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**FILED**

04/14/25

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

11:47AM  
A2401020

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

Application 24-01-020

And Related Matters.

Application 23-01-016

Application 22-01-016

Application 21-01-015

**ADMINISTRATIVE LAW JUDGE’S RULING GRANTING IN PART AND DENYING IN PART MOTION TO COMPEL DISCOVERY OF SFPP, L.P. TO CHEVRON PRODUCTS COMPANY, PHILLIPS 66 COMPANY AND VALERO MARKETING AND SUPPLY COMPANY**

This Ruling grants in part the Motion to Compel Discovery (Motion) filed by SFPP, L.P. (“SFPP”) to Chevron Products Company (a Chevron U.S.A. Inc. division) (“Chevron”), Phillips 66 Company (“Phillips 66”), and Valero Marketing and Supply Company (“VMSC”) (together “Joint Protestants”).

SFPP’s Motion to Compel the Sixth Set of Data Request, Category-One projection studies and presentations is granted. Joint Protestants shall provide, otherwise non-objectionable, and not yet responded to, responsive management level reports and presentations created during the period June 1, 2021, through 2024.

SFPP’s Motion to Compel the Sixth Set of Data Request, Category-Two is Denied.

## **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. The Joint Protestants are shippers, and 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 SFPP filed its Prepared Direct and Supplemental Direct Testimony on October 7, 2024. On January 24, 2025, SFPP served a Sixth Set of Data Request on each Joint Protestant. Joint Protestants filed their Prepared Reply and Supplemental Reply Testimony on March 3, 2025. SFPP’s Prepared Rebuttal and Supplemental Rebuttal Testimony is due to be filed on April 25, 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), SFPP seeks an order compelling Joint Protestants to produce all the information requested in the Sixth Set of Data Requests. SFPP asserts it needs this data and information to be able to test the credibility of the positions taken by Joint Protestants' expert witness Mr. Michael Tolleth who testifies as to the appropriate volumes the Commission should adopt to set SFPP's just and reasonable transportation rates. Joint Protestants argue SFPP's request is extremely overbroad, it seeks meticulous granular documentation, including the most sensitive of trade secrets, of all of their conduct within the state of California and all transportation into, out of, and within the state. Joint Protestants further argue that the information requested from them is only a subset of the volume transported by SFPP and is irrelevant. The parties to the Motion have met and conferred regarding this Sixth Set and have reached impasse. Joint Protestants also argue that this Sixth Set is a duplicate of the Fifth Set to which Joint Protestants had previously objected, and that SFPP had never sought a meet and confer for the Fifth set.

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.

SFPP's sole stated reason for seeking this discovery is to test the credibility of the position of Joint Protestants' expert witness Mr. Tolleth. SFPP complains that Mr. Tolleth rejects use of SFPP's actual volume data to set what he claims are appropriate SFPP intrastate rates for historical periods. In place of actual data, Mr. Tolleth relies on other sources of data, such as public reports of the U.S. Energy Information Administration or Kinder Morgan, Inc.'s (KMI) internal documents prepared for budgetary purposes. In his testimony Mr. Tolleth accuses SFPP of taking active steps to reduce throughput on its CPUC jurisdictional pipeline system, so that it could both promote its terminal business and justify higher pipeline intrastate rates. The credibility of a witness is always at issue; the issue here is whether this requested information serves the stated purpose.

SFPP has defined its Sixth Set data requests and placed them into two categories for analysis. Category-One seeks company studies and presentations of projections of the demand for refined petroleum products in California, and Category-Two seeks refinery-specific data associated with the California refineries owned and operated by the Joint Protestants.

Category-One

Joint Protestants take the position that the requested projections going back to June 1, 2021, are irrelevant because volume projections covering prior periods have been overtaken by actual data. However, their witness Mr. Tolleth simultaneously rejects the use of the SFPP's actual data in his analysis.

For Category-One requests, Joint Protestants have previously produced the studies and presentations for the earlier period of January 1, 2019, to June 2021, and for projections created between January 1, 2024, and September 1, 2024,

and have further agreed to produce responsive management level reports and presentations that were created post August 2024. However, they continue to refuse to produce for the period of June 1, 2021, through the post August 2024 period, referred to as the “Historical Period”, and covered by their witness Mr. Tolleth.

Joint Protestants’ witness Mr. Tolleth rejects SFPP’s reliance on actual volume data because he believes it does not serve as a reasonable or accurate reflection of what SFPP could have or should have transported on its CPUC jurisdictional pipeline system during prior periods, including during the Historical Period covered by Category-One requests. SFPP argues that Mr. Tolleth’s criticism of SFPP’s reliance on actual data, and his use of volume projections in place of actual data, is repeated throughout his Reply Testimony. For example, when discussing his jet fuel volume recommendation, Mr. Tolleth criticizes SFPP’s use of actual jet fuel volumes for historical periods because it served to “consistently understate the rate of recovery in jet fuel volumes”. Mr. Tolleth’s testimony is that SFPP should have instead relied on “then-current projections that reflected expectations for continued increases in jet fuel demand”. Mr. Tolleth relied on intrastate volumes for the period 2016-2019, trends in intrastate volumes since the onset of Covid-19 pandemic, and other forecasts and trends related to production and consumption of refined products.

The actual volume data rejected by Mr. Tolleth includes that time frame covering the Historical Period. SFPP has the right to test the credibility and methodology of the witness testimony put forth by Joint Protestants. The gap in the production of Category-One projection data during the Historical Period is an issue SFPP has the right to explore.

SFPP has met its initial burden of relevance with regard to the Sixth Set of Data Requests, Category-One projection information. The discovery matter requested is potentially relevant to the credibility of witness Mr. Tolleth, whose testimony focuses on his methodology of SFPP's pricing and rate setting, including actual and projected volume and throughput.

Category-Two

SFPP defines Category-Two as refinery-specific data only associated with the California refineries owned and operated by the Joint Protestants. SFPP seeks detailed information concerning the amount of product produced at each refinery, along with all of the ways that such production can be or is cleared from the refinery and the economics (costs/revenues) used by the refiner to decide what specific product mix to produce in any given month and where to move the product. SFPP supports the need for this information by stating it is "directly relevant to the issue of SFPP's volumes".

SFPP's stated purpose is to test the credibility of the witness particularly as it relates to the intent and cause of the SFPP volume decline. SFPP claims the information it seeks, in addition to the Category-One materials, will help it to rebut the accusation that SFPP's decline in volume is a "self-inflicted" volume decline in order to raise its prices. SFPP claims it is the intent and actions of the shippers that determine the volume. SFPP requests refinery specific detail on the amount of each product that was produced to gain insight on the possibility that it was transported to locations other than SFPP's system, thereby undermining Mr. Tolleth's testimony.

Joint Protestants argues the Sixth Set is a large set of data requests, and many are repetitive of the First and Fifth Set. Joint Protestants have objected to

these requests in the past and SFPP has not followed up. The requests are for each refinery from June 2021 to the present and include details of each type of petroleum product (e.g. gasoline, diesel, etc.), by each grade (CBOB, RBOB, etc.), by volume (barrels), by month, and by refinery. The requests also seek detailed projection and forecast data, movement of product data via pipeline, barges, rail, and truck. There are requests about Joint Protestants' terminals, transactions, exchange agreements, and their proprietary Linear Programming Model regarding its refinery optimization models.

Joint Protestants object to the discovery as being overbroad, unduly burdensome, irrelevant, and not calculated to lead to the discovery of admissible evidence. The information SFPP seeks includes highly sensitive and confidential trade secrets and proprietary and competitive information. For example, the linear programming model requested "discloses the analysis and strategy underlying [Shipper's] most competitively sensitive decisions on a forward-looking basis and as such, is a matter of extraordinary commercial sensitivity." The requests seek to have each Joint Protestant dissect their California refinery operations down to the revenue margin on each barrel produced for the last approximately five years. The information requested is irrelevant to SFPP as it is only a subset of SFPP's business, and publicly available data exists to show how much was produced in California.

### **3. Conclusion**

SFPP's motion to compel its Category-Two data requests is broad, intrusive, and extensive seeking the maximum conceivable data on Joint Protestants' most sensitive operations with only the most attenuated relevance to this proceeding. The requests demand Joint Protestants to account for and

document every transaction in the state of California, and every movement within, into, and out of the state via every conceivable medium over the last five-years. Per Joint Protestants, responding to this motion would be costly and take thousands of hours to gather this information, and could never be accomplished prior to the long standing upcoming evidentiary hearing. During the pendency of this motion SFPP informed Administrative Law Judge Rambo that it expected to proceed with the evidentiary hearings on June 16-20, 2025.<sup>1</sup>

SFPP fails to provide any nexus or offer of proof for this information to have evidentiary value. Any explanation of how the shipper's intent or actions affect a material issue related to the scope is lacking. SFPP does not demonstrate any nexus to or specifics of how and why it might provide relevant value to a particular issue. Any marginal benefit is too remote to be of value and is outweighed by the cost and burdens of production.

In balancing these competing claims, I have concluded that Joint Protestants' risk of harm from disclosing such overbroad granular data about its refinery operations and business strategies outweighs any potential benefit of testing the credibility of witness Mr. Tolleth as described by SFPP.

**IT IS ORDERED THAT:**

1. SFPP's Motion to Compel the Sixth Set of Data Request, Category-One projection studies and presentations is granted. Joint Protestants shall provide, otherwise non-objectionable, and not yet responded to, responsive management level reports and presentations created during the period June 1, 2021, through 2024.

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<sup>1</sup> Procedural e-mail dated 3/25/2025, D. Repman to ALJ Rambo.



2. SFPP's Motion to Compel the Sixth Set of Data Request, Category-Two is Denied.

Dated April 14, 2025, at San Francisco, California.

/s/ THERESA D. MOORE

Theresa D. Moore  
Administrative Law Judge