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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
SFPP, L.P. (PLC-9) for Authority to
Increase Rates for Transportation of
Refined Petroleum Products

Application 21-01-015

And Related Matters.

Application 22-01-016

Application 23-01-016

Application 24-01-020

**ADMINISTRATIVE LAW JUDGE’S RULING GRANTING JOINT
PROTESTANTS’ MOTION TO COMPEL DISCOVERY AND MOTIONS FOR
LEAVE TO FILE UNDER SEAL**

This Ruling grants the Motion to Compel Discovery (Motion) filed by Chevron Products Company (a Chevron U.S.A. Inc. division) (“Chevron”), Southwest Airlines Co. (“Southwest”), Phillips 66 Company (“Phillips 66”), and Valero Marketing and Supply Company (“VMSC”) (together “Joint Protestants”). SFPP, L.P. (“SFPP”) shall respond in full to the Ninth and Tenth Data Requests as propounded by Joint Protestants. SFPP shall provide complete unredacted responses not later than January 20, 2025.

Both Joint Protestants’ and SFPP’s Motions for Leave to File Under Seal related to the Motion are granted.

1. Background

SFPP is a common carrier pipeline transporting refined petroleum products that has intrastate tariffs on file with the Commission. Three parts of the pipeline operate intrastate in California: the North Line, the San Diego Line,

and the West Line. SFPP also owns and operates 13 storage terminals in California, which provide short-term product storage that facilitates originations and deliveries on the pipeline system as well as truck loading, vapor handling, additive injection, dye injection and oxygenate blending.

This is a consolidated proceeding of four Applications filed by SFPP in 2021, 2022, 2023, and 2024 in which SFPP requests to increase its intrastate rates, seeking annual rate adjustments. Joint Protestants, along with others, have protested each Application. On June 10, 2022, the assigned Administrative Law Judge granted the Protective Order jointly requested and prepared by SFPP and Joint Protestants. The Protective Order governs “all current and future parties and non-parties participating in discovery,” in A.21-01-015. On August 16, 2024, the Assigned Commissioner issued a Scoping Memo and Ruling consolidating the four Applications, making the 2024 Application the primary proceeding docket, and accepting the parties’ joint procedural schedule. Pursuant to that schedule, Joint Protestants served SFPP with their Ninth Set of Data Requests on September 6, 2024, and SFPP served its Objections on September 13, 2024. SFPP filed its Supplemental Direct and Direct Testimony on October 7, 2024. Joint Protestants served SFPP with their Tenth Set of Data Requests on November 4, 2024, and SFPP served its Objections on November 12, 2024. Joint Protestants’ Supplemental Reply and Reply Testimony is due February 7, 2025. Evidentiary hearings are set for June 16 through 20, 2025 in San Francisco.

2. Discussion

Pursuant to Rule 11.3 of the Commission’s Rules of Practice and Procedure (Rules), Joint Protestants seek an order compelling SFPP to produce all the information requested in the Ninth and Tenth Set of Data Requests. Joint Protestants assert they need this data and information to file their Reply

Testimony and complain that SFPP has improperly and excessively redacted non-privileged information, and that SFPP has also refused to provide any information regarding its pipeline-connected terminals. SFPP argues the information they have redacted or refused to provide is irrelevant, and that any terminal-related information will not be provided because it is not part of SFPP's Commission-jurisdictional pipeline system and is therefore irrelevant. The parties to the Motion have met and conferred and have reached impasse.

The Scoping Memo and Ruling for these consolidated Applications defines the issues as:

- Do the Applications and the proposed rate increase requests comply with all applicable Public Utility Code Sections, General Orders, Rules, and Commission decisions such that the Applications should be approved?
- Are the proposed rate increases reasonable and in the public interest?
- Are there any safety considerations?
- Impacts on environmental and social justice communities, including the extent to which the proposed rate increases impact the achievement of any of the nine goals of the Commission's Environmental and Social Justice Action Plan.

Under Rule 10.1, "any party may obtain discovery from any other party regarding any matter, not privileged, that is relevant to the subject matter involved in the pending proceeding, if the matter either is itself admissible in evidence or appears reasonably calculated to lead to the discovery of admissible evidence." Discovery should be conducted liberally, and doubts of relevance generally should be resolved in favor of allowing discovery.

This case concerns the reasonableness of the rates for the intrastate transportation of petroleum products on SFPP's pipeline system in California. A

multifactor analysis is required to make the determinations as noted in the Scoping Memo. Whether the proposed rates are reasonable and in the public interest determines if they are just and allowed. Such an analysis requires the determination of the proper SFPP rate base and can include analysis of costs, revenues, volume, throughput and a multitude of other factors to determine whether rates are appropriate and in the public interest.

Whether or not SFPP's California pipeline-connected terminals are determined to be Commission-jurisdictional, Joint Protestants have the right to discovery related to that issue.¹ SFPP offers no authority that establishes a right to withhold the production of these Rule 10.1 requested materials. And, Pub. Util. Code § 227 provides:

'Pipe line' includes all real estate, fixtures, and personal property, owned, controlled, operated, or managed in connection with or to facilitate the transmission, storage, distribution, or delivery of crude oil or other fluid substances except water through pipe lines.

A reasonable construction of that definition includes terminals.

Joint Protestants have met their burden of relevance because the discovery matter requested "either is itself admissible in evidence or appears reasonably calculated to lead to the discovery of admissible evidence." The requested evidence focuses on the multiple aspects of pricing and rate setting, such as cost, expenses, revenue, volume and throughput. SFPP's transportation activities could not be accomplished without its terminal facilities for originating shipments and receiving deliveries of shipments and are clearly related to its

¹ D.16-08-021 at 26 (citing Pub. Util. Code §§ 311, 314; Cal. Const., art. XII, § 6; Gov. Code, § 11180; Res. ALJ-195).

transportation operations and activities. Volumes could not be shipped on SFPP's intrastate system but for its terminal operations. In some instances, some volumes may enter the pipeline system at the terminals through truck or rail affecting actual transportation volumes on the pipeline. This information could give insight into current and future volumes on pipeline segments and is directly relevant to material issues of fact.

Our review of Commission decisions and the Federal and State decisions cited by both parties does not support the view of SFPP that it may broadly redact information contained within relevant material. Other information within a document that contains relevant information may be highly useful in providing explanation or context and may lead to further understanding of evidence. The Commission and the courts have been clear that any redactions must be narrowly tailored.

SFPP has shown neither that the redacted material is confidential nor privileged information. Even if SFPP could show that some redacted information is confidential such as, for example, competitively sensitive information or trade secrets, its interests are adequately protected by the negotiated Protective Order.

Therefore, the information requested in Joint Protestants' Ninth and Tenth Sets of Data Requests is discoverable, and good cause has been established to grant the Motion to Compel.

IT IS ORDERED THAT:

1. Joint Protestants' Motion to Compel Discovery is granted, and SFPP shall provide Joint Protestants complete and unredacted responses to Joint Protestants' Ninth and Tenth Sets of Data Requests by January 20, 2025.

2. The Motions for Leave to File under Seal filed by Joint Protestants and SFPP are granted.

Dated January 10, 2025 at San Francisco, California.

/s/ THERESA D. MOORE

Theresa D. Moore
Administrative Law Judge