

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

ENERGY DIVISION

RESOLUTION O-0083

November 16, 2023

**R E S O L U T I O N**

Resolution O-0083. Santa Fe Pacific Pipelines, L.P. (SFPP), requests Commission approval for a system-wide, intrastate rate increase of 10 percent under Public Utilities Code Section 455.3 and GO 96-B.

PROPOSED OUTCOME:

- Approves SFPP's request to increase its systemwide, intrastate rates by 10 percent in accordance with the provisions of Public Utilities Code Section 455.3 and General Order 96-B, Energy Industry Rule 8.
- The 10 percent increase approved herein is expected to increase annual revenues by approximately \$11.8 million for the 12-month period commencing March 1, 2023.

SAFETY CONSIDERATIONS:

- There are no safety considerations associated with this resolution.

ESTIMATED COST:

- This Resolution is expected to lead to increased ratepayer costs of \$11.8 million for 12 months.

By Advice Letter SFPP, L.P. AL 49-O, Filed on January 27, 2023.

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**SUMMARY**

This Resolution O-0083 approves SFPP, L.P.'s (SFPP) request for an interim, system-wide, intrastate rate increase of 10 percent under the provisions of Public Utilities Code Section 455.3 and General Order 96-B, Energy Industry Rule 8.

This resolution does not grant any additional increase above 10 percent. The Commission will consider the entirety of SFPP's requested increases in SFPP's related Applications A.21-01-015,<sup>1</sup> A.22-01-016,<sup>2</sup> and A.23-01-016.<sup>3</sup>

## **BACKGROUND**

SFPP, L.P. filed Tier 3 AL 49-O on January 27, 2023, requesting an increase in its systemwide, intrastate rates by 10 percent in accordance with the provisions of Pub. Util. Code Section 455.3 and General Order 96-B, Energy Industry Rule 8.

The 10 percent increase, if approved herein, is expected to increase annual revenues by approximately \$11.8 million for the 12-month period commencing March 1, 2023.

Three protests were timely filed. These filings are discussed further below.

## **NOTICE**

Notice of AL 49-O was made by publication in the Commission's Daily Calendar on February 2, 2023. SFPP confirms in AL 49-O that a copy of the Advice Letter was mailed and distributed in accordance with General Order 96-B to the shipper service list appended as Attachment D of the advice letter.

## **PROTESTS**

Advice Letter 49-O was protested.

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<sup>1</sup> A.21-01-015 – SFPP requested a rate increase of 25.527 percent, effective March 1, 2021. In AL 44-O, filed in conjunction with this application, SFPP requested an interim rate increase of 10 percent, effective March 1, 2021, which was approved by Resolution O-0073 on June 24, 2021. An ALJ Ruling off-calendared this proceeding on August 1, 2022, directing parties to the Commission's Alternative Dispute Resolution process.

<sup>2</sup> A.22-01-016 – SFPP requested a rate increase of 10 percent, effective March 1, 2022. In AL 46-O, filed in conjunction with this application, SFPP requested an interim rate increase of 10 percent, effective March 1, 2022, which was approved by Resolution O-0080 on December 1, 2022. An ALJ Ruling off-calendared this proceeding on August 19, 2022, directing parties to the Commission's Alternative Dispute Resolution process.

<sup>3</sup> A.23-01-016 – SFPP requested a rate increase of 12.91 percent, effective March 1, 2023. This application was filed concurrently on January 27, 2023, in conjunction with AL 49-O.

SFPP's Advice Letter 49-O was timely protested by Chevron Products Company (Chevron), Phillips 66 Company (Phillips 66), Southwest Airlines Co. (Southwest), and Valero Marketing and Supply Company (VMSC), collectively referred to as Joint Protestants; Marathon Petroleum Company LP (Marathon); and Pilot Travel Centers LLC, Pro Petroleum LLC, and Southern Counties Oil Co (dba SC Fuels), collectively referred to as Pilot Shippers. The Joint Protestants, Marathon, and Pilot Shippers all use SFPP's pipeline system to ship petroleum products.

In their protest, Joint Protestants request that the Commission reject the rate increase set forth in the Advice Letter on the grounds that it contains material omissions and fails to support the rates it proposes. Joint Protestants state "... SFPP appears to rely on unsound and erroneous assumptions that likely overstate its cost of service and understate its revenue. Primary among these assumptions are numerous substantial and unexplained increases in operating expenses..." and "... unsupported assumptions regarding the cost of capital and related cost of service elements." They also state that SFPP's "... revenue requirement claims fail to account for known and measurable throughput increases connected to projects that will commence service in the Test Period." Specifically, the protest refers to renewable diesel projects capable of bringing 14.6 million barrels per year of renewable diesel on SFPP's CPUC-jurisdictional pipeline systems.

If the Commission is unwilling to reject the Advice Letter, Joint Protestants request that the Commission set this matter for hearings, including full discovery, and consolidate this proceeding with the Commission's review of SFPP's rate increase application, A.23-01-016, filed contemporaneously with AL 49-O, in which SFPP requests a 12.91 percent rate increase. Joint Protestants also attached to their protest the testimony of an expert witness filed in SFPP A.21-01-015. Finally, if the Commission allows SFPP's instant proposed rate increase to take effect, Joint Protestants request that the Commission clarify that the increase is subject to refund.

Marathon requests that the Commission reject SFPP's Advice Letter, stating that it "... only provides the barest summary information in support of the 10% rate increase," lacking workpapers and underlying source documents. Marathon contends that: (A) SFPP vastly underestimates its test year throughput; (B) understated test period volumes result in understated test year revenues; (C) SFPP overstates its cost of capital; (D) that cost of service likely overstates operating expenses, and (E) that Marathon's expert's recalculation of cost of service demonstrates SFPP is receiving excessive returns without any rate increase.

Alternatively, Marathon requests that if SFPP's Advice Letter 49-O is not rejected, that the Commission set the 10 percent rate increase for hearing, subject to refund, to determine whether the increase is warranted. It also requests, given that the issues in SFPP's Advice Letter 49-O involve questions of law and fact that are related to those in Advice Letters AL 44-O and 46-O and rate applications A.21-01-015 and A.22-01-016 (both of which are currently before a Commission Mediator for Alternative Dispute Resolution), that consolidation may enable more efficient resolution of the various rate submissions.

Pilot Shippers request the Commission reject SFPP's proposed rate increase. The protest contends that SFPP has failed to justify any rate increase at all and that it appears the increased rates SFPP proposed in A.21-01-015 are in excess of a just and reasonable level.

For example, the protest argues that SFPP projections for the base period (December 1, 2021, through November 30, 2022) are not representative of typical or future volumes, appearing to be artificially suppressed due to the impact of the COVID-19 pandemic and possibly other factors. Also, the projections do not account for renewable diesel volumes that SFPP and its parent company expect to come onto the SFPP system in 2023.

Pilot Shippers states that numerous elements of SFPP's proposed cost of service appear to be overstated, including: (a) excessive Operations and Maintenance costs; (b) cost allocations that are unclear and unjustified; (c) a proposed capital structure with an excess amount of equity, which inflates SFPP's proposed rates; (d) an excessive return on equity; and (e) unsupported depreciation and AFUDC levels.

The protest concludes that SFPP has failed to justify its proposed rate increase in AL 49- O, which, if not rejected, should be made subject to refund with interest and consolidated with docket number A.23-01-016.

SFPP timely responded to the protests of Joint Protestants, Marathon, and Pilot Shippers on February 24, 2023, and rebuts the protests. SFPP asks that the Commission reject the protests, contending that AL 49-O's request for a rate increase is in accordance with the provisions of Public Utilities Code Section 455.3. In its response to each of the three protests, SFPP stated it "... is afforded the right to take such rate increase, subject to refund, *prior* to Commission action under Section 455.3. Therefore, any contested issues regarding SFPP's costs and volumes, including those raised in the Protest, do not

have to be resolved for SFPP to be able to increase its rates by 10 percent effective March 1, 2023. To hold otherwise would essentially render Section 455.3 meaningless.”

In rebutting the positions of Joint Protestants, Marathon, and Pilot Shippers, SFPP contends that it fully justified its proposed rate increase that is the subject of AL 49-O and adhered to the Commission’s process. SFPP notes it has been engaged in mediation discussions in the A.21-01-015 and A.22-01-016 proceedings in the Commission’s ADR Program and supports the Commission directing that the matter of AL 49-O be included in the mediation discussion.

In addressing issues in the individual protests, SFPP covers in its responses sufficiency of information provided, volumes shipped (including future renewable diesel shipments), operating expense amounts, cost categories, capital structure, return on equity, and the quantum of rate increases sought cumulated over multiple rate proceedings and advice letters filed in 2021-2023.

In SFPP’s response to Joint Protestants’ claim that it has failed to adequately support the requested rate increase, SFPP states the information in AL 49-O is consistent with that in AL 44-O and AL 46-O. While Joint Protestants had made essentially the same deficiency claims in their protest to AL 44-O and AL 46-O, the Commission did not accept such claims and accepted SFPPs advice letters.

On renewable diesel volumes, SFPP contends Joint Protestants assume that renewable diesel will meet new market demand and not replace existing diesel demand, and further, that they offer no support for such a presumption.

For allocating cost of service between intra- and interstate service, SFPP states its expert witness relied on the same process for allocating costs in the 2023 cost of service as in the A.21-01-015 and A.22-01-016 proceedings. Joint Protestants did not challenge the process and allocation factors in A.21-01-015.

Turning to Marathon’s protest, SFPP states that following Covid-19, usage has declined in California and SFPP’s intrastate volumes were in decline. Its volumes in 2020, 2021, and 2022 have remained well below 2019 levels. SFPP contends Marathon ignores the data and takes a position based purely on speculation. Regarding Marathon’s claim that SFPP has overstated its cost of service and cost of capital, SFPP responds that on cost of service, Marathon made similar arguments in the A.21-01-015 proceeding, and that its position on cost of capital position is inconsistent with Commission precedent, failing to appropriately account for the risk SFPP faces in its California operations.

SFPP claims that Joint Protestants' and Marathon's "factual mischaracterizations" do not alter the fact that SFPP's rate increase under AL 49-O is fully justified. Much of the remainder of the Joint Protestants' and Marathon's protests concern reiteration of their positions on various materially disputed facts that they raised with respect to A.21-01-015 and A.22-01-016 that are currently pending before the Commission. SFPP states it responded to those positions in its pre-filed testimony, and asserts that they lack merit.

In response to Pilot Shippers, SFPP counters the view that "... SFPP's actual volumes appear to be artificially suppressed due to the Covid-19 pandemic and possibly other factors," it points to the actual data, including before Covid-19, when refined products volume in California and volumes on the SFPP pipeline system were in decline.

For cost of service, SFPP states Pilot Shippers claimed numerous elements appear to be overstated. SFPP counters this, stating the information in AL 49-O is consistent with AL 44-O and AL 46-O, both of which were accepted by the Commission. Further SFPP states Pilot Shippers do not offer further elaboration of how such elements are, in fact, overstated, and that such an unsupported statement should not serve as a basis for rejecting AL 49-O, which meets all of the requirements of Section 455.3.

## DISCUSSION

SFPP filed AL 49-O seeking approval to increase its system-wide, intrastate rates by 10 percent in accordance with provisions of Public Utilities Code 455.3 and General Order 96-B, Energy Industry Rule 8.

In AL 49-O, SFPP sets forth financial justification for the 10 percent increase. These include a cost-of-service analysis for TY 2023 based on a 12-month base period from December 1, 2021, through November 30, 2022, covering operating expenses, rate base, operating expenses, depreciation, Allowance for Funds Used During Construction (AFUDC) and throughput.

We find that based on Pub. Util. Code Section 455.3 and General Order 96-B, Energy Industry Rule 8, SFPP may increase rates only by 10 percent at this time as requested in AL 49-O.

The 10 percent rate increase under Pub. Util. Code Section 455.3 is subject to refund, in the event the Commission should reject or modify any part of it in A.23-01-016.

### **COMMENTS**

Public Utilities Code section 311(g)(1) provides that this Resolution must be served on all parties and subject to at least 30 days public review. Any comments are due within 20 days of the date of its mailing and publication on the Commission's website and in accordance with any instructions accompanying the notice. Section 311(g)(2) provides that this 30-day review period and 20-day comment period may be reduced or waived upon the stipulation of all parties in the proceeding.

The 30-day review and 20-day comment period for the draft of this resolution was neither waived nor reduced. Accordingly, this draft resolution was mailed to parties for comments.

No comments were received.

### **FINDINGS**

1. SFPP filed AL 49-O requesting an interim 10 percent increase in system-wide intrastate rates in accordance with the provisions of Pub Utilities Code Section 455.3 and General Order 96-B, Energy Industry Rule 8.
2. Concurrently, SFPP has filed (A.) 23-01-016 where it seeks a rate increase of over 10 percent, specifically 12.91 percent.
3. SFPP is entitled to an advice letter-based rate increase, up to a 10 percent maximum, in accordance with Public Utilities Code Section 455.3 and General Order 96-B Energy Industry Rule 8, effective March 1, 2023.
4. Whether the rates requested in AL 49-O are just and reasonable pursuant to Public Utilities Code Section 451 shall be determined in A.23-01-016.
5. This rate increase is subject to refund pending the outcome of A.23-01-016.

### **THEREFORE, IT IS ORDERED THAT:**

1. The request of SFPP, L.P. in Advice Letter 49-O for an interim 10 percent rate increase system-wide for its intrastate pipelines effective as of March 1, 2023, as provided in Section 455.3 of the Public Utilities Code and GO 96-B Energy Industry Rule 8 is approved.

2. This increase shall be subject to refunds to shippers in the event the Commission should reject or modify any part of this 10 percent increase in subsequent proceedings as provided in Section 455.3 of the Public Utilities Code.
3. The 10 percent increase requested in AL 49-O and substantive arguments made in protests will be considered in A. 23-01-016.

This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on November 16, 2023; the following Commissioners voting favorably thereon:

/s/ RACHEL PETERSON

Rachel Peterson  
Executive Director

ALICE REYNOLDS  
President

GENEVIEVE SHIROMA

DARCIE HOUCK

JOHN REYNOLDS

KAREN DOUGLAS

Commissioners