response to the Commission's Data Requests 2019-1 and 2019-2, Crimson reported that its volumes shipped were 39,852,213 barrels in 2017 and 35,276,214 barrels in 2018.⁶⁹

Crimson Volumes Shipped in Barrels (2015-2018)⁷⁰				
Month	2015	2016	2017	2018
January	4,723,582	4,325,356	3,628,124	2,978,683
February	4,214,997	4,040,791	3,092,634	2,683,040
March	4,531,769	4,002,507	3,595,489	2,941,989
April	4,471,591	3,901,575	3,484,182	2,929,620
May	4,518,781	3,933,540	3,527,488	3,068,698
June	4,566,642	3,659,241	3,309,669	2,918,268
July	4,735,677	4,661,981	3,438,598	2,979,122
August	4,674,330	4,463,238	3,397,724	3,090,344

⁶⁷ See Crimson April 10, 2017 Opening Brief at 9, citing Exhibits CRI-001, Direct Testimony of Alexander at 15 and CRI-007, Direct Testimony of Webb at 35-36.

⁶⁸ Crimson Opening Brief at 14 citing CRI-35.

⁶⁹ See Crimson 2-27-19 Response to Energy Division (ED) 2-20-19 Data Request 2019-1 and Crimson 3-6-19 Response to 3-6-2019 ED Data Request 2019-2.

⁷⁰ This is a reproduction of Table 1 in CRI-002, Alexander Rebuttal Testimony at 4, which is updated to reflect Crimson responses to Commission Data Requests 2019-1 and 2019-2.

September	4,396,626	3,681,957	3,266,283	2,877,588
October	4,385,079	3,838,351	3,270,232	2,994,846
November	4,141,483	3,547,033	3,053,620	2,883,555
December	4,218,500	3,611,541	2,788,170	2,930,960
TOTAL	53,579,058	47,667,110	39,852,213	35,276,714

4.1. Determination

We adopt Crimson's representations regarding its volumes, which are demonstrably less than the volumes in 2015. The Commission adopts a throughput of 44 million barrels based on the average of Crimson's actual throughput for the years 2015 through 2018.

5. Rate Base

The relevant issues for purposes of determining rate base are: (1) when and by whom the assets were first dedicated to public service and (2) the value or cost of the assets. Crimson notes that the Commission's long-established principle is that utility assets are to be valued at depreciated original cost at the time that such assets are first dedicated to public service.⁷¹

Crimson acquired its pipeline assets from third parties. Therefore, Crimson's utilizes a two-step process derived by its experts Mr. Petersen and Dr. Webb to value its assets. First, Crimson establishes the rate base value of assets at the time that they were initially put into public service (whether by Crimson or by the third party from whom the assets were purchased). Second, the initial rate base figure is adjusted by subtracting annual depreciation charges and adding capital expenses incurred to place the assets into service and maintain them.

⁷¹ See Crimson April 2017 OB fn 11 at 43 citing Application of San Pablo Bay Pipeline LLC for Approval of Tariffs for the San Joaquin Valley Crude Oil Pipeline and Related Matters, D.12-02-038, 2012 Cal. PUC LEXIS 80 at *53 (2012)

Crimson identifies five separate asset groups comprising its pipeline system⁷²: (1) Ventura-THUMS; (2) Northam-Inglewood; (3) Line 600/700; (4) Huntington Beach 6-Inch; and (5) Brea West.

Mr. Petersen testifies that the methodology that he applies to determine the initial rate base value of each asset depends upon whether the asset was in public service before Crimson acquired it, or whether it was placed into public service by Crimson after acquisition. The table below summarizes the acquired asset groups and in-service dates.

Initial Rate Base Determination (IRB)⁷³			
Asset Group	IRB (millions)	Crimson In-Service Date	Valuation Approach
1 Ventura - THUMS	\$13.9	2005	CPUC filing
2 Northam Inglewood	\$4.7	2011	CPUC filing
3 Line 600/700	\$11.5	2008	CPUC filing
4 Huntington Beach 6"	\$2.3	2014	RCN-LD ⁷⁴
5 Brea West	\$21.6	2009	RCN-LD

5.1. Initial Rate Base Value of Assets in Prior Public Service

For assets that were in public service before acquisition by Crimson, Mr. Petersen contends that both the CPUC and FERC support reliance upon the original cost rate base data submitted to the Commission by the prior owner.⁷⁵

⁷² See Crimson April 2017 OB at 44 and CRI-006, Petersen Rebuttal Testimony at 2.

⁷³ This is a reproduction of Table 2 in Crimson April 2017 OB at 45 (also CRI-005, Petersen Direct Testimony at 5, Table 1 and CRI-006, Petersen Rebuttal Testimony at 3).

⁷⁴ RCN-LD is "Reproduction Cost New Less Depreciation."

⁷⁵ See Crimson April 2017 OB at 43 and CRI-006, Petersen Rebuttal Testimony at 5, citing 18 C.F.R. Part 201(c)(26) which defines original cost as "the cost of such property to the person first devoting it to public service." Although this section of federal regulations applies to gas pipeline, FERC applied this definition to crude oil pipelines in Seaway Crude Pipeline Company LLC, 154 F.E.R.C. ¶61,070 at P 90 (2016).

The first three assets groups were already in public service at the time of acquisition by Crimson.

Crimson acquired the Ventura-THUMS group (consisting of three pipeline segments THUMS 8-inch, Ventura Gathering and Ventura 10-inch) from Shell in 2004. Its original depreciated cost was established with the CPUC in a 2002 rate filing by Shell.⁷⁶

Crimson acquired the Northam Inglewood asset group from Chevron in February 2011. Its original depreciated cost was established with the CPUC in two separate 2008 cost of service filings by Chevron. Chevron's April 2008 Northam filing included an estimate of depreciated original cost rate base as of the end of December 31, 2007. Chevron's August 2008 Inglewood rate filing covered a group of California pipelines that combined the Inglewood assets and the KLM system and included a rate base estimate as of April 30, 2008.⁷⁷

Crimson acquired the Line 600/700 asset group from ConocoPhillips in 2007. However, the assets had previously been operated in public service while owned by Unocal California Pipeline Company (UNOCAP). Mr. Petersen testifies that UNOCAP's filing with the Commission was accepted as of January 1, 1992. The 600/700 segments which Crimson acquired from ConocoPhillips, were only a portion of UNOCAP's larger system.⁷⁸

⁷⁶ See CRI-005, Petersen Direct Testimony at 6-9; Exh MAP-2 at 9, 15, 23.

⁷⁷ *Id* at 11-12 and Exh MAP-3 at 55 and MAP-4. Mr. Petersen testifies that by pipeline mileage, the Inglewood segment of Chevron's California pipelines comprised only 2.96 percent of the original cost rate base reflected in Chevron's August 2008 filing.

⁷⁸ See CRI-005, Petersen Direct Testimony at 13-14; Exh MAP-5.

5.2. Rate Base Value of Assets Placed into Public Service by Crimson

Crimson acquired the Brea West pipeline (which had been operated as a private pipeline by Shell) in 2004. It was placed into public service in 2009. Crimson acquired the Huntington Beach 6" from Chevron in 2010 but did not place it into public service until 2014.

For these two assets, that were not in public service prior to Crimson's acquisition, Mr. Petersen testifies that he used a cost per mile factor of \$2.7 million, then applied the State Board of Equalization factor to estimate the cost that would have been required to construct the pipeline new, i.e., reproduction cost new (RCN) in the year in which it was placed into service. He then calculated an average remaining economic life for each asset to determine the RCN-LD initial rate base figure.⁷⁹ His calculations for these two assets are reproduced below.

Calculation of RCN-LD - BREA WEST	
Pipeline Mileage into service	18.97 miles
New construction cost per mile	\$2.7 million
2016 RCN	\$51.2 million
Calif BOE RCN 2009 factor	119
Backcasting factor implied by BOE RCN	100/119
2009 RCN (2016 RCN times Backcasting factor)	\$43 million
Average remaining life	25.8 years
Average total life	51.3 years
Condition Percent Good Factor	50.3%
2014 RCN	\$43.0 million
2014 RCN-LD (Percent Good Factor times RCN)	\$21.6 million

⁷⁹ See CRI-005 Petersen Direct Testimony at 15-20; Exh. MAP-6.

Calculation of RCN-LD - HUNTINGTON BEACH	
Pipeline Mileage into service	2.14 miles
New construction cost per mile	\$2.7 million
2016 RCN	\$5.8 million
Calif BOE RCN 2014 factor	99
Backcasting factor implied by BOE RCN	100/99
2014 RCN (2016 RCN times Backcasting factor)	\$5.8 million
Average remaining life	20.4 years
Average total life	50.6 years
Condition Percent Good Factor	40.2%
2014 RCN	\$5.8 million
2014 RCN-LD (Percent Good Factor times RCN)	\$2.3 million

5.3. Shippers' Position

The shippers take issue with Crimson's initial rate base determination and calculation methodology. Tesoro's expert Ms. Palazzari argues that the purchase price that Crimson paid for the assets should be used.⁸⁰ In addition, the Shippers argue that because Brea West and Huntington Beach assets groups were owned by Crimson's affiliate - Cardinal Pipeline, L.P. (Cardinal) at the time that the application was filed, these assets should be excluded from rate base.

5.4. Valuation of Assets to Be Included in Rate Base

We conclude that Crimson's approach and rationale in support of its initial rate base value is reasonable for the three asset groups that were in public service prior to acquisition by Crimson. We also conclude that the Brea West and Huntington Beach assets should be included in rate base because the assets were transferred to Crimson during the pendency of this case.

⁸⁰ See P-66-1 Palazzari Direct Testimony at 42.

However, we are persuaded by the shippers' argument that the methodology utilized by Mr. Petersen and Dr. Webb to value these two assets (fair value based on RCN rather than original cost less depreciation), artificially inflates the value of these assets, which leads to a higher amount payable toward return on equity, and in turn inflates the costs to be borne by shippers in rates.

Crimson and the shippers agree that the Commission's D.12-08-038, held that utility assets are to be valued at their depreciated original cost determined at the time that such assets are first dedicated to public service. However, Crimson additionally applied a RCN-LD to arrive at a "fair value" of \$2.3 million for the Huntington Beach 6 inch segment (placed into public service in 2014) and \$21.6 million for the Brea West segment (placed into public service in 2009), noting that the Commission found that it was appropriate to evaluate the reasonableness of proposed initial market-based rates by comparing the achieved return on a "fair value" rate base in Unocal D.96-04-061. The distinction is that, in Unocal, the assets were voluntarily committed to public use as part of a settlement. The Commission concluded that the fair market value based rates were admissible as part of the criterion for assessing the reasonableness of returns, but it did not substitute the fair value approach for its long-established original cost less depreciation method. We agree with the shippers that utilizing Crimson's RCN-LD method overvalues the Huntington Beach and Brea West assets.

We therefore disallow Crimson's use of fair value and instead adopt the valuation proposed by Tesoro, which uses the purchase price of each of the assets, *i.e.* \$1.986 million for Brea West and \$734,062 for the Huntington Beach assets.

5.5. Determination

The Commission adopts Crimson’s valuation of \$30.1 million for the first three asset groups. We adopt Tesoro’s valuation of a total of \$2.69 million for the Huntington Beach and Brea West asset groups, as reflected in the chart below (rather than the \$23.9 million “fair value” proposed by Crimson). This represents a reduction of \$21.2 million in Rate Base, from \$41.1 million to \$19.9 million.

Adjustments to Rate Base			
Asset Group	(millions)	Crimson In-Service Date	Valuation Approach
1 Ventura - THUMS	\$13.9	2005	CPUC filing
2 Northam Inglewood	\$4.7	2011	CPUC filing
3 Line 600/700	\$11.5	2008	CPUC filing
4 Huntington Beach 6”	\$0.7	2014	RCN-LD
5 Brea West	\$1.99	2009	RCN-LD

6. Depreciation

Crimson’s expert, Mr. Petersen, utilizes a depreciation rate of based upon a straight-line remaining economic life of twenty (20) years, which he describes as the number of years in which throughput on Crimson lines will be sufficient to support economic operation of the pipeline.⁸¹ Petersen explains that his estimate is based upon reserve and production information in the Energy Information Agency (EIA) projections of crude oil reserves in the LA Basin, and the 2014 and 2015 annual reports of California Resources Corporation, as well as projections by Mr. Alexander⁸² who indicates that Crimson has experienced greater throughput declines than overall declining crude oil production in the LA Basin.⁸³ Alexander testifies that EIA reports indicate that reserves in the

⁸¹ See Crimson April 2017 OB at 58; CRI-005 Petersen Direct Testimony at 20 – 22.

⁸² CRI-001 Alexander Direct Testimony at 15-16.

⁸³ CRI-005 Petersen Direct Testimony at 22.

LA Basin have decreased by 21 percent from 2011-2014, and by an average of 2.1 percent annually since 2004. He estimates a decline of 8.77 percent for Crimson for 2016 based on annualized data. In fact, Crimson's actual volume declined by 11 percent in 2016.⁸⁴

Phillips' witness, Ms. Palazzari favors a 35-year depreciation, but testifies that she supports an annual depreciation expense of 2.7 percent, which she testifies will fully depreciate the existing remaining regulatory plant in under twenty years.⁸⁵ Crimson argues that Ms. Palazzari's calculation equates to a depreciation rate of 5.01 percent. Crimson's expert Mr. Peterson notes that he disagrees with Ms. Palazzari's figure (which is based on gross plant, while Crimson's figure is based on net plant). However, he says that adjusting Ms. Palazzari's rate to a comparable rate based on net plan results in a rate close to 5 percent.⁸⁶

6.1. Determination

The Commission adopts a depreciation expense rate of 5.0 percent based on a straight-line remaining economic life of 20 years. We reject Crimson's use of "fair value," which reduces the valuations of Huntington Beach and Brea West. This reduces the amount of allowable depreciation from \$2,394,291 to \$1,335,294 (based on reduction of rate base from \$41.1 million to \$19.9 million).

⁸⁴ CRI-002 Alexander Rebuttal Testimony at 3-4.

⁸⁵ See P-66-1 Palazzari Direct Testimony at page 49, lines 2-3 and at page 57, lines 13-14. Phillips' expert indicates that she agrees with a 2.7 percent average depreciation rate for all plant types and elaborates on her analysis through page 59.

⁸⁶ CRI-006 Petersen Rebuttal Testimony at 30 and fn 34.

7. Crimson's Rate of Return Approach

It is necessary to distinguish between two approaches used by Crimson in arriving at the rate of return (ROR). Crimson uses (1) calculated "Weighted Average Cost of Capital (WACC)" and (2) "Achieved Return". Both depend upon Crimson's calculations of cost of debt at 8.8% and return on equity at 4.7 percent.

7.1. Crimson's Cost of Debt/Return on Equity (ROE) Calculations

7.1.1. Cost of Debt

Crimson notes that neither it nor Midstream (its parent) have issued any long-term debt.⁸⁷ Dr. Webb's cost of debt recommendation is designed to provide a reasonable substitute debt cost for Crimson. He testifies that he relies upon an assumption that, if Crimson were able to obtain debt financing, it would be rated no better than B level. Accordingly, he calculates B-rated bond yields for a set of small publicly-traded midstream companies (whose yields range between 5.77 and 10.45 percent) in the 12-month period ending July 2016. The mean yield is 8.88 percent, which Dr. Webb then recommends using as the annual cost of debt for Crimson.⁸⁸

We accept Crimson's cost of debt figure of 8.8 percent.

7.1.2. Return on Equity (ROE)

The Hope case establishes the basis for developing a "just and reasonable" ROE.⁸⁹ Crimson's expert, Dr. Webb testifies that, under Hope, there must be enough revenue for operating expenses, but also for capital costs of the business.

⁸⁷ See Crimson OB at 71.

⁸⁸ See CRI-007 – Testimony of Webb at 17.

⁸⁹ Federal Power Commission v. Hope Natural Gas Co., 320 US 591 (1944).

Therefore, he contends that, in order to determine a just and reasonable ROE, Crimson must establish a level of return that is similar to returns available from other investments of comparable risk.⁹⁰ Dr. Webb develops an alternative discounted cash flow (DCF) calculation⁹¹ using a proxy group of seven large publicly traded oil pipeline companies.⁹² The ROE of the large proxy group ranges from a high of 53.72 to a low of 5.03 for a median of approximately 11.2 percent. Dr. Webb then applies a 3.5 percent adjustment or “adder” to the median of the larger proxy group to reach a ROE of 14.7 percent.⁹³

Phillips expert Ms. Palazzari challenges the ROE used by Dr. Webb. She would exclude two companies from the proxy group Dr. Webb uses, arguing that these skew Webb’s DCF analysis, rendering it inconsistent with standards established by the Federal Energy Regulatory Commission (FERC).⁹⁴ She excludes NuStar Energy Partners because she says it has a five-year growth rate of negative 7.27 percent, and Sunoco Logistics Partners because its five-year growth rate is 55.72 percent.⁹⁵ Ms. Palazzari does not exclude a third company – Enbridge Energy Partners (whose five-year growth rate Crimson calculates at

⁹⁰ CRI-007 Direct Testimony of Webb at 18.

⁹¹ The DCF methodology looks to the market prices of equity units, the dividends paid on the units, and projected growth in dividends to arrive at a rate of return on equity.

⁹² See CRI-007 Webb Direct Testimony at 22 – 23 indicating that he uses Buckeye Partners, LP, Enbridge Energy Partners, LP, Enterprise Products Partners, LP, Magellan Midstream Partners, LP, NuStar Energy Partners, LP, Plains All American Pipeline, LP and Sunoco Logistics Partners, LP in the proxy group.

⁹³ See CRI-007 Webb Direct Testimony, MJW-1, Schedule 3 “Cost of Capital Proxy Group Return on Equity – Large Companies for the Test Year.”

⁹⁴ See Phillips OB at 61, citing *ISO New England, Inc. v. New England Power Pool*, 109 FERC ¶ 61,147 at 205 (2004).

⁹⁵ Phillips OB at 61-63 citing P66-1P Palazzari Direct Testimony at 69-72.

approximately 14.2 percent) from the proxy group, explaining that its inclusion puts upward pressure on the median ROE by almost 100 basis points. With adjustment to exclude the other two companies, Ms. Palazzari arrives at a ROE of 12 percent.⁹⁶ Crimson argues that Ms. Palazzari's rationale for her ROE is inconsistent because she simultaneously relies on the ISO New England case (which requires rejection of growth rates over 13.3 percent), but also includes Magellan in her proxy group, despite its growth rate of 15.5 percent.

We accept Crimson's rationale for the set of companies that it uses in its proxy group.

7.2. Calculated WACC

For its calculated WACC, Crimson uses its cost of debt of 8.88 percent, the median yield of its set of proxy midstream companies (11.2 percent,) as its benchmark for equity, and then computes an "add" of 3.5 (which Crimson describes as the premium it can expect to pay for attracting the equity component of its capital base). This results in a return on equity of 14.7 percent. From this, Crimson calculates a "just and reasonable" rate of return of 12.37 percent, using an imputed ratio of sixty percent (60%) equity/forty percent (40 percent,) debt split.

7.3. Determination

We find reasonable Dr. Webb's approach, which presents a set of proxy midstream companies then proposes using the mean of their B rated bond yields (8.88 percent) as the imputed cost of debt. We also accept Crimson's use of a proxy group of large pipeline companies, and 11.2 percent as a benchmark for

⁹⁶ P66-1P Palazzari Direct Testimony at 72. "The resulting median ROE of 12.00percent is slightly elevated which, in my opinion balances Crimson's relative smaller size in much the way the slightly higher debt cost coupled with the 40percent debt ration balanced such size issues."

return on equity. However, we do not accept Crimson's 3.5 percent adder. We find it subjective and unsupported by any calculation that analytically justifies the adder amount chosen.

The Commission adopts the cost of debt as 8.8 percent and accepts 11.2 percent as the ROE, but drops the adder. Because we accept an 8.8 percent cost of debt, and a 40/60 debt equity split, this results in a ROR of 10.27 percent.

8. Income Tax Allowance

Crimson seeks to include a \$3.1 million income tax allowance (ITA) in its test year cost of service.⁹⁷ Crimson relies on Commission decision D.84-05-036,⁹⁸ which it describes as the Commission's policy determination about what was and was not appropriate for inclusion in a utility's income tax allowance. There, the Commission held that, for a regulated utility, other corporate relationships, including subsidiaries, holding companies, or affiliates, should not affect the ratemaking treatment for income tax expense. On this basis, Crimson argues that D.84-05-036 concludes that the imputed tax liability for a regulated utility's tax allowance may be calculated on a stand-alone or utility-only basis.⁹⁹ Crimson is a pass-through entity that does not itself pay any taxes.¹⁰⁰

8.1. Shippers Argument to Deny Inclusion of ITA in Cost of Service

The shippers argue that Crimson is not entitled to an ITA in its cost of service, because Crimson, as a pass-through entity, does not itself pay tax and is

⁹⁷ See direct testimony of Dr. Webb CRI-007 at 32-33 and attachment MJW-2, schedules 4 and 10.

⁹⁸ *Id* at 73, fn 37 citing Investigation on the Commission's Own Motion Into the Method to be Utilized by the Commission to Establish the Proper Level of Income Tax Expense for Ratemaking Purposes of Public Utilities and Other Regulated Entities, 1984 Cal. PUC LEXIS 1325 (1984).

⁹⁹ *Id* at 74, fn 39 citing D.84-05-036 at 20-22, 28 and D.11-05-045 at 22-25.

¹⁰⁰ Crimson April 10, 2017 Opening Brief at 76.

not liable for payment of corporate income tax expense, federal or state income taxes.¹⁰¹ The shippers argue that because there is no taxation on Crimson's earnings while the earnings are within the operating control of Crimson, an income tax allowance should not be recognized as an expense in Crimson's rates.

The shippers cite Commission decisions D.11-05-045 (and, on rehearing D.12-03-026) in consolidated proceedings regarding Santa Fe Pacific Pipeline Partners, LP (SFPP), a California oil pipeline public utility.¹⁰² They contend that in those decisions, the Commission determined that SFPP (a limited partnership pipeline entity) was not entitled to a ratemaking allowance for federal income tax expense because it paid no income tax itself.¹⁰³

Valero cites the testimony of its expert Dr. Arthur, who explains that inclusion of an income tax allowance would overstate Crimson's costs.¹⁰⁴ Valero and Phillips' arguments are representative of the joint shippers' position. Phillips' expert Palazzari agrees with Valero's expert that Crimson does not directly pay income taxes; rather, its owners pay the taxes resulting from Crimson's taxable earnings. She argues that, as a tax flow-through entity that

¹⁰¹ Valero cites EH testimony of Dr. Webb (at Transcript page 407, lines 5-10) agreeing that Crimson does not itself pay federal and state income taxes.

¹⁰² See, e.g., Valero April 10, 2017 Opening Brief (Valero OB) at 12-13.

¹⁰³ Valero notes that the Commission's decision was upheld by the Court of Appeal [217 Cal.App.4th 784] and that the California Supreme Court denied SFPP's Petition for Review [Docket S212711, October 13, 2013]. Valero OB at 13.

¹⁰⁴ See Valero OB at 12. Dr. Arthur disagrees with the ITA of \$3.1 million which he says is based on a composite tax rate of 46.02percent (38.50percent federal and 12.23percent California state income tax).

pays no direct federal income tax (FIT) or state income tax (SIT), Crimson should receive no ITA.¹⁰⁵

8.2. Crimson Is Not Like a Subchapter C Corporation Public Utility Which Has Its Own Tax Liability

Crimson contends that, as a pass-through entity, it should be granted the income tax allowance just as public utilities organized as subchapter C corporations are (Crimson cites Pacific Gas & Electric - PG&E and Southern California Edison - SCE).¹⁰⁶ Crimson notes that although PG&E and SCE do not themselves pay income tax on the income they generate, and instead, their respective owners (parent companies PG&E Corporation and Edison International) actually pay the taxes related to utility generated income, the utilities are afforded an ITA based upon the amount of income taxes that they would be assessed and would pay if they did not have a level of ownership above them.¹⁰⁷ Dr. Webb contends that, as a pass-through entity, Crimson should be granted the income tax allowance just as public utilities organized as subchapter C corporations are, because its utility income is subject to tax liability once in the hands on its owners and the Commission has consistently held that income taxes constitute a lawful charge to the operating expense of a public utility if those taxes are paid by the public utility.

However, Valero correctly points out that there is a clear distinction between Subchapter C public utilities such as PG&E and Southern California Edison, which have an independent, separate tax liability of their own (although

¹⁰⁵ See Phillips 66 Company's Reply Brief dated May 1, 2017 (Phillips RB) at 36, and fn. 170, citing Exh.P66-1 (Palazzari testimony) at 60, lines 18-20 and at 62, lines 17-19.

¹⁰⁶ Crimson OB at 74 and 77.

¹⁰⁷ *Id.*

their parent corporations pay the tax on a consolidated return), and Crimson, which does not have an independent tax liability.¹⁰⁸ The key factor is whether the tax liability accrues to the public utility. In Crimson's case, it does not.

8.3. The Denial of an ITA is Just And Reasonable Regardless of Whether the Tax Paid by the Parent Partnership Can be Accurately Calculated

Crimson's expert Dr. Webb seeks to provide a distinction between SFPP's practices (that the Commission ruled upon in D.11-05-045 and D.12-03-026) and Crimson's practices. Dr. Webb explains that Crimson generates taxable income that it passes to its (individual and corporate) owners. Crimson then distributes a specific amount of cash to its owners to cover the taxes that the owners owe on the income distributed to them.¹⁰⁹ Dr. Webb argues that Crimson's ITA thus represents an actual cost, demonstrable by the cash that Crimson distributes to its owners for the express purpose of covering their tax liabilities. Dr. Webb concludes that whether Crimson should be entitled to an ITA should turn on whether Crimson can demonstrate that its utility income is subject to actual or potential tax liability.¹¹⁰ Crimson further argues that the parent partnership pays an income tax rate on the public utility's income that can be accurately calculated.¹¹¹

This argument refers to language in D.11-05-045, which notes that, with respect to the Master Limited Partnership in SFPP, "[a]pplicant has not demonstrated that it pays any corporate tax under its ownership structure, nor

¹⁰⁸ Valero OB at 15-16 and fn. 20.

¹⁰⁹ See CRI-008P Rebuttal Testimony of Michael Webb at 31-33.

¹¹⁰ *Id* at 36.

¹¹¹ See Crimson OB at 75.

do we know the rates of taxation applicable when the partnership distributions are first subject to taxation.”¹¹² However, the Commission pointedly noted immediately following, “But this too may not matter: if there is no taxation on earnings while the earnings are still within the operating control of SFPP, there is no income tax obligation to recognize as a utility operating expense in rates.”¹¹³

The apparent difficulty in calculating what the income tax allowance would be when a partnership pays taxes on its affiliate public utility’s earnings is support for and a benefit of a policy denying an ITA to a public utility entity that is not liable for the tax itself. But the inability to calculate the accuracy of a parent’s tax payment is not a requirement for denial of the ITA. We state here that entitlement to an ITA does not depend on whether we can calculate the taxation rate that is applicable when a parent partnership pays income tax attributable to its affiliated public utility. The key is whether the tax liability is the legal obligation of the public utility or of the parent.¹¹⁴

8.4. Consideration of Crimson’s Motion to Take Official Notice Supports Denial of the ITA

On April 5, 2019, Crimson filed a Motion to Take Official Notice of Commission Resolution W-5187, issued by the Commission on March 28, 2019. Crimson asserted that “Resolution W-5187 expressly addresses and resolves the issue of whether utilities organized as pass-through entities, whether they are

¹¹² See D.11-05-045 at 23 (footnote omitted).

¹¹³ D. 11-05-045 at 23.

¹¹⁴ We also clarify that to the extent that language in a recent oil pipeline rate case decision, D.19-01-004, which denied an ITA to San Pablo Bay Pipeline Company, citing D.11-05-045, and noted that the “record does not contain evidence on the question of what that tax [of the corporate parent] is,” (D.19-01-004, at 3-4) suggests that knowing the tax of the corporate parent could support inclusion of an ITA, we hold that knowledge of the corporate tax of the parent does not support inclusion of an ITA in a public utility’s rates if the public utility is not itself liable for the tax.

organized as a subchapter S corporation , a limited liability company, or a partnership, are permitted to include an allowance for income tax expense in their cost of service.”¹¹⁵ However, the Commission on July 17, 2020, issued D.20-07-036, Order Granting Rehearing Vacating the Income Tax Allowance, Modifying the Resolution, and Denying Rehearing of the Resolution As Vacated and Modified, in which the Commission “determined that Resolution W-5187 did not follow our income tax allowance policy, ”¹¹⁶ and “departed from our tax allowance policy without sufficient justification.”¹¹⁷ D.20-07-036, cited D.11-05--045 and D.12-03-046, as setting forth Commission policy that denies an ITA where the regulated utility itself does not pay for the tax but is a pass-through entity.¹¹⁸ Thus, Crimson’s assertion that consideration of Resolution W-5187 permits inclusion of an ITA is incorrect, as D.20-07-036 upholds Commission policy denying an ITA to a pass-through entity.

8.5. Determination

The Commission reaffirms its policy in D.11-05-045 and D.12-03-026, upheld by the California Court of Appeal in SFPP, L.P. v. Public Utilities Com. (2013)(SFPP,L.P.) 217 Ca.App.4th 784, denying the inclusion of an ITA in the rates of a public utility oil pipeline where the public utility is a pass-through entity not liable for the tax, instead a parent partner has the legal obligation to pay the income tax attributable to the public utility. Crimson cannot include an ITA in its rates for shippers, as it is not liable for the income tax.

¹¹⁵ Motion of Crimson California Pipeline L.P. to Take Official Notice of Resolution W-5187 at 2.

¹¹⁶ D.20-07-036 Order Granting Rehearing, Vacating the Income Tax Allowance, Modifying the Resolution and Denying Rehearing of the Resolution As Vacated and Modified at 2.

¹¹⁷ *Id* at 3.

¹¹⁸ *See Id* at 2-3.

9. Revenue Credits

Crimson seeks to apply revenue credits to the cost of service to reflect pipeline loss allowance (PLA) revenue and its accounting and gauging revenue.

9.1. Pipeline Loss Allowance

The PLA is designed to compensate a pipeline for losses that occur while transporting a shipper's oil over the pipeline. Crimson explains that typical causes of such losses are evaporation, mixing, interface losses and variations in metering measurements. Crimson estimates a PLA of 0.25 percent, *i.e.*, for every 100 barrels of product delivered into its system, it redelivers 99.75 barrels. When actual losses prove to be less than the estimated PLA, a pipeline sells the retained crude oil on the market.¹¹⁹ Crimson's expert Mr. Alexander testified that Crimson's cash sales for PLA barrels through July of 2016 were \$3,279,076. He annualizes 2016 cash sales to \$5,619,073, because Crimson was able to sell retained crude to a Los Angeles area refiner.¹²⁰ Phillips' expert, Ms. Palazzari estimates the PLA revenue and credit to be approximately \$7.14 million (based on the last five months of available crude oil pricing data in 2016).¹²¹ Crimson argues that Palazzari's calculation should be rejected because it relies upon the highest crude oil prices in 2016 while ignoring the declining volumes that Crimson experienced during those months.

¹¹⁹ See CRI-007 Webb testimony at 33. Dr. Webb proposes crediting \$5.619 million of PLA revenue against the cost of service.

¹²⁰ See CRI-001 Alexander testimony at 16-17, explaining that the price at which the retained crude was sold was based on the average of posted prices for the Midway Sunset crude oil (and data through July 2016).

¹²¹ See P-66-1P Palazzari testimony at 83-84. Ms. Palazzari argues that \$7.14 million of PLA revenue should be credited against the cost of service.

9.2. Miscellaneous Credits

In addition to the PLA credit, Ms. Palazzari suggests that an additional \$475,000 should be credited against cost of service to reflect revenue that Crimson receives for accounting and gauging services it provides to Phillips and Tesoro. Crimson rejects this credit, arguing that the figure is not supported and that the services are not related to its jurisdictional cost of service.¹²² We agree with Crimson and do not impose an additional credit. However, because we are using an average volume of 44 million barrels,¹²³ we adjust Crimson's forecast PLA of \$5,619,073 to \$5,040,818.

9.3. Determination

The Commission adopts Crimson's rationale for its PLA revenue figure of \$5.619 million, but adjusts the figure to \$5.041 million, to reflect the adopted average volume of 44 million barrels.

10. Conclusion

We have made significant adjustments to Crimson's proposed cost of service elements. We have not allowed the fair value method for determining the amount of rate base for the Huntington Beach and Brea West assets, resulting in a large reduction of Crimson's proposed rate base amount and a decrease in the depreciation expense. We have not approved an income tax allowance, we have reduced property and payroll taxes, and we have reduced the amount of the return on equity that Crimson proposes.

However, even with these adjustments, we largely adopt Crimson's approach and rationale and the methodology utilized by Crimson's experts

¹²² Crimson OB at 82.

¹²³ See Section 4 "Volumes/Throughput" above. The Commission adopts a throughput of 44 million barrels based on the average of Crimson's actual throughput for the years 2015 through 2018.

Mr. Alexander, Mr. Petersen and Dr. Webb, which they have satisfactorily explained in the record, and conclude that Crimson has demonstrated that a rate increase of 60% is reasonable.

We base this upon the fact that the amount of revenue that Crimson calculated with a 60% rate increase, was based on its forecast that transported volumes would be 8.77% lower than the volumes transported in 2015. The volumes actually transported by Crimson during 2016 were actually lower than Crimson's estimate, and according to data provided by Crimson, volumes transported during the years 2017 through 2019, were even lower than in 2016.¹²⁴

As previously noted, Crimson has already increased its rates by 46.1% through 2019. By authorizing Crimson's request to increase rates by 60%, we authorize Crimson to increase its rates by another 9.51%.

The table below sets forth Crimson's proposed forecasts (with revisions that Crimson accepted during the proceeding) and sets forth the amounts that were in dispute in the proceeding. Operating Expenses are stated in the aggregate.

¹²⁴ See Crimson' 2-27-19 Response to ED 2-20-19 Data Request 2019-1 and Crimson 3-6-19 Response to 3-6-2019 ED Data Request 2019-2. These data responses demonstrate that Crimson shipped approximately 39.8 million barrels in 2017 and 35.3 million barrels in 2018.

Crimson Proposed Cost of Service and Rate of Return		
Operating Expenses	\$31,535,077	
Environmental	\$ 3,600,000	
Rate Case Litigation	\$ 750,000	
Asset Maintenance	\$ 5,872,000	
Property Tax	\$ 734,530	
811 Call Before Dig	\$ 72,777	
Amortization of AFUDC	\$ 27,121	
Fuel and Power	\$1,135,375	
Bonus	\$1,214,924	
Field/Labor Benefits	\$2,375,858	
Overhead Allocation	\$ 919,607	
Payroll Taxes	\$ 340,693	
Income Tax Allowance	\$3,108,074	
Depreciation Expense	\$2,394,291	
Rate Base		\$41,092,216
Rate of Return		14.7%
Weighted Cost of Capital		12.37%
Return		\$ 5,084,072
Cost of Service	\$42,148,636	
PLA Revenue Adjustment	\$ 5,619,073	
Adjusted Cost of Service	\$36,529,563	

Commission Adopted Cost of Service and Rate of Return		
Operating Expenses		\$30,255,662
Property and Other Tax		1,075,223
Depreciation		1,335,294
Income Tax Expense		0
AFDUC Amortization		27,121
Total Expenses		32,693,300
Rate Base		\$19,912,278
Rate of Return		10.27%
Return		2,044,991
Revenue Requirement		\$34,738,291
PLA Revenues	\$ 5,040,818*	
Transportation Revenues	29,697,473*	
Transportation Rate	0.6749*	
2015 Rate	0.4207	
Rate Increase	60.4%	
*based on volumes of 44 million barrels		

11. Categorization and Need for Hearings

In Resolution ALJ 176-3374 dated March 17, 2016 in proceeding A.16-03-009, Resolution ALJ 176-3394 dated March 23, 2017 in proceeding A.17-02-009, Resolution ALJ 176-176-3416 dated May 10, 2018 in proceeding A.18-04-023 and Resolution ALJ 176-3436 dated April 25, 2019 in proceeding A.19-03-023, the Commission preliminarily categorized the proceedings as

ratesetting and preliminarily determined that there was need for hearings. Evidentiary hearings were held during several days in March 2017.

12. Comments of Proposed Decision

The proposed decision of Administrative Law Judge Miles in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on _____, and reply comments were filed on _____ by _____.

13. Assignment of Proceeding

Clifford Rechtschaffen is the assigned Commissioner for proceedings A.16-03-009, A.17-02-009, A.18-04-023 and A.19-03-023. Patricia B. Miles is the assigned Administrative Law Judge in the above proceedings.

Findings of Fact

1. Crimson owns and operates a network of common carrier crude oil pipeline systems through which it provides transportation service from crude oil fields in the Los Angeles Basin to refineries owned by Valero, Phillips 66 and Tesoro (the "joint shippers").
2. Crimson's rates for transportation services have been unchanged since 2009.
3. At the time that Crimson filed its application in 2016, its rates did not permit it to recover its operating expenses or to obtain a reasonable return on its utility investment.
4. Evidence supports that the volume of crude oil that Crimson shipped during its Test Year 2016 were lower than the 49 million barrels that Crimson forecast it would transport in 2015 and that the volumes transported during the year 2017 through 2019 have declined year to year.

5. Crimson provides reasonable justification for its operating expenses.
6. The evidence supports that a rate increase of 60% is appropriate to address declines in volumes and throughput.
7. Crimson rates have increased by 46.41 percent (above its 2009-2015 rates) during the years 2016 through 2019 by operation of advice letters that Crimson filed in 2016, 2017, 2018 and 2019, which permitted it to increase rates by 10 percent each year pursuant to Section 455.3 of the California Public Utilities Code.
8. The evidence supports that Crimson is entitled to increase its current rates by an additional 9.28 percent during the year ending 2019.
9. Crimson's operating expenses for the 2016 Test Year are generally reasonable.
10. Crimson's evidence supports a rate of return of 10.27 percent based on the Commission adopting an average throughput volume for the years 2015 through 2018 of 44 million barrels.

Conclusions of Law

1. Crimson California Pipeline L.P. may not include an allowance for income taxes in its 2016 Test Year cost of service under Commission policy in D.11-05-045 and D.12-03-026, upheld by the California Court of Appeal in SFPP, L.P. v. Public Utilities Com. (2013) 217 Ca.App.4th 784, denying the inclusion of an ITA in the rates of a public utility oil pipeline where a parent entity has the legal obligation to pay income tax and the public utility is merely a pass-through entity not liable for the tax.
2. It is appropriate to include the Huntington Beach and Brea West assets in Crimson California Pipeline L.P.'s rate base, however, these assets will be valued

at Tesoro's calculation of their purchase price rather than using the "fair value" method that Crimson proposes.

3. Crimson California Pipeline L.P.'s requested 60% rate increase is reasonable on the evidence presented for years 2016 through 2018.

O R D E R

IT IS ORDERED that:

1. Crimson California Pipeline, L.P.'s request to increase its rates and charges for intrastate crude oil pipeline transportation services by an aggregate total of 60 percent is granted.

2. Crimson has already increased its rates by 46.1 percent through 2019, and it must file a Tier 2 Advice Letter with Energy Division to increase its rates by the remaining 9.28 percent within 10 days of the effective date of this decision.

3. Application (A.) 16-03-009, A.17-02-009, A.18-04-023 and A.19-03-023 are closed.

This order is effective today.

Dated _____, 2020, at San Francisco, California.