BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF CALIFORNIA

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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 (NORTHERN CALIFORNIA).	Application No. 22-07-015
And Related Matters.	Application No. 23-01-015 Application No. 23-03-001 Application No. 23-08-018

REPLY COMMENTS OF VALERO MARKETING AND SUPPLY COMPANY AND CALIFORNIA RESOURCES CORPORATION ON PROPOSED DECISION GRANTING CRIMSON CALIFORNIA PIPELINE, L.P. AND SAN PABLO BAY PIPELINE COMPANY LLC AUTHORITY TO INCREASE RATES ON THE KLM AND SAN PABLO BAY CRUDE OIL PIPELINES

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I. INTRODUCTION

Pursuant to Rule 14.3 of the Commission's Rules of Practice and Procedure, Valero Marketing and Supply Company ("VMSC"), and California Resources Corporation ("CRC," and together with VMSC, the "Joint Protestants") hereby submit their Reply Comments regarding the captioned Proposed Decision ("PD") of Administrative Law Judge Jacob L. Rambo issued on March 21, 2025.

II. REPLY COMMENTS

A. Carriers' Opening Comments largely fail to focus on factual, legal, or technical errors and instead merely reargue or mischaracterize positions already stated.

Sections 2 through 8 (pages 4 to 23) of Carriers Comments should be given no weight because they merely reargue positions fully addressed by the PD. Rule 14.3(c) requires comments to "focus on factual, legal or technical errors" and warns that comments "which fail to do so will be accorded no weight."[1] Joint Protestants will not therefore address them except to say that they fundamentally rely on a misplacement of the burden of proof. This is perhaps best captured in Carriers' belief that "substantial evidence" is required to support "denial of the Carriers' recommendations."[2] The PD properly found that Carriers bore the burden of proof on "all aspects of [their] request" and failed to carry this burden of proof regarding the majority of their claims attempting to justify its proposed rate increase.[3]

Most notable of Carriers' mischaracterizations is the contention that the PD's AFUDC decision "conflicts with fundamental principles of ratemaking" and that it would require the removal of prior

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[1] *See, e.g.*, D.08-11-009 at 21, *Rulemaking to Implement the Provisions of Pub. Utils. Code Section 761.3* (Nov. 7, 2008) (Commission will "give no weight to comments which fail to focus on factual, legal or technical errors; fail to make specific references to the record; or merely reargue positions already stated."); D.24-05-007 at 32, *Crimson Cal. Pipeline L.P.* (May 15, 2024) ("Phillips 66 comments restate factual and legal arguments it made during the briefing stage. The decision reflects our review and determination of those arguments."); D.20-12-006 at 34, *Rulemaking to Oversee the Res. Adequacy Program* (Dec. 4, 2020); D.19-01-005 at 17, *Pac. Gas & Elec. Co.* (Jan. 22, 2019) ("Rule 14.3(c) requires that comments on a PD identify factual, legal or technical errors in the PD, supported by specific references to the record. . . . Rule 14.3(c) serves to ensure that all parties to a proceeding are treated equally, and that the Commission's decisions are fully supported by factual findings."); D.18-05-011 at 17, *Pac. Gas & Elec. Co.* (May 17, 2018) ("We have carefully reviewed these comments and do not find that any modifications to the proposed decision are warranted. The comments reargue points that were previously considered and do not raise any factual, legal, or technical errors that would warrant modifications to the proposed decision.").

[2] Carrier Comments at 4. Carriers also appear to believe that the record evidence must be repeated in the "Findings of Fact" section in addition to the thorough discussion in the body of the PD. *Id. See also id.* at 17 (faulting the PD for "criticizing the Carriers for not submitting evidence"); *id.* at 19-20 (relying on their expert and "fundamental principle[s]" that costs should be "should be presumed prudent unless there is a showing of 'obvious and gross mismanagement.'").

[3] PD at 8; *see also* Joint Protestants' Opening Brief at 20-46 (Shared/Allocated CorEnergy Expenses) and 72-86 (Change in Accounting Practice); Joint Protestants' Closing Brief at 20-37 (Shared/Allocated CorEnergy Expenses) & 58-66 (Change in Accounting Practice).

AFUDC amounts from "rate base if the utility were sold to a new owner."[4] This is a blatant mischaracterization of the PD. For Carriers to recover any AFUDC that may have accrued in rate base by prior owners, Carriers must first establish that the consideration they paid to acquire the subject pipeline assets included some compensation for an AFUDC balance that the prior owners *had not already recouped or recovered*. Here, Carriers' have presented no evidence whatsoever of any unrecovered net AFUDC balances transferred to Carriers upon their acquisition of the subject facilities.[5] To the contrary, record evidence presented at hearing established that KLM's prior owner never even accumulated any such balances—having elected to include construction work in progress capital in rate base directly thereby obviating any need to accrue AFUDC.[6] Accordingly, the PD was correct to find that it is not appropriate for Carriers to recover AFUDC costs they did not acquire as part of their subject acquisitions.[7]

B. Carriers' limited discussion of technical errors largely aligns with the technical errors discussed in Joint Protestants' Comments

Carriers identify several technical errors which they assert results in a total cost of service $2,022,088 lower than that reached by the PD.[8] For comparison, Joint Protestants similar corrections resulted in a cost of service that was $2,041,878 lower than that reach by the PD[9]—a difference of only $19,790. This difference is negligible relative to the overall cost of service. However, where Joint Protestants provided a detailed explanation for each technical correction necessary to reconcile the PD's rulings relative to the operating expense amounts proposed by each side,[10] the Carriers have provided only cursory assertions regarding the same.[11]

Further, the Carriers' proposed change to rate base[12] is not a "technical correction" at all, since they have not neither documented that the $4.2 million of purported asset maintenance repairs that the PD denied them permission to expense were transferred to carrier property in service, nor presented any calculation of how they enter rate base as additions in the Test Period. Joint Protestants respectfully submit that the $57,618,676 cost of service derived in their Opening Comments on PD accurately quantifies the cost of service implications PD's rulings regarding the disputed issues—and verifiably

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4 Carrier Comments at 12.
5 Joint Protestants' Closing Brief at 70-73.
6 Joint Protestants' Opening Brief at 99-101 & n.327.
7 PD at 30-31.
8 Carrier Comments, Appendix A.
9 Joint Protestants' Opening Comments, Appendix A at Finding of Fact No. 2.
10 *Id.* at 1-12 and Tables 1-7.
11 Carrier Comments at 2-3.
12 *Id.* at Appendix A, n.77.

reconciles the PD's differences relative to both Carriers' and Joint Protestants' documented evidentiary positions.[13] Accordingly, it is this $57,618,676 cost of service that should be adopted and (consistent with the PD's intended postage stamp rate design) divided by the PD's throughput value of 29,457,864 to derive a uniform of $1.9560/bbl for the Combined SPB/KLM system.

Joint Protestants agree with Carriers that their lobbying expenses should be removed from cost of service.[14] They are unable to verify Carriers' representation that this cost was $112,410,[15] but accept that value to resolve controversy.

C. Carriers are wrong in claiming they cannot be made to file tariffs when a rate increase is pending.

Carriers last argue that the PD errs by requiring them to file advice letters revising their tariffs. Carriers do not specify if they believe this is a factual, technical, or legal error, claiming only that these provisions are "unnecessary" because of intervening applications. Carriers do not cite any statute, decision, or other controlling authority to support this reading. To the contrary, all relevant authority *requires* Carriers to file revised tariffs and therefore the PD does not err on this issue.

By statute, Carriers rates must be just and reasonable.[16] In addition, Carriers' rates must be filed with the Commission and kept open to the public.[17] This proceeding will establish the just and reasonable rates for transportation that the Carriers may charge. Therefore, the rates established in this proceeding are the only rates Carriers may charge and the rates that must be reflected in filed tariffs.

Moreover, Commission precedent regularly requires such filings. Notably, in D.24-05-007, concerning Crimson's Southern California rates the Commission made an equivalent finding.[18] There was also a pending rate application at the time of that decision and the PD. However, this ordering paragraph was not contested by Crimson—in fact it asked for more detail in it.[19] On rehearing, D.24-12-

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13 Joint Protestants' Opening Comments at 9, Table 5.

14 Carrier Comments at 3.

15 *Id.* (claiming this total amount was demonstrated by the record but citing nothing).

16 Cal. Pub. Util. Code § 451.

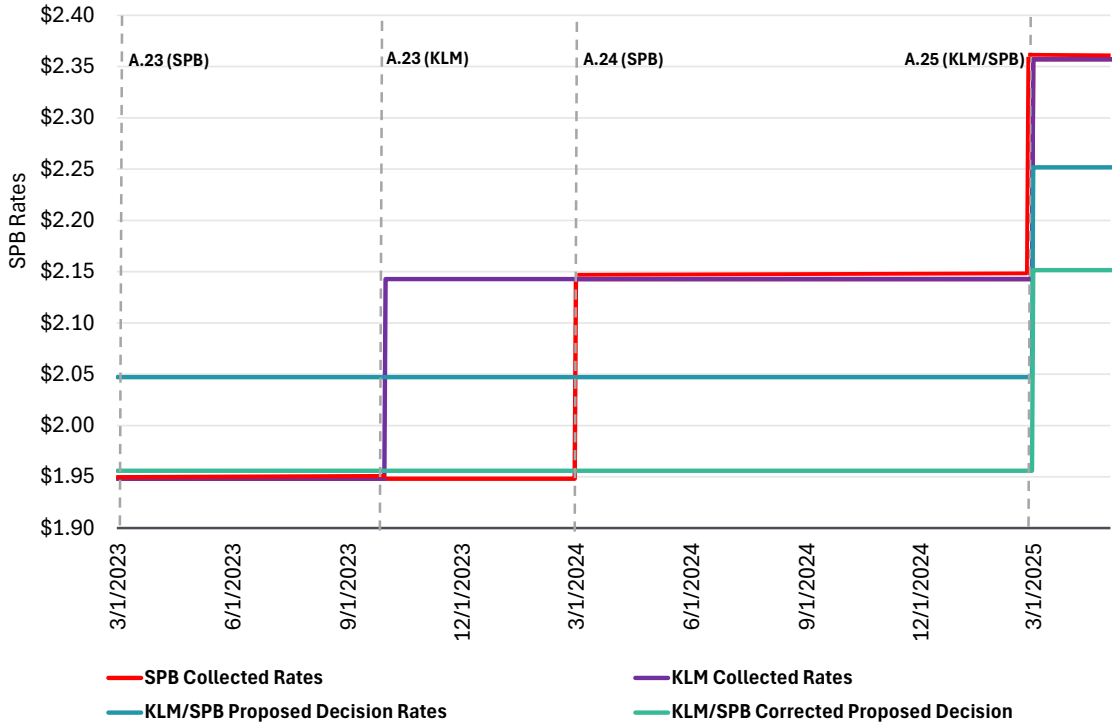
17 Cal. Pub. Util. Code § 486; *see also* D.98-08-033, *ARCO Prods. Co. v. SFPP, L.P.*, 81 C.P.U.C. 2d 573, 1998 Cal. PUC LEXIS 593, *17-19 (1998) (section 486 applies to oil pipelines).

18 D. 24-05-007 at Order Para. 5, *Crimson Cal. Pipeline L.P.* (May 15, 2024).

19 Comments of Crimson California Pipeline, L.P. on Proposed Decision of Administrative Law Judge Rambo at 2, *Crimson Cal. Pipeline L.P.,* Docket No. A.22-06-017 (Apr. 23, 2024) ("With respect to Ordering Paragraph 5 authorizing an Advice Letter implementing the approved 22.31% rate increase, Crimson requests that it be modified to expressly authorize an Advice Letter implementing the billing and collection of the authorized retroactive relief. Crimson's proposed revisions to the PD's Conclusions of Law 5 and Ordering Paragraph 5 are included as Attachment A hereto.").

027 again ordered Crimson to take the same steps articulated now in the PD.[20] Crimson did not appeal that order either; although neither does it appear to have complied with it.[21]

Figure 1: Crimson KLM/SPB Rates



Sources and Notes: For SPB Collected rates *see* CPUC Tariff Nos. 2.15.0, 2.16.0 and 2.17.0; for KLM Collected rates *see* CPUC Tariff Nos. 204.4, 204.5 and 204.6; for PD rates *see* PD; for Corrected PD Rates *see* Joint Protestants' Opening Comments. Note that the KLM Collected rates shown above represent the highest KLM tariff rates. Other KLM rates are lower but similarly were increased by 10% in October 2023.

It is therefore not legal error to require Carriers to file tariffs reflecting their new rates when an application is pending. No statute, regulation, or other authority contradicts this pro forma requirement, nor can Carriers cite to any. While Carriers do not raise any policy or equity issues in this vague argument, the Commission and legislature have been clear that their right to recoup past amounts, coupled with 10% interim increases adequately protects carrier interest. To find otherwise would create a loophole that would swallow the rule. This would perpetuate industry uncertainty as no one would ever know if the rates they were being charged were lawful or not. Carriers could also evade the statutory 10% interim increase limit by always having a rate case on file. For instance, here the current rates reflect a total of 32.1% higher than the pre-application rates. Because A.24-01-016 (which only concerns San Pablo Bay's

[20] D.24-12-027 at Ordering Para. 6, *Crimson Cal. Pipeline L.P.* (Dec. 6, 2024).

[21] *See* Advice Letter No. 58-O of Crimson California Pipeline L.P. (Jan. 7, 2025); Phillips 66 Company's Protest of Crimson California Pipeline, L.P. Advice Letter No. 58-O at 6 (Jan. 27, 2025).

system) does not raise new facts, at most, the highest interim increase permissible through A.25-01-016 would be 10% above the rates authorized in this final decision. Because the current rates are approximately 19 percent greater than those found reasonable in the PD, the current rates reflect an impermissibly high interim rate increase. Figure 1 above outlines the Joint Protestant's position regarding the permissible rates resulting from the PD.

III. CONCLUSION

Joint Protestants respectfully urge the Commission to (1) adopt their proposals validated by Carriers' comments; (2) reject Carriers' request not to file a tariff; and (3) give no credence to Carriers' other comments.

Respectfully submitted,

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