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A.22-03-013, A.22-06-017
Exhibit No. P66 (MRT-0001)

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 (SOUTHERN CALIFORNIA)	Application 22-06-017
In the Matter of the Application of Crimson California Pipeline L.P. (PLC-26) for Authority to Establish a Memorandum Account to Track Costs Mandated by Assembly Bill (AB) 864 and to Impose a Surcharge for Recovery of Mandated AB 864 Costs	Application 22-03-013 (Consolidated)

PREPARED ANSWERING TESTIMONY OF

MICHAEL R. TOLLETH

ON BEHALF OF

Phillips 66 Company

NOVEMBER 11, 2022

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I. INTRODUCTION AND SUMMARY

Q1. Please state your name, position, and business address.

A1: My name is Michael Tolleth. I am a Principal of The Brattle Group, an economic and management consultancy with offices in North America, Europe, and Asia Pacific. My business address is 7 Times Square, Suite 1700, New York, NY 10036.

Q2. Please summarize your professional experience and qualifications.

A2: I have nine years of experience as an economic consultant specializing in issues of regulatory finance and economics in the oil, natural gas, and utility industries. I have assisted clients and provided litigation support in matters involving cost of service, rate design, regulatory policy, market-based rates analysis, and commercial damages calculation in the midstream oil and gas sector. I have provided testimony before the California Public Utilities Commission ("CPUC" or the "Commission"), the Regulatory Commission of Alaska, the U.S. Federal Energy Regulatory Commission ("FERC"), and the Canada Energy Regulator in regulatory litigation matters concerning the rates of public utilities and common carriage pipelines. I have submitted expert reports and affidavits to those agencies and other regulatory bodies, including several related to FERC's regulation of oil pipeline ratemaking and reporting requirements. I hold an M.B.A. with concentrations in finance, economics, and statistics from the University of Chicago Booth School of Business. I also hold a B.S. in chemical physics from the University of California, San Diego. Additional details of my professional and educational background and a list of my testimonies and publications are provided in my resume, which is marked as Exhibit No.___(MRT-0002).

Q3. What is the purpose of this testimony?

A3: I have been asked by, Phillips 66 Company ("Phillips 66") to evaluate the reasonableness of the cost of service, throughput, and revenue estimates advanced by Crimson California Pipeline L.P. ("Crimson") and its witnesses in support of its June 30, 2022 Application to increase the rates it charges for CPUC-jurisdictional crude oil transportation on its Southern California ("SoCal") pipeline system, as amended by its August 26, 2022 Amended Application to request a 34.9 percent across-the-board increase to prior rates. In the course of this evaluation, I respond to the September 19, 2022 Direct Testimonies of Crimson witnesses Mr. Larry W. Alexander ("Alexander Testimony"), Mr. Robert L. Waldron ("Waldron Testimony") and Dr. Michael J. Webb ("Webb Testimony") in proceeding A.22-06-017.

I have also been asked by Phillips 66 to evaluate the reasonableness of Crimson's March 15, 2022 Application seeking to establish a memorandum account to track and a 3-year surcharge to recover the cost of certain system improvement projects required in response to California Assembly Bill (AB) 864 ("AB 864 Surcharge Application"). In the course of this evaluation, I respond to the August 5, 2022 Direct Testimonies of Crimson witnesses Mr. Alexander ("Alexander AB 864 Testimony") and Dr. Webb ("Webb AB 864 Testimony") in proceeding A.22-03-013.

Q4. What are your primary conclusions regarding Crimson's A.22-06-017 rate increase Application?

A4: Based on my evaluation of Dr. Webb's cost of service and revenue calculations, I conclude that the 34.9 percent general tariff increase Crimson seeks is not justified, as Dr. Webb's analysis is seriously flawed. Specifically Dr. Webb's cost of service estimate is grossly inflated due to

- the inclusion of unjustified and/or wholly unsupported Test Period adjustments and otherwise unrepresentative or non-recurring expense levels within the Test Period operating expenses, in violation of fundamental Test Period ratemaking principles;
- the inclusion in rate base of historical and forecasted capital expenditures that are unsupported and/or associated with projects or facilities that are not completed and for which it is not known and measurable when—if ever—they will become used and useful in the provision of Crimson's SoCal system transportation service;

- Dr. Webb's use of rate of return parameters that are excessive relative to those recommended by Phillips 66 witness Mr. Lee Upton.

Similarly, Dr. Webb's analysis of test period revenues is flawed in that it understates a reasonable and recurring Test Period throughput level, fails to account for the impact of higher oil prices on Crimson's PLA revenue, and ignores revenues Crimson receives from a transportation service (tariff PUC 109) whose costs are included in its cost of service, but whose rates are not a subject of its applied-for general rate increase in this proceeding.

After making adjustments to correct these fundamental and consequential flaws in Dr. Webb's analysis, I derive a Test Period cost of service (after necessary revenue credits) of $21.8 million, which is approximately $8.1 million lower than Dr. Webb's estimate. Similarly, my recommended estimate of Crimson's transportation revenues at pre-Application rates[1] applied to regular and recurring Test Period throughput levels is $23.0 million, approximately $0.6 million higher than Dr. Webb's estimate.

Comparing my recommended cost of service and revenue estimates reveals that Crimson's pre-Application rates would generate a 4.9 percent *excess* of revenue (*i.e.,* a cost of service over-recovery), which stands in stark contrast to the 33.9 percent revenue deficiency Dr. Webb purports to calculate as a justification for Crimson's proposed rate increase.

Q5. What are your primary conclusions regarding Crimson's A.22-03-013 AB 864 Surcharge Application?

A5: I conclude that Crimson's request to implement a Memorandum Account and related surcharge for the recovery of its AB 864-related costs is fundamentally inconsistent with the Commission's policies and precedent for implementing Memorandum Accounts and/or surcharges. The costs in question clearly represent capital investment in system improvement facilities and integrity and safety projects, which by their nature extend the useful life and improve the performance of Crimson's SoCal system facilities and provide benefits to customers over the remaining life of the system. Accordingly, in my opinion the standard and proper accounting treatment for such costs is for them to be capitalized on Crimson's balance sheet, and the corresponding proper ratemaking

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[1] By pre-Application rates, I mean the SoCal system rates Crimson charged prior to the 10 percent August 1, 2022 rate increase implemented in association with Advice Letter No. 50-O and Application No. A.22-06-017, which is the subject of this proceeding.

treatment is to include them in rate base when the projects are completed and become used and useful in the provision of Crimson's crude oil transportation service.

This is the opposite of Crimson's proposal, which seeks guaranteed dollar-for-dollar recovery over an accelerated 3-year period. Such a request is particularly egregious given that most of the improvement projects will not be completed and placed into service until sometime in 2024 or 2025. This not only violates established Commission policy and precedent but creates the potential for serious intergenerational inequities among shippers and violations of cost causation principles with respect to the recovery of long-lived capital improvement assets that are designed to provide benefits for shippers well into the future, and not just for the three years the surcharge is requested to be in effect.

Consequently, I recommend that the Commission reject Crimson's requested Memorandum Account and surcharge treatment of AB 864 system improvement costs and direct Crimson to seek recovery for such costs through inclusion in rate base as part of a general rate case filed at such time as it can demonstrate that the projects are used and useful.

Q6. How is the remainder of your testimony organized?

A6: I begin in Section II by briefly discussing the Base and Test Period framework I apply in evaluating and estimating Crimson's costs and revenues. Section III presents my analysis of throughput and revenue. Section IV contains my analysis and recommendations with respect to specific elements of Crimson's cost of service. Section V summarizes and the cost of service estimates and compares to revenue at pre-Application rates to reveal the estimated level of Crimson's cost-of-service over-recovery. Finally, Section VI addresses the issues relevant to Crimson's AB 864 Surcharge Application.

II. BASE AND TEST PERIOD FRAMEWORK FOR ESTIMATING REVENUE AND COST OF SERVICE

Q7. What Base and Test Period approach did Crimson employ to derive the 34.9 percent rate increase it seeks in its Amended Application?

A7: In the Application submitted June 30, 2022 (as amended August 26, 2022) and in Direct Testimony filed September 19, 2022, Crimson's witness relied on costs recorded during the period June 2021 through May 2022 ("Base Period") in estimating the SoCal system's cost of service and revenues at prior (pre-Application) rates.[2] Notably, Crimson's Base Period analysis—even incorporating all of Dr. Webb's rate of return assumptions—indicated a less than 1 percent difference between revenues and cost of service[3].

At Dr. Webb's direction,[4] Crimson and its witnesses define the "Test Period" to comprise the 12-month period following the Base Period and adjust Crimson's recorded Base Period operating expenses, rate base, and volumes to reflect levels Mr. Alexander expects to occur within that June 2022 – May 2023 Test Period.[5] Dr. Webb states that Test Period adjustments are necessary to ensure that the cost of service includes "those known and measurable expenses that Crimson reasonably expects to incur in the immediate future."[6] It is only after making numerous upward Test Period adjustments to Crimson's operating expenses and rate base and adjusting Test Period throughput (and therefore revenue) downward that Dr. Webb derives a 33.9 percent revenue shortfall for the SoCal system at its pre-Application rates.[7]

Q8. Do you agree with the approach Crimson's witnesses have taken in performing Test Period adjustments to Base Period costs and throughput?

A8: No. I accept the June 2021 through May 2022 Base Period as a reasonable starting point for observing Crimson's recorded costs and actual throughput leading up to the Application. However, I do not agree with Dr. Webb and Mr. Alexander's application of the "known and measurable" standard for Test Period adjustments. Specifically, it is my opinion that their narrow focus on costs Crimson "expects to incur" in their defined June 2022 – May 2023 time period is not compatible with well-established Test Period ratemaking principles. Further, it is my view that with respect to many of their proposed Test Period adjustments, Crimson's witnesses have failed to demonstrate that the cost changes are in fact "known and measurable."

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2 Alexander Testimony at 2:8-10; Waldron Testimony at 2:10-12; Webb Testimony at 7:11-14.

3 Exhibit No. MJW-003, Statement A.

4 Alexander Testimony at 2:10-11; Waldron Testimony at 2:12-14; Webb Testimony at 7:18-22.

5 Alexander Testimony at 8-10 (operating expenses), 11-12 (throughput), and 10-11 rate base additions.

6 Webb Testimony at 8:15-9:3.

7 Note that during discovery, Dr. Webb discovered and corrected an error in the level of Account 520 allocated corporate overhead expenses that had been included in his Base and Test Period operating expenses. He submitted a corrected version of his "SoCal 2022 COS Model," in which the purported revenue deficiency was 33.9 percent, rather than the 34.9 percent in the original model that was the basis for Crimson's requested rate increase in its Amended Application. *See* response to data requests P66-CRIMSON-4.1, included in Exhibit No.___(MRT-0003) and the Excel file Bates labeled CRIMSON22 002253, included in Exhibit No.___(MRT-0004).

Q9. Why do you say that Dr. Webb and Mr. Alexander's narrow focus on the June 2022 – May 2023 time period is not compatible with Test Period ratemaking principles?

A9: In a pipeline ratemaking context, Test Period estimates of revenues and cost of service should reflect the best possible estimate of the levels of costs and volumes that can be expected to prevail *on a recurring basis during the period the rates will be in effect*.[8] This is so that the pipeline's regulated rates will afford it the opportunity to recover its costs and earn the allowed rate of return on invested capital.

In a Test Period ratemaking regime, rates are not retroactively "trued up" to provide dollar for dollar recovery of cost. Rather, the rates are set prospectively so that the pipeline's actual costs (including an appropriate rate of return) will be recovered *in expectation*, meaning potential cost of service over-recoveries are no more probable than cost of service under-recoveries (and vice versa) over the time the rates are in effect.

Importantly, the rates set in this proceeding will remain in effect unless modified pursuant to another Application by Crimson or a complaint by shippers. Accordingly, if Crimson's estimates of expenses that it "expects to incur in the immediate future" exceed regular and recurring expense levels, the Test Period rates will be likely to systematically over-recover the pipeline's costs going forward. (Conversely, if Test Period cost estimates are lower than recurring cost levels, there could be a systematic under-recovery.) An example of this is Crimson's Test Period adjustment to its Asset Maintenance expenses. As discussed in Section IV.A.1 below, Crimson's Test Period estimate of Asset Maintenance expenses is based on a forecast of elevated system and tank integrity activities in Q4 of this year and the first five months of 2023, and produces an estimated expense level unlikely to recur based on the typical cycle of such activities.

Q10. Why do you say that Dr. Webb and Mr. Alexander have failed to demonstrate that their Test Period adjustments are known and measurable?

A10: The plain meaning of the words "known and measurable" suggests the existence of knowledge that can be quantified and substantiated. By contrast, as discussed in Section IV.A below, many if not most of the Test Period operating expense adjustments proposed by Mr. Alexander remain entirely

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8 *See*, *e.g.,* Arco Prod. Co., Mobil Oil Corp., & Texaco Ref. & Mktg. Inc., Complainants, No. 00-03-044, 2011 WL 2246059 (May 26, 2011), citing *Pac. Tel. & Tel. Co. v. Pub. Utilities Comm'n*, 62 Cal. 2d 634, 645 (1965). ("[T]he Commission uses historical data, known or forecast events, etc., with adjustment, 'to present as nearly as possible the operating conditions of the utility which are known or expected to obtain **during the future months or years for which the commission proposes to fix rates**.'"). Emphasis added.

unsubstantiated, even after direct requests in discovery for any supporting documentation and calculations he may have relied on in developing them. And, in some instances, Mr. Alexander has admitted that his proposed adjustments are no more than assumptions or informed speculation.[9]

III. THROUGHPUT AND REVENUE FOR THE SOCAL SYSTEM

III.A. Transportation Volumes and Revenue

Q11. What throughput values did Dr. Webb use to develop his estimate of Crimson's Test Period transportation revenues on the SoCal based on its pre-Application rates?

A11: Dr. Webb used intrastate volumes totaling 28,078,425 barrels to develop his estimate of Test Year revenues, which he derived based on Mr. Alexander's recommendation for a Test Period adjustment consisting of a 4 percent reduction to actual Base period throughput.[10] Dr. Webb multiplied the resulting Test Period volumes by the pre-Application effective transportation rates (*i.e,* the rates in effect prior to Crimson's 10% rate increase that became effective August 1, 2022 pursuant to A.22-06-017 and Advice Letter No. 50-O) for Crimson's SoCal system routes to project Test Year revenue of $22.4 million.[11]

Q12. How did Dr. Webb develop the 28.1 million barrels of CPUC jurisdictional throughput that was used in estimating Test Year revenues?

A12: Dr. Webb began with the actual SoCal system transportation volumes by route that Crimson recorded during the June 2021 – May 2022 Base Period, which totaled 29,248,359 barrels.[12] He made a normalizing adjustment to Base Period volumes to redistribute Northam gathering volumes to the trunk volumes, because the Northam Gathering tariff (CPUC 105.5) was cancelled and the Northam Trunk tariff became a through tariff including gathering and trunk services (CPUC 104.6).[13] The normalizing adjustment did not change the total volume level, but altered the corresponding revenue due to the change in applicable tariff rates. Then, based on Mr. Alexander's

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[9] In addition to the examples discussed in Section IV.A below, consider Mr. Alexander's admission that "Crimson's Test Period adjustment to GL 7150 (property taxes) is based on the *assumption* that real property taxes will continue to rise in the Test Period." *See* the response to request P66-CRIMSON-4.31, included in Exhibit No.___(MRT-0005).

[10] Exhibit No. MJW-003, Workpaper 2, Line 36. Webb Testimony at 67:12-13.

[11] Webb Testimony at 68:11-14.

[12] Webb Testimony at 68:3. Exhibit No. MJW-003, Workpaper 2 at Line 36.

[13] Webb Testimony at 66:18-67:4. Exhibit No. MJW-003, Workpaper 2 at Line 31-34.

recommendation, Dr. Webb decreased the Base Period volume for each route by 4 percent to arrive at the 28,078,425 barrels Test Period throughput.[14]

III.A.1. Evaluation of Dr. Webb's Base Period Throughput and Revenue Calculations

Q13. Were you able to verify Dr. Webb's Base Period volume calculation of 29.2 million barrels and corresponding Base Period pre-Application rate transportation revenue of $22.8 million?[15]

A13: Yes. In his testimony, Dr. Webb described his process of matching tariff route numbers to the origin and destinations listed in Crimson's published tariffs and summing all volume entries labelled the same tariff and routes to calculate volume by tariff and routes.[16] In addition to Workpaper 2 in Exhibit No. MJW-003, Dr. Webb also provided an electronic workpaper that includes raw volume data provided by Crimson and his matching process and resulting volume by month, tariff and route number from January 2020 to May 2022.[17] Given these information, I replicated the same tariff matching process Dr. Webb performed, and was able to match all the volume and revenue amounts by tariff and route in Workpaper 2 in Exhibit No. MJW-003.[18]

Q14. Do you agree with Dr. Webb's methodology for normalizing Northam Gathering volumes in the Base Period?

A14: Yes. Crimson's Northam Gathering tariff (PUC 105) became defunct during the Base Period, while at the same time transportation under the Northam Trunk tariff (PUC 104) transitioned to providing through transportation that subsumed the prior Northam Gathering movements.[19] Since Northam Gathering volumes observed during the Base Period will not recur under that tariff, it is logical to

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[14] Webb Testimony at 67:10-13.

[15] Exhibit No. MJW-003, Workpaper 2, at Line 36.

[16] Webb Testimony at 65:9-66:5.

[17] Responses to data requests P66-CRIMSON-3.7 and P66-CRIMSON-3.8, included in Exhibit No.___(MRT-0006). See also the Excel file Bates labeled CRIMSON22 001319, included in Exhibit No.___(MRT-0007).

[18] Note that there are differences in specific routes' volume assignment in WP2 of Exhibit No. MJW-003 and CRIMSON22 001319. For example, CRIMSON22 001319 includes volumes on Route 02 from Stewart Station to World Oil Refinery South Gate on East Crude System Line 700 Trunk (PUC 91), but WP2 of Exhibit No. MJW-003 does not. CRIMSON22 001319 also has different volumes on Route 02 and 03 of Northam Trunk (PUC 104) when compared with WP2 of Exhibit No. MJW-003. I was able to verify all Base Period volume and revenue amounts in WP2 of Exhibit No. MJW-003.

[19] *See* Crimson CPUC Tariff No. 105.5 and 104.6 contained in Exhibit No.___(MRT-0008).

normalize by reassigning them to the now-effective Northam Trunk through-rates provided under Crimson's tariff PUC 104.

Q15. Were the actual volume levels observed during the June 2021 – May 2022 Base Period affected by any factors that are not expected to persist in the future?

A15: Yes. Two incidents occurred during the Base Period that affected volume and revenue levels on Crimson's SoCal pipeline, but are not expected to persist in the future. First, an oil spill occurred at the Beta Offshore production site and pipeline owned by Amplify Energy on October 2, 2021,[20] which interconnects with Crimson's THUMS system that receives crude oil from Beta for further transportation and delivery to LA refineries.[21] According to various Board of Directors meeting presentations and 2022 budget document from Crimson, **[BEGIN HC PROT]** [redacted] **[END HC PROT]** Second, another oil spill happened on DCOR LLC's pipeline near the Huntington Beach area around December 26, 2022.[23] **[BEGIN HC PROT]** [redacted]

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[20] *See* "Southern California Oil Spill", Amplify Energy, at https://www.amplifyenergy.com/investor-relations/press-releases/press-release-details/2021/Southern-California-Oil-Spill/default.aspx.

[21] Response to data request P66-CRIMSON-4.25, included in Exhibit No.___(MRT-0009).

[22] *See* documents Bates stamped CRIMSON22 002561-002652 at 002590, CRIMSON22 002744-002844 at 002778, included in Exhibit No.___(MRT-0032). *See* also, CRIMSON22 003657-003663 at 003658, included in Exhibit No.___(MRT-0010).

[23] *See* "State Officials Investigating Another Oil Pipeline Leak Off Orange County Coast", Times of San Diego, at https://timesofsandiego.com/crime/2021/12/26/state-officials-investigating-another-oil-pipeline-leak-off-orange-county-coast/.

[24] *See* CPUC 104 Tariff, at https://www.crimsonmidstream.com/assets/docs/104.7.pdf. *See* also, CRIMSON22 003657-003663 at 003658, included in Exhibit No.___(MRT-0010).

[25] *See* documents Bates stamped CRIMSON22 002653-002743 at 002678, included in Exhibit No.___(MRT-0032). *See* also, CRIMSON22 003657-003663 at 003658, included in Exhibit No.___(MRT-0010).

[redacted] **[END HC PROT]** Accordingly, as discussed further below, I believe a regular and recurring Test Period level of SoCal system throughput should incorporate an adjustment to reflect the impact of these outages on actual volumes observed during the relevant periods.

III.A.2. Mr. Alexander's Misleading Discussion of SoCal System Volume Trends

Q16. What is Mr. Alexander's rationale for deriving his Test Year throughput recommendation?

A16: Mr. Alexander highlights year-over-year declines in the SoCal system's total throughput for the period 2015-2018, and then conspicuously skips directly to the Base Period volume level, noting that it is 45.4 percent lower than annual 2015 volumes and implying that this represents a sustained decline of 9.2 percent for year.[27] He also notes that field production of crude oil in CA as a whole had been decreasing annually by about 5 percent on average before the COVID-19 pandemic, then decreased by 9 percent in 2020 and 5 percent in 2021.[28] On the basis of this analysis, he concludes that projecting a 4 percent decrease in Test Period volumes relative to the Base period is "a conservative assumption."[29]

Q17. Do you agree Mr. Alexander's characterization of how volumes on the SoCal system have evolved over the past several years?

A17: Not entirely. While there has been declining volume trends on the SoCal system, it has not been as persistent or as severe as Mr. Alexander indicated in his testimony. Mr. Alexander has implied from his annual volume percent change calculations that there has been an uninterrupted trend of declining system-level throughput on the SoCal system from 2015 through the present.[30] However, by aggregating Crimson's system throughput on a monthly level and looking at the 12-month rolling total, I observe a different story. As shown in Figure 1, Crimson's system volume actually

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26 *See* document Bates stamped CRIMSON22 002744-002844 at 002789-2790, included in Exhibit No.___(MRT-0032).

27 Alexander Testimony at 4:11-5:4 (incl. n. 7) and 11:9-10.

28 Alexander Testimony at 11:10-14.

29 Alexander Testimony at 11:13-14.

30 Alexander Testimony at 11-12.

recovered to some extent in 2018-2019, with the return to a declining trend coinciding with the onset of the pandemic in the spring of 2020.[31] **[BEGIN HC PROT]**

[redacted]

[END HC PROT]

It is true that the downward trend in total SoCal system volume has continued through the recent past. However, as discussed above, that is at least in part due to the impact of certain non-recurring events. Specifically, as mentioned in Section III.A.1, some of the apparent decline since late 2021 to 2022 can be attributed to the non-recurring Beta and DCOR outages. Figure 1 also identifies the corrected volume trend in light blue, by adding back the expected volume recovery from the Beta and DCOR outages on a monthly basis. **[BEGIN HC PROT]** [redacted]

[31] **[BEGIN HC PROT]** [redacted] **[END HC PROT]** *See* CRIMSON22 002459-002560 at 002490, included in Exhibit.___(MRT-0032).

[redacted]

[END HC PROT]

As this evidence indicates, Mr. Alexander's characterization of the trends in Crimson's SoCal system throughput is overly simplistic and potentially misleading. While declines have occurred, the trend has not been as persistent or severe as Mr. Alexander suggests, and is partially explained by particular circumstances that are not expected to persist or recur going forward.

III.A.3. Test Period Volume and Transportation Throughput Recommendation

Q18. What approach do you recommend for deriving Test Period annual throughput in this proceeding?

A18: I recommend deriving Crimson's Test Period volumes in a three-step process starting with the actual recorded volumes that are known at this time.

Step 1: Any Northam gathering volumes should be redistributed to the trunk volumes, because the Northam Gathering tariff (CPUC 105.5) was cancelled and the Northam Trunk tariff became a through tariff including gathering and trunk services (CPUC 104.6). This is the same Base period normalizing adjustment that Dr. Webb made.

Step 2: It is appropriate to take into account how volumes may change beyond the Base Period when attempting to estimate a representative recurring level of throughput moving forward. I have considered two alternative approaches.

- The first alternative begins with actual Base Period volumes (totaling 29.2 million barrels system-wide) and accepts Mr. Alexander's 4% downward adjustment (bringing the system-wide total to 28.1 million barrels). Although in my opinion, Mr. Alexander has not provided any evidence that this decline is known and measurable, I acknowledge that available evidence suggests some continuing downward trend in SoCal system volumes, even independent of the non-recurring events discussed in Section III.A.1 above. I call this alternative "Adjusted Base Period" approach.

- For the second alternative, I rely on the available updated volumes post-dating the Base Period to derive actual volumes by route for the last twelve months' worth of available volume data available on Crimson's system, (October 2021 – September 2022), which total 27.8 million barrels on a system-wide basis. I call this the "Adjusted Oct21-Sep22" approach.

Step 3: Regardless of which alternative is used in Step 2 (either the Adjusted Base Period or Adjusted Oct21-Sep22), these volumes should be further adjusted for the nonrecurring impact of the Beta and DCOR outages by adding back expected volume in respective routes in months that were impacted by the outage. As discussed in Section III.A.1, **[BEGIN HC PROT]** [redacted] **[END HC PROT]**

Q19. How do you implement the adjustment in Step 3?

A19: To model the Beta and DCOR outage volume for either of my alternative volumes scenarios (*i.e.*, the Adjusted Base Period or Adjusted Oct21-Sep22 approach), I first identify the specific system and tariff rate that applies to the transportation movements impacted by each outage: Beta outage affects the THUMS system (PUC 102) and DCOR outage affects Route 04 of the Northam Trunk system (PUC 104) that originate from Huntington Beach Fort Apache.[32] Then, based on the outage start dates discussed in Section III.A.2, I set October 1, 2021 as the Beta outage start date, and December 31, 2021 as the DCOR outage start date. For the period from the respective outage start

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[32] See "CPUC 102.6 – THUMS System", Crimson Pipeline LLC, at https://www.crimsonmidstream.com/assets/docs/102.6.pdf, accessed as of 11/10/2022 and "CPUC 104.7 – Northam Trunk", Crimson Pipeline LLC, at https://www.crimsonmidstream.com/assets/docs/104.7.pdf, accessed as of 11/10/2022. Note that the route number changes in different tariff versions and adjustments are applied to Route 04 because Crimson's volume data suggested that Route 04 originated from "HBFTAPACHE". See CRIMSON22 001319, included in Exhibit No. MRT-0007. See also Tolleth Volume Workpapers, included in Exhibit No. MRT-0011.

dates to the relevant end date (either May 30, 2021 for the Adjusted Base Period alternative or September 30, 2021 for the Adjusted Oct21-Sep22 alternative), **[BEGIN HC PROT]** [redacted] **[END HC PROT]**

Q20. What Test Period throughput level do you derive using this approach?

A20: Using the Adjusted Base Period approach (*i.e.*, accepting Mr. Alexander's 4 percent decrease and applying the Northam Trunk normalization and Beta / DCOR correction, I derive Test Period throughput of 29,292,725 barrels, which is 1,214,300 barrels or 4.3 percent higher than Dr. Webb's Test Year throughput projection.

Alternatively, using Adjusted Oct21-Sep22 alternative (and applying a corresponding Northam Trunk normalization and Beta and DCOR correction), I derive Test Period throughput of 29,648,752 barrels, which is 1,570,328 barrels or 5.6 percent higher than Dr. Webb's Test Year throughput projection.

Q21. What is the Test Period revenue that corresponds to your Test Period throughput estimates?

A21: Using the Adjusted Base Period approach described above, I derive Test Period revenue of $23,191,678, which is $823,207 or 3.7 percent higher than Dr. Webb's Test Year revenue projection.

Using the Adjusted Oct21-Sep22 approach, I derive Test Period throughput of $22,975,987, which is $607,516 or 2.7 percent higher than Dr. Webb's Test Year throughput projection. Figure 3 below summarizes the Test Period throughput and revenue corresponding to the Adjusted Base Period and Adjusted Oct21-Sep22 approaches.

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[33] See Tolleth Volume Adjustment Workpaper for step-by-step calculations in tab named "Volume Adj_Input", included in Exhibit.___(MRT-0011).

FIGURE 3
TEST PERIOD VOLUME AND REVENUE
USING ADJUSTED BASE PERIOD AND ADJUSTED OCT21-SEP22 ALTERNATIVES

Approach	Actual Volume (bbl)	4% Downward Adjustment (bbl)	Beta & DCOR Correction (bbl)	Adjusted Volume (bbl)	Revenue @ Adjusted Volume
[1]	[2]	[3] = [2] x -4%	[4]	[5]=[2]+[3]+[4]	[6]
Adjusted Base Period	29,248,359	(1,169,934)	1,214,300	29,292,725	$23,191,678
Adjusted Oct 21-Sep 22	27,787,852	N/A	1,860,900	29,648,752	$22,975,987

Source: Tolleth Volume Workpaper, included in Exhibit.___(MRT-0011).

Q22. Which approach to determining Test Period throughput do you recommend be adopted to determine Crimson's SoCal system rates in this proceeding?

A22: In my opinion, it is preferable to rely as much as possible on actual historical data—appropriately adjusted to account for known and measurable impact of identifiable non-recurring events—rather than accepting Mr. Alexander's speculative uniform 4 percent downward adjustment to barrels on all routes. Accordingly, I recommend the Commission rely on the results of the Adjusted Oct21-Sep22 approach (utilizing appropriate adjustments to remove the temporary non-recurring impact of the outage events), which corresponds to $22.98 million in Test Period revenue (*i.e.*, the lower revenue number in column [6] of Figure 3).

III.B. PLA VOLUMES AND REVENUE

Q23. What is Pipeline Loss Allowance (PLA) Revenue and how does it affect Crimson's Cost of Service?

A23: Pipeline Loss Allowance is a percentage reduction to the amount of barrels tendered on portions of the SoCal system that has to be delivered by the pipeline owner. The percentage applied in Crimson's case is 0.25 percent.[34] This percentage is to account for losses that typically occur in the system, for example due to evaporation or measurement accuracy. It must be noted that on occasions, these pipeline losses can be negative (gains). Pipeline owners are able to monetize the difference between the PLA and actual gains or losses. Mr. Alexander notes in his testimony that in general actual average losses have been lower than PLA,[35] and as such this difference acts as a source of revenue for Crimson. According to Mr. Alexander, the price at which Crimson can sell

34 Alexander Testimony at 5:8

35 Alexander Testimony at 6:11-12

its retained PLA barrels is based on the "average of posted prices for Midway Sunset Crude oil, adjusted for gravity, less a market differential."[36]

Given that PLA is a significant source of revenue for Crimson—SoCal system PLA Revenue was $6.9 million during the Base Period[37]—and that such revenue is generated as a direct result of Crimson operating its pipeline system to provide crude oil transportation, it is appropriate to treat this revenue as a credit against (*i.e.*, a reduction from) the total system cost of service that must be recovered in the form of tariffed transportation rates. Consequently, an increase (decrease) in the level of the PLA revenue credit (or the similar credit applied to other sources of non-transportation revenue) implies—all else equal—a lower (higher) revenue requirement attributable to Crimson's base transportation rates that are at issue in this proceeding.

Q24. How does Crimson develop its estimate of Crimson's Test Period PLA Revenue?

A24: Dr. Webb and Mr. Alexander start with the actual SoCal system PLA revenue of $6.9 million that Crimson achieved during the Base Period and apply a 4 percent reduction, resulting in a Test Period PLA estimate of $6.7 million.[38] This same simple proportional adjustment is directly based on Mr. Alexander's projection of a 4 percent decrease in transportation volumes.[39] It is the same adjustment Dr. Webb applies to other forms of Crimson's non-transportation revenue, namely CPUC Fees, account services, tank gauging, and water penalty, which cumulatively accounted for $0.4 million of revenue during the Base Period.[40]

Q25. Do you agree with Dr.Webb's methodology for calculating Test Period PLA Revenues?

A25: No, I do not agree with Dr. Webb's methodology. There are two main issues with his approach. The first is that the 4 percent reduction is applied to Base Period revenue which fails to account for the temporary and non-recurring impact on SoCal system volumes of the two oil releases and associated production outages described in Section III.A.1.

The second issue with this methodology is that it fails to account for changes in the crude oil prices at which Crimson can convert retained PLA barrels to revenue.[41] Changes in crude oil prices—such

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36 Alexander Testimony at 6:16-17

37 Alexander Testimony at 6:17; *See* document Bates stamped CRIMSON22 001321, included in Exhibit No.__(MRT-0012)

38 Webb Testimony at 64:13-17; Alexander Testimony at 6:17-18 and 25:2-3.

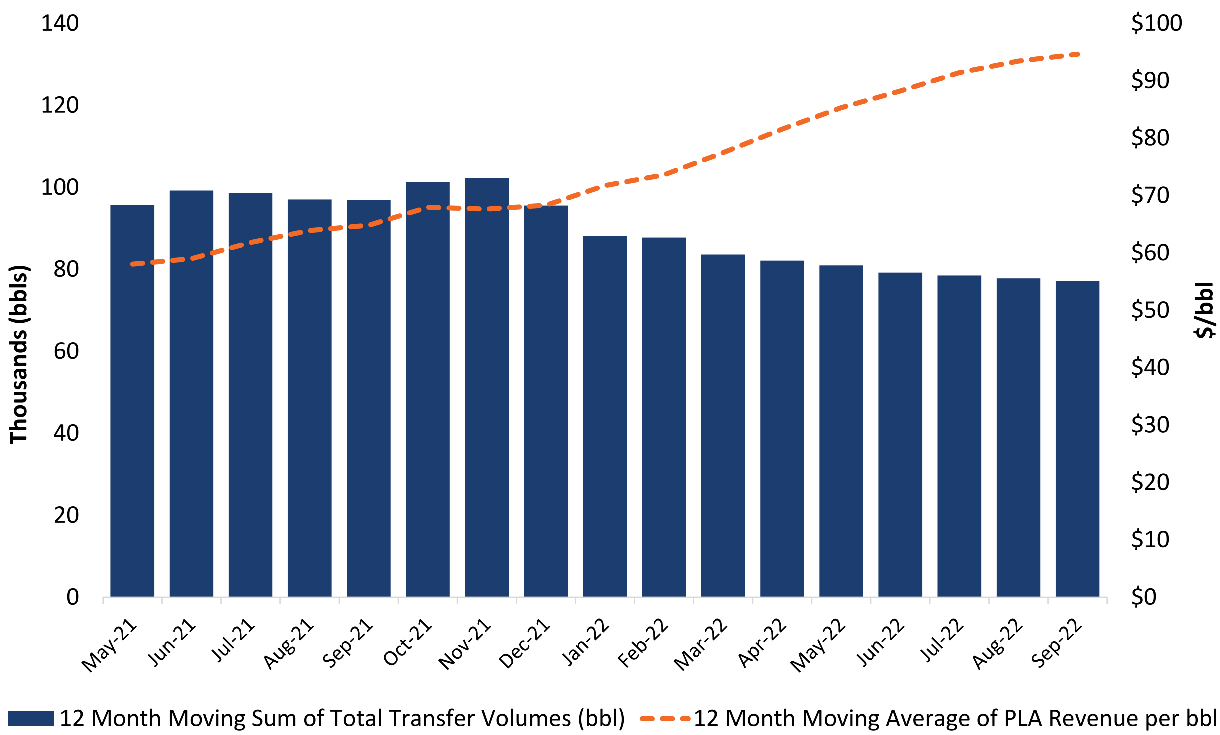
39 Alexander Testimony at 24:2-3.

40 Webb Testimony at 64:12-17.

41 Alexander Testimony at 6:15-16

as the substantially increased prices observed starting in the latter part of the Base Period and persisting to the present—have a direct impact on Crimson's PLA revenue. However Dr. Webb's approach focuses only on a projected post-Base Period change in PLA barrels going forward, while still implicitly valuing those volumes at the weighted average oil prices that prevailed during the June 2021 – May 2022 period. As shown in Figure 4, the average revenue per barrel (weighted by retained PLA volumes) that Crimson achieved on its SoCal system has risen steadily throughout and beyond the Base Period, despite modest declines in retained PLA barrels over the same period.

FIGURE 4: BASE PERIOD TOTAL TRANSFER VOLUMES VS. WEIGHTED AVERAGE REVENUE PER BARREL



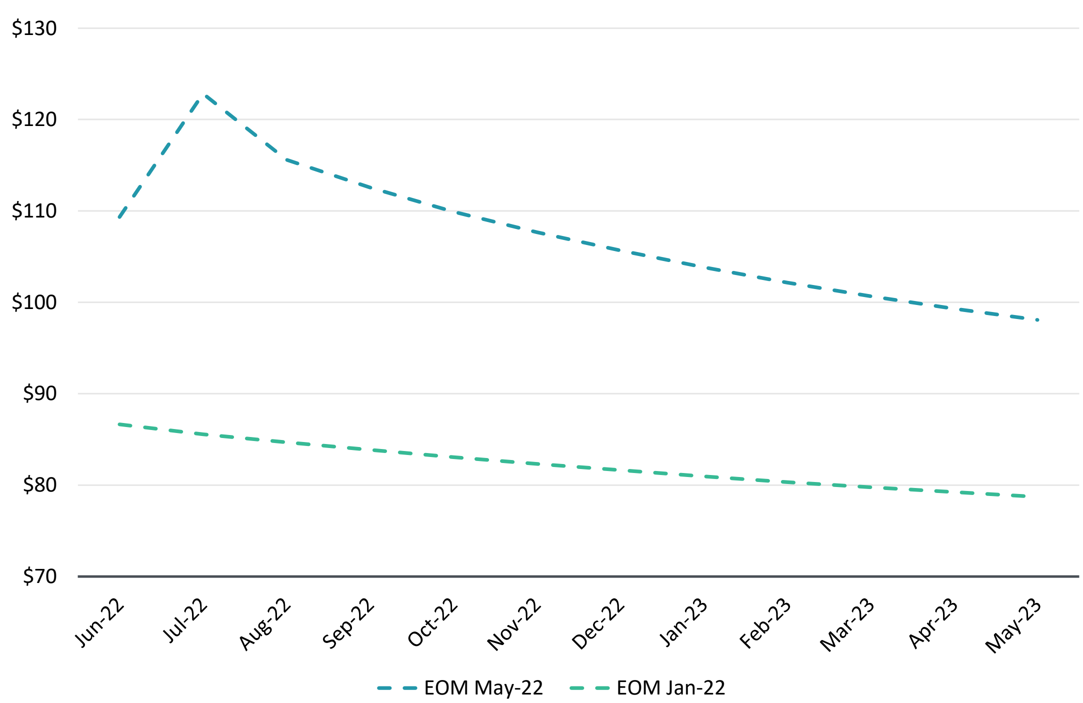
Source: Tolleth PLA Revenue Workpaper, included in Exhibit.___(MRT-0013).

Q26. Is there any additional evidence that Dr. Webb's failure to account for changes in crude oil prices results in a downward biased estimate of PLA Revenue for the Test Period?

A26: Yes. **[BEGIN HC PROT]** [redacted]

[redacted] **[END HC PROT]** I took 12 months of forward ICE Brent prices as of the 31st May 2022, and discounted it by $5 per barrel. This results in a simple average price of $102 per barrel[43] and represents a 29 percent increase in the average applicable price versus **[BEGIN HC PROT]** [redacted] **[END HC PROT]**

FIGURE 5: ICE BRENT JUN-22 TO MAY-23 BRENT STRIP PRICES AS OF JAN 2022 AND MAY 2022 ($/BARREL)



%

Source: Tolleth PLA Revenue Workpaper, included in Exhibit.___(MRT-0013).

Q27. What approach do you recommend for deriving Test Period PLA revenue in this proceeding?

A27: In parallel to my analysis of Test Period transportation volumes for the SoCal system, I consider and present two alternative approaches estimating a representative Test Period level of PLA

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[42] See documents Bate Stamped CRIMSON22 003657-003663 at 003658 included in Exhibit No.___(MRT 0010).

[43] *See* Tolleth PLA Revenue Workpaper, included in Exhibit.___(MRT-0013).

[44] *See* documents Bate Stamped 003657-003663 at 003658 included in Exhibit No.___(MRT-0010).

Revenues. Both approaches first build on Dr. Webb's method by proportionally applying the same recommended adjustments in the base period to the throughput to PLA revenues. However, my recommended change in throughput levels accounts for the Beta and DCOR outages as addressed in Section III.A.3 above, which resulted in an upward revision to Dr. Webb's Base Period throughput value. Furthermore, given Dr. Webb's failure to account for changes in crude oil prices, I recommend additional adjustments that are proportional to price changes, as both components are integral to the PLA revenue calculations.

Q28. Please explain the calculations and results for the two alternative approaches you consider for deriving Test Period PLA Revenue.

A28: To illustrate the methodology, I will begin by addressing the "Adjusted Base Period" approach outlined in Section III.A.3. I take the $6.9 million PLA revenue achieved during June 2021 to May 2022[45] and multiply by the proportional adjustment in transportation volumes recommended in Section III.A.3. This first step increases Crimson's Base Period PLA revenue by $10,549. The second step accounts for changes in forward Brent crude prices by further by multiplying the revised Crimson Base Period PLA revenue by the ratio between Crimson's achieved weighted average revenue per barrel **[BEGIN HC PROT]** [redacted] **[END HC PROT]** and a volume-weighted average Brent price.[46] The Brent prices in question are the 12 months of forward ICE Brent prices as of May 31, 2022 weighted by the monthly "transfer volumes"[47] provided by Crimson.[48] I discount this figure by $5 resulting in a price of $103 per barrel.[49]

Taken together these two proportional adjustments—one for the expected change in volumes and one for the expected change in oil prices—produce a Test Period PLA revenue credit of $8.4 million.[50]

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[45] Response to P66-CRIMSON-3.9, P66-CRIMSON-3.10, P66-CRIMSON-5.1 included in Exhibit No.___(MRT-0016); Excel file Bates labeled 001321, included in Exhibit No.__(MRT-0012); Excel file Bates labeled 001566, included in Exhibit No.__(MRT-0015); Excel file Bates labeled 003566, included in Exhibit No.__(MRT-0014).

[46] *See* Tolleth PLA Revenue Workpaper, included in Exhibit.___(MRT-0013).

[47] Crimson's data uses the term "Transfer Volumes" to refer to the retained PLA barrels adjusted for actual pipeline gains and losses. This is the quantity that is converted to PLA revenue at the applicable crude price, and appears to have been referred to in earlier data as "Earned PLA & Gain/Loss".

[48] Response to P66-CRIMSON-3.9, P66-CRIMSON-3.10, P66-CRIMSON-5.1 included in Exhibit No.___(MRT-0016); Excel file Bates labeled 001321, included in Exhibit No.__(MRT-0012); Excel file Bates labeled 003566, included in Exhibit No.__(MRT-0014).

[49] *See* Tolleth PLA Revenue Workpaper, included in Exhibit.___(MRT-0013)

[50] Tolleth Cost of Service Model at WP2, included in Exhibit No.___(MRT-0017).

Q29. Does the same methodology apply with respect to your recommended Adjusted Oct21-Sep22 approach for estimating Test Period volumes?

A29: Yes. The same two step proportional adjustment to actual Base Period PLA revenue applies in relation to the "Adjusted Oct21-Sep22" approach discussed in Section III.A.3. However, the volume and price ratios applied differ based on the different time period.

The proportional volume adjustment in this scenario utilizes the ratio between the last 12 months throughput going back from September 30, 2022 (adjusted to remove the non-recurring impact of the Beta and DCOR outages) and Crimson's June-21 to May-22 throughput Section III.A.3. This increases Crimson's Base Period PLA Revenue by $95,206.

I then apply an adjustment for price that multiplies the adjusted PLA Revenue by the ratio between Crimson's achieved weighted average revenue per barrel during June 2021 to May 2022 **[BEGIN HC PROT]** [redacted] **[END HC PROT]** and the weighted average revenue achieved in the October 2021 to September 2022 period **[BEGIN HC PROT]** [redacted] **[END HC PROT]** The resulting Test Period PLA Revenue is $7.8 million.[52]

These calculations are laid out in my Cost of Service Workpapers, included in Exhibit No.___(MRT-0017). In both scenarios, the adjustment results in a greater Test Period PLA revenue than that incorporated in Dr. Webb's COS calculation, by 26 percent and 17 percent, for the Adjusted Base Period approach and the Adjusted Oct21-Sep22 approaches respectively.

Q30. Which calculation of PLA Revenue for the Test Period do you recommend be relied upon in determining Crimson's SoCal system cost of service and rates?

A30: As discussed in Section III.A.3 above, I recommend that the Commission rely on the Adjusted Oct21-Sep22 approach to establish Crimson's Test Period transportation volumes. Accordingly, I also recommend relying on the corresponding PLA Revenue credit of $7.8 million that arises from that approach.

Q31. Does Crimson have other non-transportation revenues besides PLA?

A31: Yes. As mentioned above, Crimson's other non-transportation revenues include CAL. P.U.C. Fees, which is 0.034% of pipeline transportation revenues, PUC Accounting Services, PUC Tank Gauging, and PUC Water Penalty. These non-transportation revenues constitute $366k revenue in

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51 *See* Tolleth PLA Revenue Workpaper, included in Exhibit No.___(MRT-0013).

52 Tolleth Cost of Service Model at WP2, included in Exhibit No.___(MRT-0017).

the Base Period of June 2021 to May 2022.[53] I adjusted these revenue categories proportionally based on the ratio of Test Period volume and Base Period volume, which is the same methodology that Dr. Webb used.[54]

III.C. PUC TARIFF 109 REVENUE

Q32. Does Crimson SoCal have other revenue sources that are not reported in current application?

A32: Yes. Crimson SoCal operates the PUC 109 tariffs, from Torrance Station and Sepulveda Vault to Phillips 66 Carson Refinery and Marathon Los Angeles Refinery,[55] which were first filed and became effective in January 2021. During the Base Period, **[BEGIN HC PROT]** [redacted] **[END HC PROT]** barrels of crude oil was transported under this tariff, corresponding to **[BEGIN HC PROT]** [redacted] **[END HC PROT]** of pipeline transportation revenue. Looking at the last twelve months of available data indicates that approximately **[BEGIN HC PROT]** [redacted] **[END HC PROT]** were transported under the PUC 109 tariff, corresponding to **[BEGIN HC PROT]** [redacted] **[END HC PROT]** of transportation revenue from October 2021 to September 2022.[56]

Q33. Did Dr. Webb include these volumes or revenues within his calculation of SoCal system transportation revenue at pre-Application rates, which he used to derive Crimson's purported 33.9 percent revenue deficiency?

A33: No. The transportation rates under the PUC 109 tariffs are not a subject of Crimson's proposed rate increase in this proceeding, and were not increased by 10 percent along with the other SoCal system tariff rates effective August 1, 2022. Accordingly, Dr. Webb has not included the volumes in his calculation of transportation revenue at pre-Application rates.

Q34. Is it necessary to account for the transportation revenues Crimson receives from its SoCal system PUC 109 tariff when comparing pre-Application revenue to the SoCal system cost of service?

A34: Yes. The costs Crimson incurs to provide the PUC 109 tariff service are included within its SoCal system cost of service. Therefore, if the revenues received for that service are not accounted for,

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53 Exhibit No. MJW-003, Workpaper 2.

54 See Tolleth Cost of Service Model at WP2, included in Exhibit No.___(MRT-0017).

55 CPUC 109.0 Tariff, at https://www.crimsonmidstream.com/assets/docs/CPUC_109.0_-_Torrance_Station_to_Sepulveda_Vault_.pdf

56 MRT Volume Workpaper, Exhibit No.___(MRT-0011). See also, response to data request P66-CRIMSON 6.5, included in Exhibit No.___(MRT-0018).

the transportation shipments on Crimson's other tariff routes will be unfairly assigned responsibility to cover costs that are properly attributable to the PUC 109 movements. Put simply, by *including* the costs of the Torrance to P66 and Marathon Refinery movements in his cost of service, but *excluding* the revenues, Dr. Webb artificially inflates his estimated revenue deficiency. Indeed, his proposed rate increase would incorporate a double recovery for Crimson of the portion of its cost of service that is properly attributable to the PUC 109 tariff.

To remedy this error, I recommend that a revenue credit be implemented to deduct the PUC 109 transportation tariff revenues from the total system cost of service. This is the same principle applied by Dr. Webb in crediting non-transportation revenue that is enabled by Crimson's cost of service so as not to unfairly impose too much cost on the system-wide transportation rates at issue in this proceeding.

Q35. What is the evidence that Crimson has included costs associated with the Torrance to P66 and Marathon Refinery tariff PUC 109 transportation movements in its cost of service?

A35: Crimson's AFE documents with AFE number 70972 and project name "Torrance to Carson Phillips 66 Opportunity" show that Crimson have incurred capital expenditures developing and constructing facilities and system modifications to "allow P66 to ship from Torrance to P66 Carson" and to increase volume and revenue on the SoCal system (under the tariff that became PUC 109).[57] These costs are recorded in Crimson's historical capital expenditures for a total of $4.8 million in CPIS additions and are included as part of the rate base incorporated in Dr. Webb's cost of service.[58] Accordingly, a revenue credit is needed to account for the revenues on PUC 109 that were enabled by these capital expenditures—and by that tariff route's share of the expenses Crimson incurs to operate the SoCal system.

Q36. What PUC 109 revenue credit do you recommend be implemented?

A36: In my Adjusted Base Period approach to deriving Test Period transportation volume and revenue, I credit the actual PUC 109 revenue from the Base Period, which is **[BEGIN HC PROT]** [redacted] **[END HC PROT]** Under my recommended Adjusted Oct21-Sep22 approach, I credit the actual

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[57] See response to data request P66-CRIMSON 6.5, CRIMSON22 001196-001206, included in Exhibit No.___(MRT-0018).

[58] *See* CRIMON22 001318 at Line No. 508 (entry corresponding to AFE Project 70972), included in Exhibit No.___(MRT-0019). *See also*, CRIMSON22 001319 at tab labeled "Raw Data", included in Exhibit No.___(MRT-0007).

PUC 109 revenue from that 12-month period, which is **[BEGIN HC PROT]** [redacted] **[END HC PROT]**

IV. CRIMSON'S SOCAL SYSTEM COST OF SERVICE

Q37. What is your approach to estimating Crimson's Test Period cost of service for the CPUC-jurisdictional service at issue in this proceeding?

A37: I begin with Dr. Webb's cost of service model and make appropriate modifications to his calculations as described in the remainder of this section.[60]

As a preliminary matter, to minimize issues of controversy, I have accepted certain of Dr. Webb's assumptions and calculations and incorporated these unchanged in my cost of service model.[61] These include the amounts of gross carrier property, accumulated depreciation, and (as a result) net carrier property included in Crimson's SoCal system rate base as of year-end 2015, the method for calculating annual accrued depreciation going forward from that time, and the method for calculating the accrual and amortization of the allowance for funds used during construction (AFUDC).

Working within the structure of the model, I then implement changes to Crimson's inputs—including operating expense amounts, rate of return assumptions, capital additions and other adjustments to carrier property in service—as dictated by my analysis of these elements. That analysis is described in the following subsections: IV.A (Operating Expenses), IV.B (Rate Base), and IV.C (Return on Rate Base).

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59 Tolleth Volume and Revenue Workpapers at tab labeled "PUC 109 Volume and Revenue," included in Exhibit No.___(MRT-0011).

60 Dr. Webb's cost of service model consists of his electronic (Excel formatted) workpapers that were used to produce the cost of service calculations and supporting schedules contained in Exhibit No. MJW-0003. See response to data requests P66-CRIMSON-4.1, included in Exhibit No.___(MRT-0003). See also the Excel file Bates labeled CRIMSON22 002253, included in Exhibit No.___(MRT-0004).

61 My cost of service model consists of the electronic (Excel formatted) workpapers that support the cost of service calculations and supporting schedules included in Exhibit No.___(MRT-0017).

IV.A. Operating Expenses

Q38. How did Crimson's witnesses determine the Base Period operating expenses for the SoCal system that they presented in Crimson's Amended Application?

A38: Mr. Waldron provided Dr. Webb with Crimson's actual recorded operating expenses during the Base Period.[62] Mr. Alexander then reviewed this information and informed Dr. Webb that he could identify no instances of abnormal or non-recurring expense amounts within the Base Period recorded amounts.[63]

Q39. Did Mr. Alexander conduct any analysis or studies in determining that he could identify no abnormal or non-recurring expense levels in the Base Period?

A39: No. In response to a data request, Mr. Alexander stated that he performed no analyses or studies in reaching this conclusion, but rather relied solely on his experience in the oil pipeline industry and at Crimson.[64]

Q40. How do Mr. Alexander and Dr. Webb describe their approach to making Test Period adjustments to Crimson's operating expenses?

A40: Dr. Webb claims to have "relied on internal planning forecast and discussion with Mr. Alexander" to inform the Test Period operating expense adjustments.[65] For his part, Mr. Alexander states that he "identified changes from Base Period activity based on […] recent operating results; or a plan approved by management that will be implemented in the next several months."[66] Using this approach, Mr. Alexander purports to have identified Test Period operating expense adjustments with a net upward impact of $4.7 million. Together with the separate $750,000 adjustment that Dr. Webb makes with respect to rate case litigation expenses, Crimson seeks to implement a Test Period increase of $5.4 million, representing a 25% increase to the recorded Base Period operating expenses.[67] Figure 6 below summarizes these adjustments by Uniform System of Accounts (USoA) account.

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62 Waldron Testimony at 5:10-15.

63 Alexander Testimony at 7:5-16.

64 Response to data request P66-CRIMSON-4.27, included in Exhibit No.___(MRT-0020).

65 Webb Testimony at 9:7-10.

66 Alexander Testimony at 8:9-11.

67 Alexander Testimony at 8:12-10:11; Webb Testimony at 9:11-11:9.

FIGURE 6:
CRIMSON'S PROPOSED TEST PERIOD OPERATING EXPENSES ADJUSTMENTS

Regulatory Account	Base Period Total	Test Period Adjustment	Test Period Total
300 Salaries and Wages	$3,965,997	$310,976	$4,276,973
310 Materials and Supplies	$170,383	$123,724	$294,107
320 Outside Services	$3,850,566	$2,035,772	$5,886,338
330 Operating Fuel and Power	$1,035,451	$100,000	$1,135,451
350 Rentals	$2,783,954	$213,507	$2,997,461
390 Other Expenses	$391,246	-$219,509	$171,737
500 Salaries and Wages	$1,952,084	$660,659	$2,612,743
510 Materials and Supplies	$64,848	-$29,713	$35,134
520 Outside Services	$3,472,962	$897,357	$4,370,320
530 Rentals	$11,044	$539	$11,583
550 Employee Benefits	$706,169	$78,502	$784,671
560 Insurance	$1,953,614	$399,142	$2,352,756
580 Pipeline Taxes	$1,266,248	$191,304	$1,457,552
590 Other Expenses	$254,677	-$66,483	$188,194
Total	$21,879,244	$4,695,777	$26,575,021
Adjustment for Rate Case Litigation Expenses	$0	$750,000	$750,000
Grand Total			**$27,325,021**

Sources:
CRIMSON22 001323, included in Exhibit No.___(MRT-0021); Webb Testimony.

Q41. Did Crimson provide any documentation or calculations in support of these Test Period adjustments?

A41: No. In their testimony, Mr. Alexander and Dr. Webb provide only high level descriptions of the adjustments and cursory explanations for their rationale.[68] When asked in data requests to provide the "internal planning forecast" that he purports to have relied on, Dr. Webb referred to an Excel file, which had been previously produced in response to a different request that sought "support and explanations for how [Crimson's] Test Period operating expense projections are calculated for

[68] *Id.*

each [USoA] account and General Ledger code."[69] However, that Excel filed contained nothing more than hard-coded numbers for each of 115 general ledger (GL) accounts in the months June – December 2022, with monthly values for January – May 2023 (in each of those same 115 GL accounts) computed as averages of the blended historical and forecast monthly values in 2022.[70] Further, Crimson admitted that the hardcoded operating expense "projections" for June - December 2022 were not supported by copies of the underlying planning studies but rather were merely "provided by Mr. Alexander."[71]

Q42. How did you approach your evaluation of Crimson's proposed Base and Test Period operating expenses?

A42: Given the cursory explanations and lack of supporting documentation or calculations provided by Crimson's witnesses, and in light of the scope and breadth of the adjustments (to 115 individual GL accounts), I took a targeted approach to evaluating the reasonableness of Crimson's proposed operating expense levels, focusing on USoA and GL accounts where the levels of expense, the year-to-year variation in expense levels, and/or the Test Period adjustment proposed by Crimson was material.

For each of the accounts I examined, I compared expense levels in the Base Period to expenses over the time period 2017 to the present, which Crimson provided in discovery.[72] I did this to determine whether normalization is appropriate to remove the impact of non-recurring expenses or otherwise adjust the recorded amount to a regular and recurring expense level. As described below, I perform such normalizing adjustments with respect to Crimson's Asset Maintenance expenses (GL 6510) and Regulatory Compliance expenses (GL 6455), which are reported within USoA account 320 Outside Services.

Also, despite the fact that Crimson had already been asked to provide documentary support and detailed explanations of the rationale for its Test Period operating expense adjustments, I asked

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[69] Responses to data requests P66-CRIMSON-4.14 and P66-CRIMSON-2.20, included in Exhibit No.___(MRT-0022). *See also* the Excel file Bates labeled CRIMSON22 001323 HC PROT, included in Exhibit No.___(MRT-0021).

[70] *See* the Excel file Bates labeled CRIMSON22 001323 HC PROT, included in Exhibit No.___(MRT-0021). *See also* the response to data request P66-CRIMSON-2.20, included in Exhibit No.___(MRT-0022).

[71] Response to data request P66-CRIMSON-2.20, included in Exhibit No.___(MRT-0022).

[72] *See* the response to data request P66-CRIMSON-5.2, contained in Exhibit No.___(MRT-0023) and the Excel files Bates labeled CRIMSON22 002857-002862, contained in Exhibit Nos.__(MRT-0024, -0025, -0026, -0027, -0028, and -0029), which contain Crimson's detailed General Ledger accounting records for the years 2017-2021 and for January-September 2022.

targeted follow-up data requests seeking documents or information specifically pertaining to the expense accounts and adjustments that I examined in my targeted investigation. Based on the responses to these requests and my analysis of the historical expense data, I determined whether to accept Crimson's proposed Test Period expense adjustment and level in that particular instance, or to recommend an alternative level. I describe this process on an account by account basis over the remainder of this section.

Q43. What about the Test Period adjustments and expense amounts that were not specifically addressed in your targeted investigation?

A43: With respect to those adjustments that I did not specifically investigate (and do not address below), I have accepted Crimson's Test Period operating expense adjustments and amounts for purposes of my cost of service analysis. I have done this for the sake of efficiency and to minimize issues of controversy. However, my acceptance of these values for purposes of estimating Crimson's cost of service should not be interpreted to indicate that I find the amounts reasonable. Indeed, even though I have not explicitly rejected these adjustments in my calculations, I do not believe Crimson has articulated a valid rationale or provided adequate documentation and support for any such Test Period expense levels or adjustments.

IV.A.1. Account 320 Asset Maintenance Expense (GL 6510)

Q44. What were Crimson's Asset Maintenance expenses in the Base Period?

A44: Crimson recorded approximately $1,191,808 in GL account 6510 Asset Maintenance expenses during the Base Period.[73]

Q45. Did you perform a normalizing adjustment to Crimson's recorded Asset Maintenance expense levels?

A45: Yes. By comparing the expenses for June 2021 – May 2022 with annual totals for prior years (2017-2021), I determined that that $1,191,808 is too low to represent a regular and recurring level of Asset Maintenance expense for the SoCal system. I recommend normalizing this amount by adjusting it upward by $1,092,316 to $2,284,124, which is the average level of Asset Maintenance expense recorded on Crimson's SoCal system books over the 5-year period from 2017-2021.[74]

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73 *See* my operating expenses analysis workpapers contained in Exhibit No.___(MRT-0030).

74 *See* my operating expenses analysis workpapers contained in Exhibit No.___(MRT-0030).

Q46. Why do you believe the 2017-2021 five year average is a good estimate of a normalized recurring level of SoCal system Asset Maintenance expenses?

A46: Crimson's Asset Maintenance account includes expenses related to system integrity activities such as pipeline integrity inspection and remediation, tank inspection and maintenance, and corrosion inspection and mitigation. The costs of performing these activities can vary substantially from year to year, and are conducted pursuant to a formal Integrity Management Plan (IMP) that Crimson must file with the California State Office of the Fire Marshall.[75] Crimson's IMP establishes that the various assessment activities should be conducted on **[BEGIN HC PROT]** [redacted] **[END HC PROT]** and Crimson budgets its Asset Maintenance expenses accordingly.[77] Therefore, it is reasonable to assess regular and recurring cost levels for such activities based on a five year average of historical realized expenditures.

Q47. Is the year-to-year variability in Crimson's integrity management activities observable in its historical recorded expenses?

A47: Yes. As Mr. Waldron describes in his testimony, Crimson's Asset Maintenance project expenses are tracked as part of the company's authorization for expenditure ("AFE") process.[78] AFEs are categorized and their expenditures tracked in Crimson's general ledger. In a response to a data request, Mr. Waldron stated that "Asset Maintenance encompasses five (5) categories of activity and cost: Corrosion, Idle-Abandonment, Integrity Management (IM), Maintenance and Repairs, and Tank Maintenance."[79] Figure 7 below shows Crimson's actual recorded account 6510 Asset Maintenance costs in each of these five categories for calendar years 2017-2021 and for the Base Period. This clearly demonstrates that Crimson's Asset Maintenance spending—on a category-by-category basis and in aggregate—is not smooth over time, and that the timing of project spending can cause total expenses in a particular annual period to be unrepresentative of average spending over time.

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75 *See* response to data request P66-CRIMSON-4.35 and the documents Bates stamped CRIMSON22 003665-003921, included in Exhibit No.___(MRT-0031).

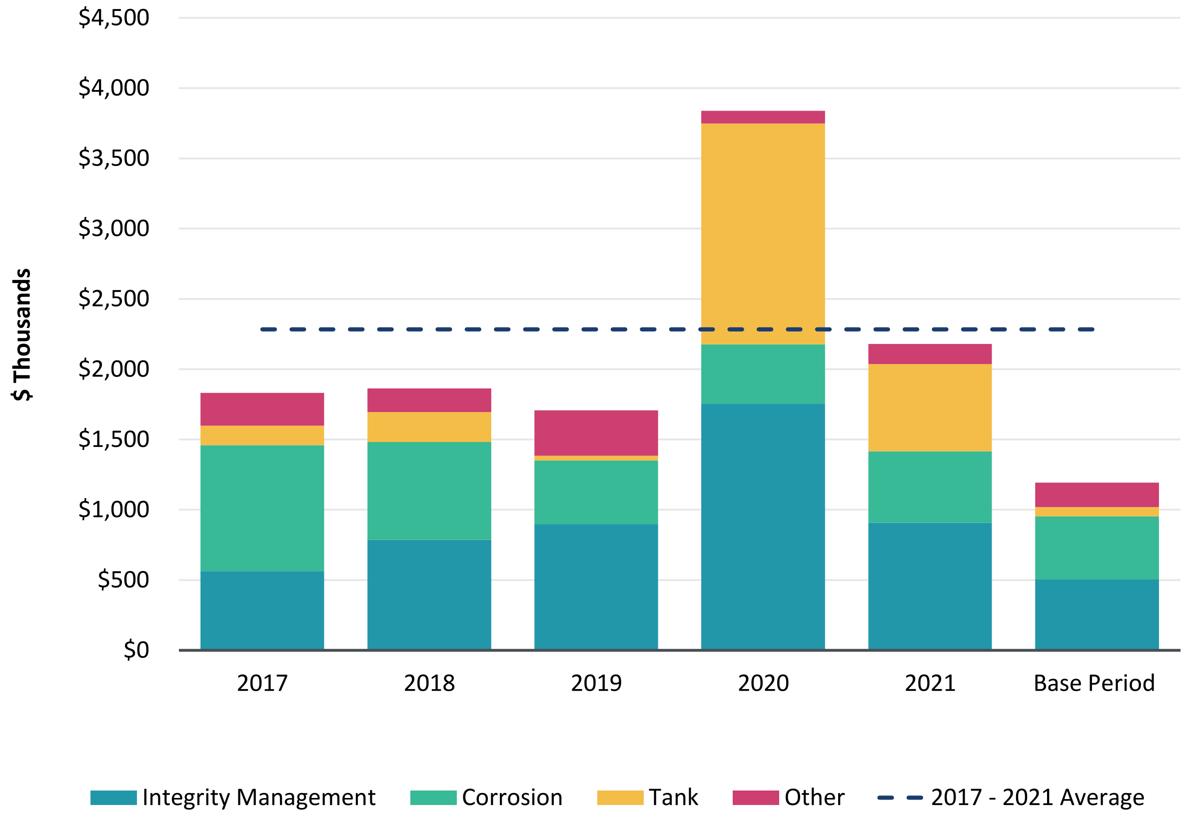
76 *See, e.g.,* document Bates stamped CRIMSON22 003665-003921 at 003675, included in Exhibit No.___(MRT-0031).

77 *See* response to data request P66-CRIMSON-2.1 and the document Bates stamped CRIMSON22 002561-002652 at 002643-44 and 002600, included in Exhibit No.___(MRT-0032).

78 Waldron Testimony at 7:17-21.

79 Response to data request P66-CRIMSON-4.24, included in Exhibit No.___(MRT-0033).

FIGURE 7
CRIMSON'S HISTORICAL ASSET MAINTENANCE EXPENSES BY CATEGORY



Sources: Exhibit No.___(MRT-0030).

Of note, this chart also incorporates (within the bars labeled "other") minor expense amounts (less than $100,000 total expense for a particular AFE) that were tracked with different AFE categories—such as "Business Development," "Reimbursable Projects," and "New Install or Asset Purchase"—as well as non-AFE expense entries that were recorded in GL6510. However, it *excludes* **[BEGIN HC PROT]** [redacted] **[END HC PROT]** of expense—recorded entirely in 2019—associated with a single Business Development AFE **[BEGIN HC PROT]** [redacted] **[END HC PROT]**

Q48. Why did you exclude that particular Business Development AFE spending from your Asset Maintenance expense normalization analysis?

A48: As noted above, "Business Development" is not one of the five Asset Maintenance activity/cost categories identified by Mr. Waldron. Moreover, this relatively large amount of spending—making up more than **[BEGIN HC PROT]** [redacted] **[END HC PROT]** of total recorded account 6510 spending in 2019—occurred entirely in that one year and was associated with a single commercial project. This suggests that unlike expenses in the Asset Maintenance categories that arise in connection with Crimson's implementation of its IMP for its pipeline system assets, this project gave rise to expense levels that cannot be expected to recur—even on a periodic basis—in the future. Accordingly, I believe it is appropriate to exclude this non-recurring event and the associated Business Development project expense from the 2017-2021 average that I use as the basis for my upward normalizing adjustment to Crimson's Base Period Asset Maintenance expense.

Q49. What does Mr. Alexander project for the Test Period level of SoCal system Asset Maintenance expense?

A49: He recommends $3,207,511 as the Test Period amount in Account 6510. This is approximately $2 million higher than the Base Period recorded amount and approximately $0.9 million higher than the normalized Base Period level I recommend for GL Account 6510 Asset Maintenance Expense.

Q50. How did Crimson justify this expense level?

A50: As was the case for their other Test Period adjustments, Crimson's witnesses provided no documentation or supporting calculations for their Test Period adjustment to Asset Maintenance expense, either in their testimony, or (as discussed above), in response to data requests seeking comprehensive workpapers and source documents. However, when asked in a targeted and detailed data request to justify this specific Test Period adjustments to Account 6510, Crimson responded by providing a spreadsheet containing a list of Asset Maintenance projects with actual and projected expense amounts for the Base and Test Periods.[80]

Q51. Do you find Crimson's project-level forecasts of Asset Maintenance expenses for the Test Period reliable?

A51: No. This spreadsheet indicates that while Crimson recorded **[BEGIN HC PROT]** [redacted] **[END HC PROT]** in Asset Maintenance Project expenses during the first three months of the Test Period (June – August 2022), it expects to incur similar expenses at an average rate of more than**[BEGIN HC PROT]** [redacted] **[END HC PROT]** per quarter for the remainder of the period.[81] More importantly, while the projections for the remainder of 2022 are for projects with identified AFE numbers, the same is not true for the expenses forecast to be incurred in 2023. Indeed, it is unclear that the projects listed for 2023 have even gone through the AFE process and budgeting process,

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[80] Response to data request P66-CRIMSON-4.29, included in Exhibit No.___(MRT-0034); Excel file Bates labeled CRIMSON22 003925 HC PROT, included in Exhibit No.___(MRT-0035).

[81] *See* my operating expenses analysis workpapers contained in Exhibit No.___(MRT-0030).

much less what the associated spending forecasts are based on. As Mr. Waldron stated in response to a data request, "budgeting, planning, and execution of Asset Maintenance activity is necessarily subject to modification during the course of implementation."[82] Accordingly, even if the elevated 2023 project-level expense projections Crimson relies on to justify Mr. Alexander's Test Period forecast *are* part of a management-approved budget, it would not be reasonable to treat them as representing a regular and recurring expense level to include in rates.

Q52. Based on the information provided by Crimson what Test Period level of SoCal system Account 6510 Asset Maintenance expense do you recommend be used for ratemaking purposes?

A52: As noted above, I recommend normalizing Crimson's Base Period value for ratemaking purposes as it results in the most representative value for going forward purposes. If anything, the information Crimson provided about actual and projected Asset Maintenance project expenses in 2022 confirms that my normalized Base Period recommendation of $2,284,124 is a reasonable estimate of a recurring expense level associated with Crimson's SoCal system Asset Maintenance activities. Accepting Crimson's forecasts for projects with identified AFEs would imply a full-year 2022 Asset Maintenance expense level of **[BEGIN HC PROT]** [redacted] **[END HC PROT]** Including this in a five year average over the period 2018-2022 yields **[BEGIN HC PROT]** [redacted] **[END HC PROT]** which actually slightly lower than the 2017-2021 average of $2,284,124.[83] Ultimately, I base my normalized Base and Test Period Account 6510 expense recommendation on the five-year average of actual Asset Maintenance expense for the fully-historical period 2017-2021 (adjusted to remove the apparently non-recurring Business Development spending as discussed above).

IV.A.2. Account 320 Regulatory Compliance Expense (GL 6455)

Q53. What level of GL Account 6455 Expenses was recorded in the Base Period?

A53: Crimson's accounting records contain $965,689 of GL Account 6455 expenses, which Crimson designates within USoA Account 320 (Outside Services) for regulatory accounting and ratemaking purposes.[84]

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82 Response to data request P66-CRIMSON-4.24, included in Exhibit No.___(MRT-0033).

83 *See* my operating expenses analysis workpapers contained in Exhibit No.___(MRT-0030).

84 Excel file Bates labeled CRIMSON22 001323, included in Exhibit No.___(MRT-0021).

Q54. In your opinion, is this amount representative of a regular and recurring level of expense in this account?

A54: No. My analysis of the SoCal system's historical Regulatory Compliance expenses indicates that—as is the case for Asset Maintenance expense—Crimson's activity in this account is not smooth over time, but rather punctuated by occasional elevated spending associated with special projects for emergency response or compliance with specific regulatory requirements. Therefore, I rely on analysis of the historical GL Account 6455 expense data Crimson provided in discovery to derive a normalized expense level of $716,971, which I apply in both my Base and Test Period cost of service calculations.

Q55. What evidence do you observe to support your conclusion that Crimson's Regulatory Compliance expenses are subject to irregular variation driven by specific compliance and response projects?

A55: Figure 8 below demonstrates this using the available historical data provided by Crimson for the years 2018-2022.[85] The bottom bars in the chart show the SoCal system's baseline Regulatory Compliance expenses that are recorded in GL Account 6455 that are not tracked to any particular AFE project.[86] These expense levels have varied somewhat year to year, but do not exhibit any clear trend, and the Base Period level appears in line with Crimson's historical experience. However, as the chart makes clear, the *total* spending in Account 6455 has been elevated in the recent past—including during the Base Period—due to the impact of several specific regulatory compliance projects that were budgeted and tracked as part of Crimson's AFE process. **[BEGIN HC PROT]**

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[85] Note that Crimson does not appear to have recorded any Regulatory Compliance costs in Account 6455 in 2017, which is the earliest year for which operating expense data was provided in discovery.

[86] Note that the 2022 non-AFE expense amount in Figure 8 was annualized based on the last nine months of available actuals, recorded for January – September of this year.

[redacted]

[END HC PROT]

Q56. Is it reasonable to include the actual GL Account 6455 expenses incurred for these AFE projects during June 2021 – May 2022 in an estimate of regular and recurring Regulatory Compliance costs for the SoCal system?

A56: No. By their nature, each of these AFE project represents a non-recurring event, with expenses being incurred over a defined period for a specific purpose, leaving no expectation that expense levels observed in a period where such a project is active will be replicated in a future period where it is not. A prime example of this is AFE 70970, which Crimson created to budget and track the Outside Services expenses for a consultant (Integrity Solutions) to conduct spill modeling with respect to all of its assets implicated by the coastal zone spill mitigation and leak detection requirements of AB 864.[87] In response to data requests, Crimson confirmed that this AFE project and the expenses recorded thereunder encompassed *all* preliminary development and study costs

[87] Response to data request P66-CRIMSON-5.5 and document Bates stamped CRIMSON22 001303-001305 (“AFE 70970 R1 AB 864 Coastal Zone Spill Modeling for CCAPI”), included in Exhibit No.___(MRT-0036).

that Crimson has or expects to incur for its AB 864 compliance effort.[88] It further confirmed that the total AFE 70970 project expense $331,571 was incurred (and recorded in GL Account 6455) entirely during the period June 2020 - January 2022.[89] Accordingly, the AB 864 spill modeling project was a prime examples of a non-recurring event, and the expenses recorded under the associated AFE should be treated accordingly.

Q57. Given that the AB 864 spill modeling project designated as AFE 70970 was a non-recurring event, why do you not remove the portion of those expenses that were recorded during June 2021 – May 2022 from the Base Period?

A57: I probably would do that if AFE 70970 were the only regulatory compliance AFE project with significant expenses recorded in that time period.[90] However, as shown in Figure 8, there was additional specialized AFE project spending in Account 6455 during the Base Period. **[BEGIN HC PROT]** [redacted] **[END HC PROT]** This suggests that while any *one* specialized Regulatory Compliance AFE—such as the AB 864 spill modeling project—constitutes a non-recurring expense, the *category* of similar projects may represent a source of recurring costs, albeit arriving in a lumpy fashion at irregular intervals.

Q58. How do you account for the irregular, occasional nature of AFE-specific Regulatory Compliance costs in your normalization analysis?

A58: I observe (from Figure 8) that the concurrence of **[BEGIN HC PROT]** [redacted] **[END HC PROT]** such projects contributes to the abnormally high Account 6455 expense observed during the Base Period, and that an aggregate of **[BEGIN HC PROT]** [redacted] **[END HC**

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88 As discussed below in Section IV, the system improvement projects that Crimson plans to implement pursuant to the AB 864 compliance plan that it formulated using the results of the spill modeling study are accounted for on Crimson's accounting books as capital expenditures and tracked under capital AFEs.

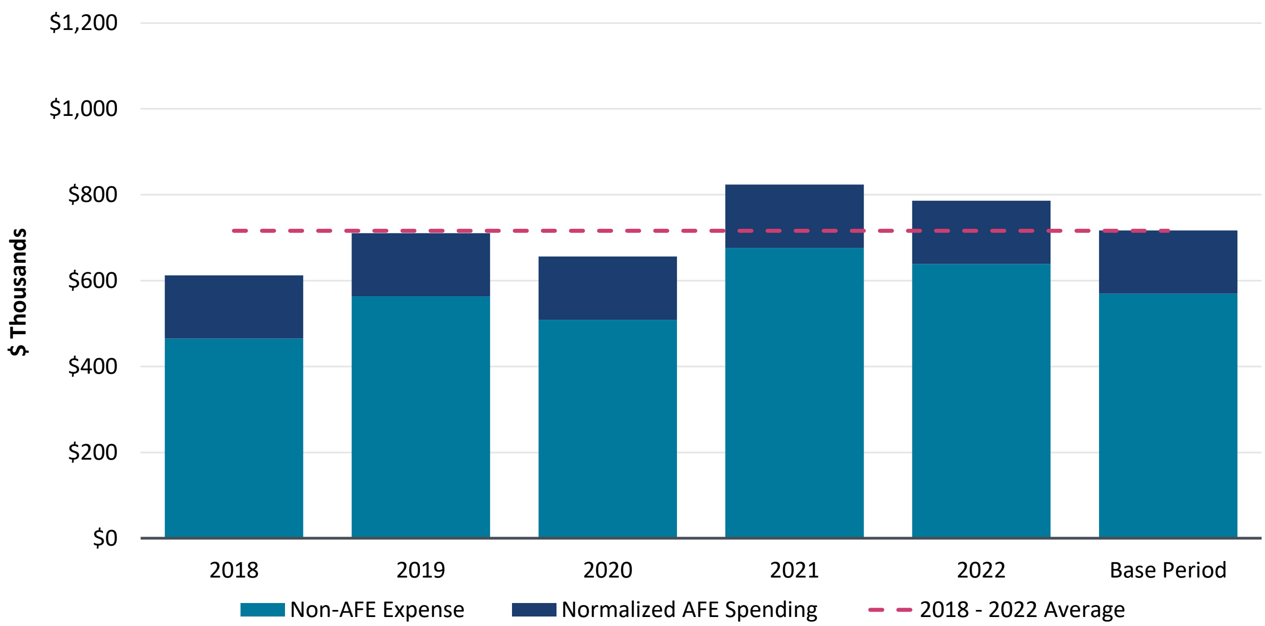
89 Response to data requests P66-CRIMSON-5.4(b) and 5.5, included in Exhibit No.___(MRT-0036).

90 Under these circumstances, it would be reasonable to exclude the non-recurring June 2021 – January 2022 AFE 70970 expenses from Crimson's cost of service in this proceeding (A.22-06-017) because a greater amount of expense for the same project had been incurred during the June 2020 – May 2021 Base Period for Crimson's prior rate application (A.21-06-024). Further, the overall level of GL Account 6455 Regulatory Compliance costs that were presumably incorporated in A.21-06-017 cost of service and rates was sufficiently high to have recovered all of Crimson's baseline (non-AFE) Account 6455 expenses that were subsequently incurred during June 2021 – May 2022, which represents *both* the Test Period (and rate effective period) for A.21-06-024 and the Base Period in the instant (A.22-06-017) proceeding.

PROT] Of course, it is also that case in some years there may be no AFE-specific Regulatory Compliance expenses incurred at all, **[BEGIN HC PROT]** [redacted] **[END HC PROT]**

Based on these observations, I have determined to normalize the AFE portion of GL Account 6455 expense by averaging all AFE-tracked expenses (including for the AB 864 spill modeling study) during the 4.75-year period of available historical data (*i.e.,* 2018 – September 2022), and adding the result to the actual non-AFE expense recorded in the account during the Base Period. This procedure is illustrated in Figure 9 below, with a comparison to the average level of overall Account 6455 spending for the five year period 2018-2022 (with 2022 YTD spending annualized). The resulting normalized Regulatory Compliance expense level of $716,971 is the amount I recommend be included in Crimson's SoCal system Base and Test Period cost of service in this proceeding.

FIGURE 9
NORMALIZED BASE PERIOD REGULATORY COMPLIANCE EXPENSE



Sources: Exhibit No.___(MRT-0030).

Q59. Did Crimson or its witnesses provide any support for the alternative Test Period GL Account 6455 expense level of $804,325 that is embedded in Dr. Webb's cost of service estimate?[91]

A59: No. Even when specifically asked for a detailed breakdown of the Test Period adjustments to USoA Account 320 Outside Services, Crimson's response did not even mention GL Account 6455 Regulatory Compliance.[92] Accordingly, I see no evidence to suggest that my normalized Base Period recommendation of $716,971 should not apply for the Test Period also, as a reasonable estimate of average recurring Regulatory Compliance expense levels going forward.

IV.A.3. Account 350 Right of Way Expense (GL 6430)

Q60. What did Mr. Alexander say in his testimony regarding Right of Way expenses?

A60: He said that his recommended Test Period adjustment to USoA Account 350 Rentals expense "reflect[ed] increase right-of-way costs," including "a conservative accrual estimate of future right-of-way payments."[93]

Q61. What was the amount of the Test Period adjustment in the specific GL Account (within Account 350) in which Crimson records its Right of Way expenses?

A61: The account-by-account schedule of adjustments that Crimson provided indicates an upward Test Period adjustment of $180,039 in GL Account 6430 Right of Way expense.[94]

Q62. Do documents and data responses provided by Crimson in discovery provide any indication of the occasion for the "conservative accrual estimate for future right-of-way payments" included in Mr. Alexander's proposed Test Period adjustment?

A62: Yes. In response to a data request about Crimson's legal expenses, Mr. Alexander referenced a "right-of-way dispute involving ANT."[95] Crimson also provided a 2022 Budget presentation indicating that **[BEGIN HC PROT]** [redacted]

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[91] Responses to data requests P66-CRIMSON-4.14 and P66-CRIMSON-2.20, included in Exhibit No.___(MRT-0022); Excel file Bates labeled CRIMSON22 001323 HC PROT, included in Exhibit No.___(MRT-0021).

[92] Response to data request P66-CRIMSON-4.29, included in Exhibit No.___(MRT-0034).

[93] Alexander Testimony at 9:18-20.

[94] Excel file Bates labeled CRIMSON22 001323, included in Exhibit No.___(MRT-0021).

[95] Response to data request P66-CRIMSON-4.29(c), included in Exhibit No.___(MRT-0034).

[redacted] **[END HC PROT]** Since Mr. Alexander testified that Crimson's recorded operating expenses in the Base Period do not contain any "accruals of costs anticipated to be incurred at some future date,"[97] it is reasonable to infer that **[BEGIN HC PROT]** [redacted] **[END HC PROT]** is the "conservative accrual" Mr. Alexander identified as the basis of his Test Period adjustment to Right of Way expense.

Q63. Is there evidence to suggest that it is premature and speculative at this time to include any Right of Way expense accrual related to Crimson's dispute with ANT?

A63: Yes. **[BEGIN HC PROT]** [redacted] **[END HC PROT]** Further, Mr. Alexander's responses regarding the legal expenditures on this dispute indicate that Crimson has "not yet incurred significant legal expenses related to the [ANT right of way dispute] matter,"[99] suggesting that litigation of the dispute has not progressed very far, which means that any "estimated accrual" of increased right-of-way expenses associated with a potential resolution of the dispute is speculative at best. Crimson certainly cannot credibly claim that such an adjustment is (or was) "known and measurable" at this time (or the time of its application).

Q64. What do you recommend with respect to Crimson's GL Account 6430 Right of Way expense?

A64: Given that Crimson itself has acknowledged that no increased right-of-way expense associated with the ANT dispute **[BEGIN HC PROT]** [redacted] **[END HC PROT]** I recommend that Crimson be precluded from including any right-of-way expense accrual for speculative future expenses. The Test Period level of Account 6430 Right of Way expense should be restricted to actual cash payments of right of way expenses during the Base Period.[101]

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[96] *See* the response to data request P66-CRIMSON-4.23 and the document Bates stamped CRIMSON22 003657-003663 at 003662, included in Exhibit No.___(MRT-0010).

[97] Alexander Testimony at 7:12-16.

[98] Document Bates stamped CRIMSON22 002744-002844 at 002760, included in Exhibit No.__(MRT-0032).

[99] Response to data request P66-CRIMSON-4.29(c), included in Exhibit No.___(MRT-0034).

[100] Document Bates stamped CRIMSON22 003657-003663 at 003662, included in Exhibit No.___(MRT-0010).

[101] The only Test Period adjustment that could legitimately be considered known and measurable for this account would be for changes in payments that are documented to be stipulated in currently effective contracts or other

Assuming that Mr. Alexander's claim that the SoCal system Base Period operating expenses contain no accruals for anticipated future costs, the $2,298,539 Base Period level of Account 6430 expense, without adjustment, is appropriate for the Test Period.

IV.A.4. Account 500 Bonus Expense (GL 7140)

Q65. What Base and Test Period levels of GL Account 7140 Bonus expenses does Crimson include within Account 500 (General and Administrative) Salaries and Wages as part of Dr. Webb's cost of service estimate?

A65: The Account 7450 amount recorded for the Base Period is $806,773. Dr. Webb's Test Period cost of service includes a very similar amount: $795,466.[102]

Q66. How do these expense levels compare to historical levels of general & administrative bonus expense attributed to the SoCal system?

A66: They are dramatically higher. A simple comparison of Crimson's GL Account 7140 Bonus expenses during 2017-2021 (the historical years for which it provided data) reveals that the amounts recorded in this account averaged $318,349 between 2017-2020, without much year-to-year variability[103]. However, as shown in Figure 10 below, the general and administrative bonuses attributed to the SoCal system appear to have nearly doubled—from $314,361 to $620,092—between 2020 and 2021. The fact that the Base Period amount is even higher than the expense recorded in 2021 indicates that there has been a further substantial increase in the first half of 2022.

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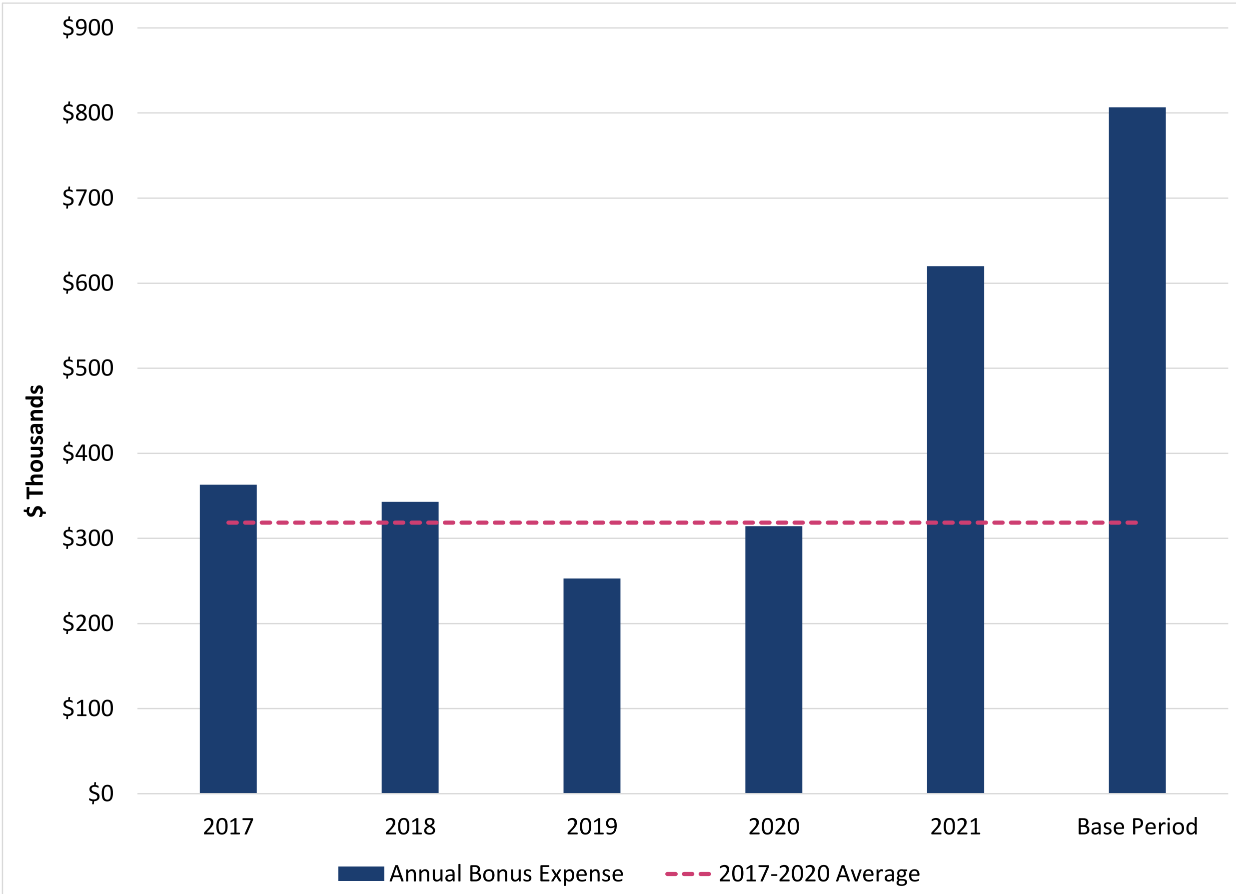
lease arrangements. Since Crimson has provided no documentation of any such contractually specified increases, it cannot be considered to have justified its Account 6430 Right of Way expense Test Period adjustment (or any portion thereof) on that basis.

102 Excel file Bates labeled CRIMSON22 001323, included in Exhibit No.___(MRT-0021).

103 See my calculations in Tolleth Operating Expense Workpapers, included in Exhibit No.___(MRT-0030).

FIGURE 10
CRIMSON'S RECORDED GL ACCOUNT 7140 BONUS EXPENSE FOR 2017-2021 AND THE BASE PERIOD



Sources / Notes:
Tolleth Operating Expense Workpapers, included in Exhibit No.___(MRT-0030).

Q67. Has Crimson provided any explanation for this increase or why it is reasonable to include such dramatically increased bonus compensation in the SoCal system cost of service?

A67: No. Crimson's testimony makes no mention of executive or other general and administrative bonus compensation. Nor does it attempt to justify the levels included in Dr. Webb's Base and Test Period cost of service as prudent with respect to the provision of crude oil transportation service on the SoCal system.

It is worth noting that that 97% year-over-year increase between 2020 and 2021 coincides with the CorEnergy Infrastructure Trust's ("CorEnergy") acquisition of a 49.5 percent interest in Crimson, at which point Crimson and the other subsidiaries of Crimson Midstream Holdings / CorEnergy subsidiaries began receiving allocations of corporate overhead costs from the CorEnergy level.[104] Discovery and analysis on the issue of Crimson's overhead allocation procedures is ongoing, and it remains to be seen if the CorEnergy acquisition and/or related changes in cost allocation has any significance with respect to the dramatically increased general and administrative bonus spending starting in 2021.

Q68. How do you address GL Account 7140 Bonus expenses for purposes of Base and Test Period cost of service estimates for Crimson's SoCal system?

A68: Absent any justification (much less a valid or convincing one) for why increased executive bonuses are required to provide safe and reliable crude transportation service on the SoCal system, I recommend that the increased bonus expense subsequent to 2020 be excluded from the cost of service. I recommend that the 2017-2020 average expense level of $318,349 be used as a normalized recurring expense level in this account for both the Base Period and the Test Period.

IV.A.5. Account 520 Legal Expense (GL 7450)

Q69. What Base and Test Period levels of GL Account 7450 Legal Expense does Crimson include within Account 520 (General and Administrative) Outside Services as part of Dr. Webb's cost of service estimate?

A69: The Account 7450 amount recorded for the Base Period is $1,328,000. Mr. Alexander and Dr. Webb implement an upward Test Period adjustment of $290,290 to arrive at a Test Period expense level of $1,618,291.[105]

Q70. What rationale does Mr. Alexander give for his upward adjustment to Legal Expense?

A70: In his testimony, he only discusses this adjustment as one of several contributing factors to the overall $625,110 Test Period increase to USoA Account 520 Outside Services, stating that Crimson expected to incur "increased legal fees stemming from regulatory matters unrelated to this case, and outstanding right-of-way issues pertaining to the SoCal system."[106] In response to a data request, however, Mr. Alexander later clarified that the "regulatory matter" (singular) and the

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[104] *See* the responses to P66-CRIMSON-3.13 and 3.14, included in Exhibit No.___(MRT-0037)

[105] Excel file Bates labeled CRIMSON22 001323, included in Exhibit No.___(MRT-0021).

[106] Alexander Testimony at 9:4-9.

"outstanding right-of-way issues" referenced in his testimony were really one and the same, namely, the ANT right-of-way dispute that I discussed above in Section IV.A.3.[107]

Q71. Can Mr. Alexander's proposed expense adjustment for anticipated Legal Expense associated with the ANT right-of-way dispute be legitimately considered "known and measurable"?

A71: In my opinion, no, as any estimate regarding the legal expenses associated with the ANT right-of-way matter is speculative at this time. As discussed in Section IV.A.3 above, the dispute does not appear to have progressed very far at all. Indeed, **[BEGIN HC PROT]** [redacted] **[END HC PROT]**, Mr. Alexander stated in a November 1, 2022 data response that "Crimson has not yet incurred significant legal expenses related to the matter,"[109] which suggests to me that whatever procedural schedules and potential litigation activity may apply for this litigation are protracted or subject delay (if they exist at all). Much like Mr. Alexander's proposed accrual of increased right of way expenses in GL Account 6430 (within USoA Account 350 Rentals), his proposed Test Period increase to Legal Expense is too speculative to meet the "known and measurable" standard.

Q72. Do you recommend that any Test Period adjustment be permitted for Account 7450 Legal Expense?

A72: No. Crimson and its witnesses have not presented any documentation or even testified to any facts or evidence that would support Mr. Alexander's claim that Crimson "expects to incur expenses consistent with the Test Period adjustment reported for Account 520, GL 7450 during the Test Period."[110] This is pure assertion on the part of Mr. Alexander, and should not be accepted as the basis for a Test Period adjustment.

IV.A.6. Account 520 Rate Case Litigation Expense

Q73. What Test Period adjustment does Dr. Webb propose to account for rate case litigation expense?

A73: Dr. Webb recommends that $750,000 be added to Crimson's Test Period cost of service to cover legal and consulting expenses that "Crimson expects to incur related to its rate case litigation in

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[107] Response to data request P66-CRIMSON-4.29(c), included in Exhibit No.___(MRT-0034).

[108] Document Bates stamped CRIMSON22 002744-002844 at 002760, included in Exhibit No.__(MRT-0032).

[109] Response to data request P66-CRIMSON-4.29(c), included in Exhibit No.___(MRT-0034).

[110] Response to data request P66-CRIMSON-4.29(c), included in Exhibit No.___(MRT-0034).

this case." He states that he derived this adjustment by amortizing his "approximately \$3,750,000" projection of total litigation expense for this proceeding over a five-year period.[111]

Q74. What is Dr. Webb's rationale for adopting this adjustment?

A74: Dr. Webb simply states that he "made this same adjustment in the COS [he] presented in A.16-03-009," which was Crimson's last fully-litigated rate case, and notes that the Commission accepted that adjustment and its derivation (*i.e.,* \$3.75 million estimated total rate case litigation cost, amortized over five years).[112]

Q75. Did Crimson actually incur \$3.75 million to litigate the A.16-03-009 proceeding?

A75: No. When asked to provide records of its actual recorded CPUC rate case litigation expenses by proceeding starting from the initiation of the A.16-03-009 docket, it averred that it only tracks such expenses in the aggregate and could not provide a breakdown of costs associated with specific Commission dockets.[113] Nevertheless, the aggregate amount of consulting and attorney fees that Crimson states it incurred in the 18 month period January 2016 – June 2017 was \$2,873,296,[114] approximately \$0.9 million less than the amount that had been estimated by Dr. Webb in the A.16-03-009 record. This time period encompassed the filing of the original advice letter and application in A.16-03-009 through (and slightly beyond) the filing of post-hearing briefs (in April and May 2017) and the completion of final oral arguments (on May 24, 2017),[115] and also incorporates Crimson's April 2017 filing of a second Advice Letter and Application which it explicitly intended to be consolidated and evaluated as part of the active A.16-03-009 litigation.[116] Thus, given the limitations of the aggregate rate litigation expense data provided by Crimson, the approximately \$2.9 million of total such expense recorded in between January 2016 and June 2017 is

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[111] Webb Testimony at 11:1-9.

[112] *Id.* citing CPUC Decision 20-11-016, issued November 19, 2020 in Application dockets A.16-03-009 *et al.* (D.20-11-016).

[113] Crimson's response to P66-CRIMSON-4.15, included in Exhibit No.___(MRT-0038); Excel file Bates labeled CRIMSON22 004195, included in Exhibit No.___(MRT-0039).

[114] Excel file Bates labeled CRIMSON22 004195, included in Exhibit No.___(MRT-0039).

[115] D.20-11-016 at 4 and 10. Note that I conservatively include June in my estimation of \$2,873,296 for total A.16-03-009 because I note that there was still elevated spending (greater than \$100,000) in that month and because the recorded costs in CRIMSON22 004195 may represent cash expenses for services provided in the preceding month—in this case May 2017 when briefing and oral argument were being conducted.

[116] D.20-11-016 at 4-5.

conservatively high estimate of the total legal and consulting expenses incurred by Crimson to fully litigate the A.16-03-009 rate case.

Q76. Is there reason to think that the total cost of the instant proceeding will be less than the cost of A.16-03-009?

A76: Yes. In the last fully-litigated rate case (A.16-03-009 *et. al.*), Crimson applied for a total rate increase of 60%, noting that at the time it had not sought or received any SoCal system rate increase in more than six years.[117] That applied-for increase was protested by four separate parties, which challenged a number of issues that had not been previously litigated with respect to the SoCal system—including the (lack of) permissibility of an Income Tax Allowance (ITA) in Crimson's cost of service, and the appropriate methodology and calculation of Crimson's rate base with respect to public utility service assets purchased by Crimson from others, and the appropriate rate of ratemaking depreciation for SoCal system assets.[118] Indeed, the Commission's decision explicitly cited the number of parties, the number of issues, and the number of discovery requests ("over 600") as reasons for accepting Dr. Webb's $3.75 million estimate (which has been revealed ex poste to have been inflated) of total rate case litigation expense.

By contrast, in the present instance, Crimson's Application comes on the heels of annual rate increases sought and received in each of the past six years.[119] Further, there is only one protesting shipper—Phillips 66—and the number of issues is more limited, in part due to the resolution of certain issues (*e.g.*, ITA and rate base valuation of acquired assets) in D.20-11-009. Consequently, notwithstanding any increase in the unit cost of litigation support in the intervening years, in my opinion the $2,873,296 in attorney and consulting fees that Crimson incurred in its last fully-litigated rate case is at the very high end of any reasonable estimate of Crimson's expected cost to fully litigate the instant proceeding.

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[117] D.20-11-016 at 6.

[118] D.20-11-026, Section 1.2 (The Parties' Protests), Section 5 (Rate Base), Section 6 (Depreciation), Section 8 (Income Tax Allowance).

[119] Application (Southern California), *Crimson Cal. Pipeline L.P.*, Docket No. A.16-03-009 (Mar. 11, 2016) (resolved by D.20-11-016); Application (Southern California), *Crimson Cal. Pipeline L.P.*, Docket No. A.17-02-009 (Feb. 27, 2017) (consolidated with A.16-03-009 and resolved by D.20-11-016); Application (Southern California), *Crimson Cal. Pipeline L.P.*, Docket No. A.18-04-023 (Apr. 24, 2018) (consolidated with A.16-03-009 and resolved by D.20-11-016); Application (Southern California), *Crimson Cal. Pipeline L.P.*, Docket No. A.19-03-023 (Mar. 29, 2019) (consolidated with A.16-03-009 and resolved by D.20-11-016); Application (Southern California), Application (Southern California), *Crimson Cal. Pipeline L.P.*, Docket No. A.20-06-010 (June 30, 2020) (unprotested and resolved by D.22-10-009); Application (Southern California), *Crimson Cal. Pipeline L.P.*, Docket No. A.21-06-024 (June 30, 2021) (unprotested and pending).

Q77. Is there evidence to suggest that five years is too short an amortization period to use in an adjustment like the one proposed by Dr. Webb in A.16-03-009 and in the instant proceeding?

A77: Yes. The purpose of amortizing the total estimated cost of litigating a rate case is because such costs are not incurred on a recurring basis at a similar level each year, but rather are concentrated in the years where litigation is active. Thus, in a Test Period ratemaking regime, if a pipeline's cost of service and rates were only ever to include the relatively low levels of CPUC regulatory legal expense (*e.g.,* for routine tariff filings and uncontested Advice Letters and rate increase applications) that may be incurred in periods where there is no actively litigated rate case, then the pipeline would not have a reasonable opportunity to recover the elevated costs that occur during active litigation of contested matters. Conversely, if the pipeline is permitted to make rates based on the levels of regulatory attorney and consultant fees actually paid during active litigation, it will over-recover its costs in this category during periods between fully litigated rate case.

As such, the amortization of expected rate case litigation costs amounts to a type of normalization, and the appropriate normalization period is the expected interval between the initiation of fully litigated rate cases. In this case, it is reasonable to consider the time elapsed between Crimson's initiation of the A.16-03-009 proceeding and the June 30, 2022 filing of Application 22-06-017 that gave rise to the instant proceeding. That period is approximately 6.5 years.

Q78. How do Crimson's historical rate litigation support fees compare between periods of active rate case litigation (A.16-03-009) and periods without a contested rate case?

A78: Figure 11 below compares the total reported fees during 1.5 year period of active A.16-03-009 litigation (January 2016 – June 2017) with the subsequent 5 year period commencing July 2017 through the filing of A.22-03-017 at the end of June 2022. As the table shows, Crimson's annual spending in this expense category was approximately $1.9 million during active rate case litigation, but dropped to $160,000 on average during the subsequent period when the fees incurred were presumably related to uncontested rate increases and other routine filings.[120] Of note, the $160,000 average annual spending for July 2017 through June 2022 is very close to the actual level of such costs recorded in—and included within Crimson's Account 520 Outside Service operating expenses for—the June 2021-May 2022 Base Period for this proceeding.

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[120] Crimson sought rate increases via Advice Letters and Applications filed in March-April 2018 (A.18-04-023) and March 2019 (A.19-03-023), which were consolidated into the A.16-03-009 litigation. It filed for further rate increases in June 2020 and June 2021, which were not litigated.

FIGURE 11
CRIMSON'S RECORDED RATE LITIGATION EXPENSES
DURING AND OUTSIDE PERIODS OF ACTIVE LITIGATION

Period	Description [1]	Consulting Fees [2]	Attorney Fees [3]	Total [4]	Interval (Yrs) [5]	Average Annual Expense [6]
Jan 2016- Jun 2017	A.16 Active Litigation	$1,617,281	$1,256,015	$2,873,296	1.5	$1,915,531
Jul 2017- Jun 2022	No Litigated Rate Case	$182,199	$618,503	$800,702	5.0	$160,140
Jan 2016- Jun 2022	Normalized Litigation Cycle	$1,799,480	$1,874,518	$3,673,999	6.5	$565,231
Jun 2021- May 2022	A.22 Base Period	$46,590	$111,073	$157,663	1.0	$157,663

Source/Notes:
Tolleth Operating Expense Workpapers, included in Exhibit No. ___(MRT-0030).

Q79. What normalized annual amount of rate case litigation expense is indicated by the evidence of Crimson's actual rate litigation spending over the 6.5 year interval between the start of its last fully-litigated rate case and the start of the present proceeding?

A79: I recommend viewing the 6.5 year period from January 2016 through June 2022 as representative of a full "litigation cycle" comprising a period of active rate case litigation followed by a period where rate cases are not being actively litigated. Under this framework, dividing the total litigation expense recorded for June 2016 – June 2022 by 6.5 produces a conservatively high estimate ($565,231) of a normalized level of annual litigation expense for a 6.5 year forward-looking period, assuming a similar pattern of active litigation (of this proceeding) followed by a lull in active litigation.

It is important to note that since Crimson's Base Period operating expenses already include $157,663 of consulting and attorney fees in this category within USoA Account 520 outside services,[121] the highest permissible upward Test Period *adjustment* for rate case litigation expenses in Crimson's cost of service would be $407,568.[122]

I further note that since (as discussed above) comparing the circumstances of the instant proceeding to those pertaining to Crimson's last fully litigated rate case indicates that the cost to litigate A.22-

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121 Tolleth Operating Expense Workpapers, included in Exhibit No.___(MRT-0030). *See also* response to request P66-CRIMSON-4.15, included in Exhibit No.___(MRT-0038).

122 $\$565{,}231 - \$157{,}663 = \$407{,}568.$

07-017 will likely be less than for A.16-03-009, even the approximately $400,000 Test Period adjustment suggested by the historical analysis presented above is likely an upwardly biased estimate of a normalized average recurring level of rate litigation expense to be included in Crimson's SoCal system rates.

Q80. In your opinion, is it reasonable to include an unsupported or upwardly-biased projection of litigation expenses in a test year cost of service used to establish going-forward rates?

A80: No. Embedding an unsupported projection of litigation expense—such as the one proposed by Dr. Webb here—in the test period cost of service used to set a pipeline's rates creates the incentive for the pipeline to overestimate its anticipated expense level, thereby increasing revenue. It creates an additional perverse incentive for the pipeline to propose inclusion of unreasonable cost elements or exaggerated cost levels in the cost of service, since the pipeline would expect that any costs it incurs to defend such aggressive positions through testimony and argument during litigation will ultimately be borne by shippers, regardless of whether the pipeline's upwardly biased cost of service is ultimately approved by the Commission.

Q81. In your opinion, should a policy of providing for full recovery of rate case litigation expenses, or possibly a windfall recovery, be re-evaluated for reasonableness, especially as it respects the perverse incentives such a policy creates?

A81: Yes. A policy that permits full recovery of unsupported projections of rate case litigation expense incentivizes unreasonably high projections of litigation expenses as well as the adoption of unreasonable litigation positions. In addition, because the regulated entity can effectively recover all (or more) of its litigation costs expected over the life of the proceeding, the regulated entity will have little or no incentive to engage in meaningful settlement discussions as the entity bears little to no risk associated with its expenses related to its application for a rate increase or the positions it puts forward in the attempt to support its position. In my opinion, a policy that incentivizes unreasonable behavior and increases rates above just and reasonable levels should be reevaluated.

Q82. Given the policy considerations articulated above, and the evidence from Crimson's reported historical rate case litigation expenses, what Test Period amount are you recommending?

A82: As noted above, the historical analysis suggests an upward adjustment of no more than $407,568. However, given that there are valid reasons to think that the current proceeding will be less expensive for Crimson to litigate than the last fully-litigated proceeding, and considering the undesirable incentive properties of a policy that permits pipelines to include an upwardly biased projection of rate case litigation expenses, I recommend a Test Period adjustment of $350,000, such that the total rate litigation expense included in Crimson's Test Period cost of service for this proceeding (incorporating the $157,663 already present in the Base Period Account 520 amount) would be approximately $510,000, or 90% of the actual recorded expenses over my proposed 6.5 year normalization cycle.

IV.A.7. Account 560 Insurance Expense

Q83. What Base and Test Period levels of USoA Account 560 Insurance expense are embedded in Dr. Webb's cost of service estimate?

A83: The recorded Base Period amount of Insurance expense is $1,953,614. Mr. Alexander and Dr. Webb implement an upward Test Period adjustment of $399,142 to arrive at a Test Period expense level of $2,352,756.[123]

Q84. Does Mr. Alexander provide any support for his upward adjustment to Insurance expense?

A84: No. In his testimony, Mr. Alexander simply asserted that implementing this "approximately 20-percent increase" is "an appropriate measure due to recent releases in California."[124] Similarly, in response to a targeted data request seeking a more detailed explanation of his rationale, Mr. Alexander reiterated that his proposed Insurance expense increase was "based on [his] understanding that insurance rates to cover environmental and pollution-related items would be increasing," and stated that "in recent times, Crimson's insurance premiums have increased, and Mr. Alexander therefore believed that a Test Period adjustment to account for a 20-percent increase in insurance cost was reasonable in light of the information available to him at the time."[125]

Q85. Have the Account 560 Insurance expenses attributed to the SoCal system actually increased "in recent times"?

A85: No. In fact, they have gone down, as shown in Figure 12 below.

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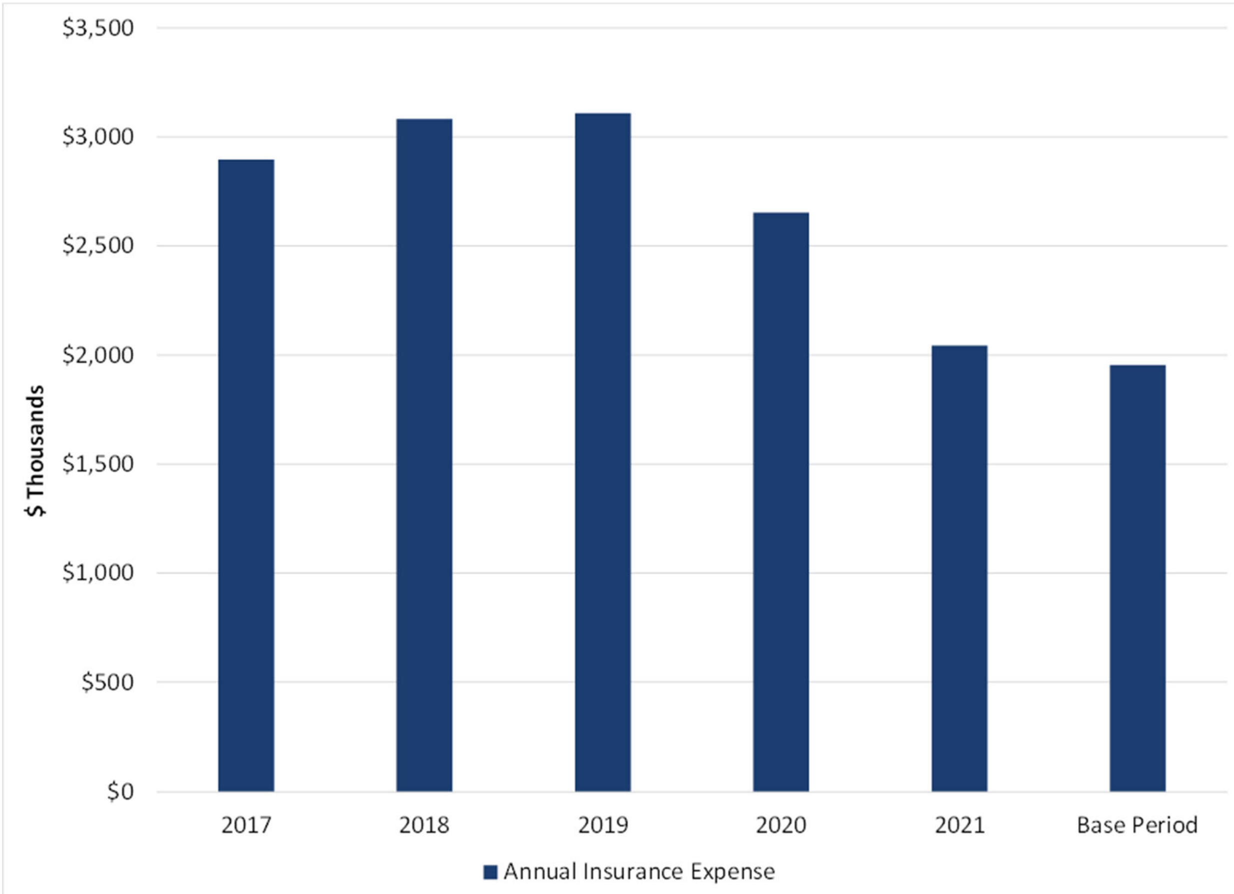
[123] Excel file Bates labeled CRIMSON22 001323, included in Exhibit No.___(MRT-0021).

[124] Alexander Testimony at 10:3-5.

[125] Response to request P66-CRIMSON-4.30, included in Exhibit No.___(MRT-0040).

FIGURE 12
SOCAL SYSTEM HISTORICAL ACCOUNT 560 INSURANCE EXPENSES



Source/Notes:
Tolleth Operating Expense Workpapers, included in Exhibit No.___(MRT-0030).

Q86. Has Crimson provided any documentary evidence that its insurance costs will actually be going up in the Test Period?

A86: No. In fact, just the opposite. In response to a data request seeking documents related to Crimson's current and anticipated future insurance costs, Crimson provided a document summarizing "the insurance renewal premiums that apply commencing November 1, 2022,"[126] **[BEGIN HC PROT]** [redacted] **[END HC PROT]**

[126] Response to request P66-CRIMSON-4.30, and document Bates stamped CRIMSON22 003664, included in Exhibit No.___(MRT-0040).

Q87. What level of Account 560 Insurance expenses do you recommend be included in Crimson's SoCal system cost of service?

A87: In my opinion based on the available evidence (discussed above), Crimson's proposed Test Period adjustment is unsupported and should be rejected. I recommend that the actual recorded Base Period Account 560 Insurance expense amount of $1,953,614 be used for the Test Period and for designing rates.

IV.A.8. Summary of Operating Expense Recommendations

Q88. Will you please summarize the impact of Crimson's Test Period operating expenses of the explicit targeted operating expense adjustments that you recommend based on the analysis and discussion presented in Sections IV.A.1 through IV.A.7 above?

A88: Yes. Based on my targeted investigations of Crimson's expenses in the accounts and categories discussed above, Test Period operating expenses as laid out in Figure 13. The table also compares my recommendations to those proposed by Dr. Webb based on Mr. Alexander's recommendation.

FIGURE 13
SUMMARY OF RECOMMENDED TEST PERIOD OPERATING EXPENSES BY USOA ACCOUNT

FERC	Description	Webb Recommendation	Tolleth Recommendation	Comparison
[1]	[2]	[3]	[4]	[5]=[4]-[3]
300	Salaries and Wages	4,277	4,277	-
310	Materials and Supplies	294	294	-
320	Outside Services	5,886	4,876	(1,011)
330	Operating Fuel and Power	1,135	1,135	-
340	Oil Losses and Shortages	-	-	-
350	Rentals	2,997	2,817	(180)
390	Other Expenses	172	172	-
	Total O&M Expenses	**14,762**	**13,571**	**(1,191)**
500	Salaries and Wages	2,613	2,136	(477)
510	Materials and Supplies	35	35	-
520	Outside Services	5,120	4,430	(690)
530	Rentals	12	12	-
540	Depreciation and Amortization	2,752	2,318	(435)
550	Employee Benefits	785	785	-
560	Insurance	2,353	1,954	(399)
580	Pipeline Taxes	1,458	1,458	-
590	Other Expenses	188	188	-
	Total G&A Expenses	**15,315**	**13,314**	**(2,001)**
	Total Operating Expenses	**30,078**	**26,885**	**(3,192)**

Source/Notes:
Tolleth Cost of Service Workpapers, included in Exhibit No.___(MRT-0017).

I note once again that—for the sake of efficiency and to minimize issues of controversy—I have accepted Crimson's Test Period operating expense adjustments and amounts in those accounts that I did not specifically investigate (and did not address above) for purposes of my cost of service analysis. However, this should not be interpreted to indicate that I find the amounts reasonable or that I believe Crimson has articulated a valid rationale or provided adequate documentation and support for any such expense levels or adjustment.

IV.B. Rate Base

Q89. What is the role of rate base in a cost of service calculation?

A89: Crimson's provision of pipeline transportation service relies on the use of long-lived assets that require significant financial investment. Unlike operating expenses, the capital expenditures necessary to build and maintain pipeline facilities and other pipeline system infrastructure and support assets are not directly included within the cost of service. Rather, the original cost of Crimson's carrier property assets—along with an allowance for construction financing costs during the pre-in-service period (known as "AFUDC")—is recorded within the pipeline's rate base, and the annual depreciation expenses associated with rate base assets are included in the cost of service.

Q90. How did Dr. Webb calculate Crimson's SoCal system rate base?

A90: Dr. Webb began by calibrating the values of all SoCal system assets placed in service prior to year-end 2015 so that they aligned with the approximately $33.1 million net carrier property balance that was approved by the Commission in D.20-11-026 as representing the depreciated original cost of the assets calculated from the point they were originally placed in public service.[127] Also following the rulings in D.20-11-026, Dr. Webb calculated a 3.13 percent depreciation rate for the SoCal system assets based on the Commission's finding that a 20-year remaining life for the then-existing system assets was reasonable as of year-end 2015.[128]

He then evolved Crimson's carrier property balances by adding (and subtracting) additions, retirements, and adjustments in each year from 2016 through the end of the Base Period, using information on historical capital additions provided by Mr. Alexander.[129] He also implemented $10.7 million worth of Test Period additions to SoCal system rate base based on forecasted capital additions identified by Mr. Alexander.[130]

Dr. Webb applies his 3.13 percent annual depreciation rate to calculate accrued depreciation on the post-2015 carrier property additions and adjustments.[131] He also applies this depreciation rate to calculate the amortization of AFUDC, which he accrues annually for the period 2016 through the Test Period based on his proposed historical and Base / Test Period rate of return inputs.[132]

Q91. Are there any aspects of Dr. Webb's rate base calculation that you accept for purposes of deriving your own cost of service estimate?

A91: Yes. I accept his derivation of the SoCal system gross carrier property, accumulated depreciation, and (as a result) net carrier property as of year-end 2015 that align with the Commission's D.20-

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[127] Webb Testimony at 12:6-7 and 15-20, citing D.20-11-026 at Sections 5.4 and 5.5.

[128] Webb Testimony at 14:6-14; Exhibit No. MJW-003 at 10 (WorkPaper 1).

[129] Webb Testimony at 12:7-12.

[130] Webb Testimony at 13:1-5; Alexander Testimony at 10:21-11:4.

[131] Exhibit No. MJW-003 at 10-11 (WorkPaper 1).

[132] Webb Testimony at 15:16-16:7; Exhibit No. MJW-003 at 7-8 (Statements F1 and F2).

11-026 determination. In order to limit the issues in controversy, I also accept Dr. Webb's depreciation rate and method for calculating annual accrued depreciation (equal to depreciation expense) going forward from that time, as well as his method and depreciation amortization of the allowance for funds used during construction (AFUDC).[133]

Q92. What underlying data did Crimson provide with respect to the post-2015 carrier property additions and adjustments that Dr. Webb proposes to include in the SoCal system rate base in his cost of service model?

A92: In response to data requests, Crimson provided a ledger of "Historical Capital Expenditures" containing Additions, Retirements, and Adjustments to SoCal system carrier property in service (CPIS) by asset for 2015 through the Base Period. In some instances—but by no means all—Crimson provided AFE project numbers and documents associated with the CPIS changes.[134] With respect to Mr. Alexander's proposed Test Period additions to CPIS, Crimson provided a simple list of "Forecast Capital Expenditures" by AFE project numbers, and provided the associated AFE documents.[135]

Q93. Based on your analysis of Crimson's ledgers of proposed post-2015 rate base additions and related information provided by Crimson, should any of the proposed additions be excluded from rate base?

A93: Yes. As discussed below, my investigation of Crimson's proposed post-2015 CPIS additions revealed that (1) some of the proposed amounts reflect capital spent on projects that are not used and useful; (2) some of the forecast Test Period additions relate to projects that are not complete and for which the forecasts of in-service date and gross original cost value at in-service are unsupported and speculative; (3) some of the proposed additions are for transfers that have no underlying explanation or support; and (4) in at least one instance, Crimson appears to be proposing to include in rate base a project whose capital costs were reimbursable under a contract with a

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133 Note, however, that I use different rate of return inputs in my cost of service model, which affects the accrual of AFUDC.

134 Response to request P66-CRIMSON-1.9, P66-CRIMSON-1.10, P66-CRIMSON-2.22, P66-CRIMSON-3.2 included in Exhibit No.___(MRT-0041) and Excel file Bates labeled CRIMSON22 001318, included in Exhibit No.___(MRT-0019).

135 Response to request P66-CRIMSON-1.7, P66-CRIMSON-3.4 included in Exhibit No.___(MRT-0042) and Excel file Bates labeled CRIMSON22 001520, included in Exhibit No.___(MRT-0043).

producer, and thus should not have been subject to recovery in SoCal system transportation tariff rates.

IV.B.1. Principles Governing the Inclusion of Capital Expenditures in Rate Base

Q94. What principles govern when it is appropriate to include capital investment in rate base?

A94: Fundamentally, rate base represents the (undepreciated) value of (original cost) capital investment incurred by a pipeline or other utility to provide service to customers, who pay rates in exchange for that service. Only capital investment that fits that definition should be included in rate base.

The primary standard applied by most utility regulators, including the Commission, is that capital investment should be included in rate base when—and only when—the resulting facilities of system improvements are "used and useful" in providing service to the utility's customers.

The Commission has concisely described this standard by stating that "[t]he definition of a used and useful public utility asset is one that provides direct and ongoing benefit to customers,"[136] and has firmly stated its commitment to this principle:

> Over the years, this Commission has closely adhered to the 'used and useful' principle, which requires that utility property be actually in use and providing service in order to be included in the utility's ratebase. [… T]his is controlling precedent and […] assets that are no longer "used and useful" should be removed from rate base so that ratepayers are not paying for assets for which they are not receiving service.[137]

Q95. Why is the used and useful principle an appropriate standard for determining whether assets are includable in rate base?

A95: Simply put, if a utility makes investments that don't contribute to the safe and reliable provision of its service, then customers do not benefit from such investments and should not be required to pay for them. This parallels the expected outcome in competitive markets, where a firm that makes many investments that do not provide any benefit to customers will lose sales to competitive firms that invest more efficiently and effectively and can therefore offer similar quality service at lower cost (or better service at the same cost), thereby setting the market-clearing price that the inefficient firm must accept.

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[136] D.12-06-040 at 16, *Cal.-Am. Water Co.* (Dec. 27, 2012).

[137] D.18-12-021 at 154, *Cal.-Am. Water Co.* (Dec. 13, 2018) (quoting D.84-09-089, *S. Cal. Gas Co.*, 16 CPUC.2d 205, 228 (1984)).

As a matter of regulatory policy, requiring that assets be used and useful to be included in rate base removes the potential for a perverse incentive whereby the utility engages in wasteful, speculative, or otherwise uneconomic investment simply to pad its earned returns.

Q96. What if a utility invests in facilities that are not used in the provision of its service, but *may* be used in certain circumstances and thereby provide "operational flexibility"?

A96: The inclusion of such facilities in rate base is generally incompatible with the Commission's application of the used and useful standard. As the Commission has stated "[t]he mere fact that an asset could potentially be available to provide emergency utility service alone is insufficient to deem that asset as used and useful."[138]

Q97. In your opinion, should a pipeline such as Crimson be permitted to include capital investment in rate base if the capital expended to date is for partial completion of a project that is not yet in service?

A97: Not necessarily. For projects that are to be completed in the near term, it may be appropriate to include a Test Period increment to CPIS, *provided* the estimates of the final capital cost and its expected in-service date are known and measurable. However, to the extent a utility has invested capital in a project that *may* (or may not) be completed and placed in service at some undetermined future date, the expenditures cannot be considered used and useful and should be excluded from rate base.[139]

In this regard, it bears noting that the utility is not deprived of the opportunity to earn a return of and on preliminary or long-lead time investments in projects or facilities that eventually become used and useful simply because recovery in rates can only begin when the project is complete and the facilities are in service. This is the reason that utilities are permitted to record development and construction costs in work in progress (WIP) accounts, and to calculate and accrue an allowance for financing costs incurred during the pre-in-service phase. The accrued AFUDC then capitalizes into rate base along with the original cost of the asset when it is placed in service, and is handled for rate recovery purposes in the same manner as any other component of rate base.

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138 D.18-12-021 at 162.

139 *See* D.18-12-021 at 166 ("This project has not been completed despite being funded in multiple rate cycles and Cal-Am does not provide sufficient information that demonstrates that this project is likely to be completed in 2019. Therefore, we find that this project should be removed from rate base. Cal-Am may request recovery of the project costs in a subsequent GRC when Cal-Am can demonstrate the project has been completed and is used and useful.")

IV.B.2. Crimson's Proposed "Historical" Rate Base Additions from 2016 through the Base Period

Q98. Are there any of Crimson's proposed "Historical" Rate Base additions that you believe should be excluded from rate base?

A98: I recommend the following exclusions from among the carrier property in service (CPIS) additions and adjustments proposed by Crimson:[140]

- $475,000 worth of CPIS additions and adjustments associated with Crimson's purchase of certain pipe segments from Chevron (AFE 70797), since the purchased assets have never been used in the provision of Crimson's transportation service.
- An approximately $1.5 million CPIS addition associated with the connection of the purchased Chevron lines and certain idle Crimson lines to PBF's and Marathon's refineries (AFE 70864), for the same reason.
- Approximately $2.6 million in CPIS additions and adjustments associated with a reimbursable project to construct an extension connecting the Warren Town Lot Unit (AFE 70051 WTU Lateral Pipeline Extension) to Crimson's THUMS 8-inch line, because Crimson had a contract whereby a producer would reimburse Crimson for the capital cost of the project.
- Approximately $5.3 million in CPIS adjustments, representing "transfers" of new assets into Crimson's carrier property ledger, for which no meaningful support was provided.

I discuss each of these exclusions in turn below.

IV.B.2.a. AFEs 70797 & 70864: Purchase of Chevron Lines and Connection of Crimson & Chevron Lines to PBF and Marathon

Q99. What was the nature and purpose of the AFE 70797 and 70864 projects?

A99: When they were initiated in 2018 and 2019, respectively, these projects were for Crimson to acquire certain "7-8 and 9-8 lines" from Chevron (AFE 70797), and to "place them into service" along with another then-idle pipeline segment ("OOS No. 4-10") that Crimson had previously purchased from

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[140] The details of these exclusions and summary of how the subject projects and assets are described in Crimson's carrier property ledgers are laid out in my Carrier Property Workpapers, contained in Exhibit No.___(MRT-0044).

Chevron.[141] Specifically, by connecting the 4-10 and 9-8 lines to Crimson's Torrey and Ventura lines, these projects would "enable crude oils to be shipped from Crimson's East Crude Gathering System to the PBF and Marathon refineries."[142]

The stated purpose for the projects in Crimson's AFE documents was to "allow the PBF Torrance Refinery and the Marathon Refinery in Carson to receive crude oil production from the East Crude Gathering System (15-20K bpd), the Huntington Beach System (5K bpd), and the Seal Beach System (5K bpd)."[143]

Q100. Does Crimson appear to have completed these projects?

A100: Yes. Crimson states that the projects were completed in December 2018 (AFE 70797) and July 2020 (AFE 70864).[144]

For AFE 70797, Crimson's general ledger indicates **[BEGIN HC PROT]** [redacted] **[END HC PROT]** Meanwhile, the carrier property records underlying Dr. Webb's rate base calculations indicate a CPIS Addition of $375,000 in 2019 and a CPIS Adjustment of $100,000 in 2020 (albeit both with a listed "In-Service Date" in December 2018).[145]

Similarly, for AFE 70864, Crimson's general ledger indicates **[BEGIN HC PROT]**[redacted] **[END HC PROT** The corresponding records in Crimson's carrier property ledger indicate a CPIS Addition of $1,522,020 effective during January-May 2021 (albeit both with a listed "In-Service Date" in July 2020).[147]

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[141] *See* the response to request P66-CRIMSON-6.5 and the documents Bates stamped CRIMSON22 001117-001119 (AFE 70797) and CRIMSON22 001129-001138 (AFE 70864), included in Exhibit No.___(MRT-0045).

[142] *Id.*

[143] *Id.*

[144] Response to request P66-CRIMSON-6.5(b), included in Exhibit No.___(MRT-0045).

[145] Tolleth Carrier Property Workpapers, contained in Exhibit No.___(MRT-0044).

[146] *Id.* Note that the general ledger shows accounting adjustments recorded in May 2021 that are immaterial in the aggregate and additional expenditures and in-service transfers in trivial amounts occurring in September-December 2021.

[147] *Id.*

Q101. Have these projects been used for their intended purpose?

A101: No. Crimson acknowledges that no volumes have flowed under the tariff movements enabled by these projects.[148]

Q102. Given that the facilities purchased and built by Crimson under these AFE projects have not been used to provide crude oil transportation service, should the associated capital expenditures be included in rate base?

A102: No. These facilities do not meet the used and useful standard. Crimson states that "the purpose of this project was to provide flow assurance and additional delivery point locations for crude oil production, but no incremental capacity was created" as a result of these projects.[149] However, the fact that no volumes have flowed over the enabled new routes in the more than two years since they were notionally placed "in-service" by Crimson strongly suggests that these expenditures have not been shown to provide valuable service to Crimson's shippers. Accordingly, I recommend that the approximately $2.0 million of CPIS additions proposed by Crimson in association with these projects be excluded from rate base.

IV.B.2.b. AFE 70051: WTU Lateral Extension Reimbursable Project

Q103. What was the nature and purpose of the AFE 70051 project?

A103: When AFE 70051 was sought for the project in 2013 (and in subsequent supplemental AFEs), Crimson described the project as involving installation of "a new section of pipeline to connect the existing pipeline from the Warren Town Lot Unit to the Thums 8-inch line, connected to the Tesoro Refinery" and noted that "[a] reimbursement agreement for the project has been negotiated with the client, Warren E&P."[150] The "Project Justification" field of the AFE documents stated:

> The project is necessary to support growth and expansion of the Crimson Pipeline System. All cost associated with the project are reimbursable in accordance with the term of the agreement.[151]

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148 Responses to requests P66-CRIMSON-6.2(c), 6.3(c), and 6.5(b-c), included in Exhibit No.___(MRT-0045).

149 Responses to requests P66-CRIMSON- 6.5(b), included in Exhibit No.___(MRT-0045).

150 See response to request P66-CRIMSON-2.22 and documents Bates stamped CRIMSON22 001071-001100, included in Exhibit No.___(MRT-0046).

151 Document Bates stamped CRIMSON22 001072, included in Exhibit No.__(MRT-0046).

The referenced reimbursement agreement—which is provided as an attachment to a May 2013 supplemental AFE—indicates that Warren E&P had contractually committed to pay the actual costs to develop and construct the relevant lateral extension facilities (plus a 15% administrative overhead fee). The agreement further makes clear that the anticipated reimbursement amount corresponded to the estimated project expenditure contained in Crimson's AFEs.[152]

Q104. What is the significance of the WTU Lateral Extension being a reimbursable project?

A104: The fact that the customer who sought interconnection with the SoCal system via construction of the extension committed to directly reimburse Crimson for the cost of the project indicates that Crimson does not require and should not receive additional or redundant recovery of the same project costs through inclusion of the assets in rate base.

Crimson describes its accounting policies regarding reimbursable project expenditures as intended to "not impact either the balance sheet or the asset ledger and have zero impact on Crimson's books."[153] Further, according to Crimson's accounting policy on reimbursable projects that was effective starting in March 2016,[154] the WTU Lateral Extension project would seem to fit the category of "Type 3 – Commercial projects/new customers" reimbursable projects, of which the policy states:

> A new customer will engage the Company to build a new pipeline or gathering system to connect to the Company's existing pipeline. The new customer desires to connect directly into the Company's pipelines rather than transporting (i.e., trucking or barging) their oil to an entry point along the existing pipeline. The Company charges the new customer for the cost to construct the pipeline plus an additional 20% "administrative fee" which is intended to offset the internal incremental cost associated with the construction of the pipeline. The customer will not pay a tariff for transportation of volumes along the newly built section of pipeline, but will pay the normal tariff for transportation along any existing sections of pipeline. The Company owns and operates the newly built pipeline.[155]

Thus, it seems clear according to Crimson's own policies that the capital costs of AFE Project 70051 should have been fully recovered by Crimson pursuant to the reimbursement agreement with the customer seeking the extension/interconnection facilities. Accordingly, allowing Crimson to include

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152 Document Bates stamped CRIMSON22 001071-001089 at 001071, 001075, 001079-80, 001089, included in Exhibit No.___(MRT-0046).

153 Response to request P66-CRIMSON-2.17, included in Exhibit No.___(MRT-0047).

154 *See* response to requests P66-CRIMSON-2.17 and P66-CRIMSON-5.8, and the document Bates stamped CRIMSON22 002848-002856, included in Exhibit No.___(MRT-0047).

155 CRIMSON22 002848-002856 at 002848, included in Exhibit No.___(MRT-0047).

those same capital expenditures in its SoCal system rate base would appear to lead to an inappropriate double recovery of such costs through incremental depreciation expense and return on rate base associated with the relevant CPIS additions. Despite this, Crimson has in fact included in its carrier property ledger an approximately \$2.6 million CPIS addition effective 2016, together with an accompanying CPIS adjustment of \$56,493 effective of 2020, both listed with "in-service dates" in Summer 2016.[156]

Q105. What do you recommend with respect to these CPIS additions and adjustments that are apparently associated with AFE 70051 reimbursable project expenditures for the WTU Lateral Extension?

A105: For the reasons explained above, I recommend that they be excluded from rate base for purposes of calculating the SoCal system cost of service in this proceeding.

IV.B.2.c. Unsupported Carrier Property Transfers

Q106. Did you ask a data request seeking explanation and documentation for the carrier property adjustments and retirements that Crimson listed in the "Historical Capital Expenditures" ledger underlying Dr. Webb's rate base calculations?

A106: Yes. Specifically, I requested that for each nonzero adjustment or retirement amount in the ledger, Crimson explain (i) why the adjustment was warranted, (ii) why it was implemented in the designated year, (iii) how the amount of the adjustment was determined, and (iv) whether that amount reflected the original cost of the asset at the time it was placed in utility service.[157]

Q107. Did Crimson provide the requested explanations?

A107: No. Crimson merely provided a color coded version of its ledger[158] and stated as follows.

> The adjustment and retirement values that are highlighted in blue in the referenced spreadsheet relate to changes in costs amounts from the previous ledger. The adjustments highlighted in green in the referenced spreadsheet concern transfers, appearing in the ledger for the first time. The retirements highlighted in yellow in the referenced spreadsheet concern assets that have been removed from the ledger.[159]

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[156] Tolleth Carrier Property Workpapers, contained in Exhibit No.___(MRT-0044)

[157] Request P66-CRIMSON-3.2, included in Exhibit No.___(MRT-0048).

[158] Excel file Bates labeled CRIMSON22 001318, included in Exhibit No.___(MRT-0019).

[159] Response to request P66-CRIMSON-3.2, included in Exhibit No.___(MRT-0048).

Obviously, this response does nothing to explain the nature of the adjustments or to justify the amounts in relation to the depreciated original cost of the affected carrier property assets.

Q108. What did you discover with respect to the CPIS adjustments that Crimson color coded "green" to indicate that they "concern transfers"?

A108: I discovered that they all occurred in 2019, and accounted for an aggregate $5.3 million increase in Crimson's rate base as of that year, even though the majority of them were designated as having "in-service dates" in 2010.[160] Absent any explanation, I found it puzzling that this significant an amount of asset value would have been placed in utility service for Crimson's SoCal system crude transportation when the system had been experiencing declining throughput.

With respect to the blue color-coded "adjustments" and yellow color-coded "retirements," I was at least able to verity that the amounts were associated with other entries coded to the same asset ID, and—in the case of retirements and some adjustments to amount—exactly canceling out earlier carrier property addition amounts. However, the green color-coded "transfer" amounts were devoid of context save for a brief description of the asset. Further, most of the transfers were not tagged with an AFE number in the Historical Capital Expenditures ledger, and for the few that were, the AFE numbers provided seemed to be mismatches—according to Crimson's General Ledger AFE activity data, the indicated AFE numbers correspond to totally different projects.[161]

Q109. What do you recommend with respect to the unsupported CPIS adjustments identified by Crimson as representing "transfers, appearing the ledger for the first time"?[162]

A109: In my opinion, they should be excluded from rate base. Crimson has not supported or justified these transfers in any way. Even when explicitly asked to do so, Crimson failed to provide any documentation regarding the assets or projects pertaining to these transfers, declined to explain why they were implemented in 2019, and made no attempt to reconcile the transfer amounts with an accounting or even an estimate of the original cost of the associated capital projects or assets. Absent this information, shippers and the Commission cannot verify that the assets in question are actually used and useful in the provision of carrier utility service, nor that they are properly valued

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[160] Tolleth Carrier Property Workpapers, contained in Exhibit No.___(MRT-0044).

[161] Tolleth Carrier Property Workpapers, contained in Exhibit No.___(MRT-0044).

[162] Response to request P66-CRIMSON-3.2, included in Exhibit No.___(MRT-0048).

consistent with the Commission's precedent for depreciated original cost rate base in utility ratemaking.

IV.B.3. Crimson's Proposed Test Period Rate Base Additions based on Forecast Capital Expenditures

Q110. Are there any of Crimson's proposed Test Period carrier property additions that you believe should be excluded from the rate base for purposes of the SoCal system cost of service and rates in this proceeding?

A110: I recommend the following exclusions from among the carrier property in service (CPIS) additions and adjustments proposed by Crimson:

- The $362,500 forecast Test Period CPIS addition for capital spending on **[BEGIN HC PROT]** [redacted] **[END HC PROT]** connection of the Thums 10-inch pipeline to PBF's refinery (AFE 70701), which project is not complete and has been placed on hold by Crimson.
- A $1,489,000 "forecast" CPIS addition in the Test Period designated as pertaining to AFE 70864 ("Connection of Crimson & Chevron Lines to PBF and Marathon Refineries"), which appears redundant with the $1.5 million CPIS addition Crimson represents as having entered its carrier property ledger during the January-May 2021 period.[163]
- The approximately $6.2 million forecast Test Period CPIS addition associated with Crimson's "Ventura Consolidation Project" (AFE 70774), for which the projected total expenditure and in-service date appear speculative based on current information. This project was motivated in part by the potential to achieve reductions in SoCal system operating expenses originally estimated at $550,000 per year, which reductions have not been realized and are not in Crimson's cost of service.

I discuss each of these exclusions in turn below.[164]

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[163] *See supra*, Section IV.B.2.a. Note that I recommend that 2021 CPIS addition amount be rejected based on the fact that the facilities placed "in-service" pursuant to AFE Project 70864 have not been used and useful.

[164] Note that in addition to the items discussed in this section, Crimson has proposed a Test Period CPIS addition of $2,405,000 associated with AFE 71157 ("Somis Pump Station Relocation Project"). Although Crimson's general ledger data indicates that **[BEGIN HC PROT]** [redacted] **[END HC PROT]** Crimson states that it "expects mechanical completion of the relocated Somis Pump Station on November 30, 2022." *See* response to P66-CRIMSON-6.9

IV.B.3.a. AFE 70701: THUMS 10-inch Connection to PBF

Q111. What is the nature and purpose of this project?

A111: According to the AFE documents provided by Crimson, this project relates to **[BEGIN HC PROT]** [redacted] **[END HC PROT]**

Q112. Does Crimson have a firm expectation of when it will complete the project?

A112: No. Despite proposing to include $362,500 in rate base via a Test Period addition to CPIS (with an "estimated in-service date" of July 2022,[166] Crimson has stated that "the project has not been completed and there is no firm target for such completion."[167] Further, the most recent supplemental AFE states **[BEGIN HC PROT]** [redacted] **[END HC PROT]** Based on this information, it appears that Crimson is seeking to earn a return of and on the capital expenditures it has incurred for this project so far, even though there is no plan to **[BEGIN HC PROT]** [redacted] **[END HC PROT]** complete the project and place it in service.

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and the document Bates stamped CRIMSON22 001555-001556, included in Exhibit No.___(MRT-0049). Based on this representation, I include this CPIS addition in the Test Period for purposes of my cost of service estimate at this time. However, the CPIS amount should be excluded or revised if it should later be demonstrated that the project will not become used and useful in crude oil transportation service within the Test Period, or that the total amount spent is not consistent with the estimate.

[165] Response to request P66-CRIMSON 6.7 and CRIMSON22 001521-001530, especially at 001530, included in Exhibit No.___(MRT-0050.

[166] Response to request P66-CRIMSON 3.4, included in Exhibit No.___(MRT-0051 and Excel file Bates stamped CRIMSON22 001520, included in Exhibit No.___(MRT-0043).

[167] Response to request P66-CRIMSON 6.7, included in Exhibit No.___(MRT-0050).

[168] CRIMSON22 001521-001530 at 001530, included in Exhibit No.___(MRT-0050.

Q113. What rate base treatment do you recommend for Crimson's AFE 70701 capital expenditures?

A113: They should be excluded from rate base. Given the status of this project, such expenditures are not associated with used and useful investment in the SoCal pipeline system. Further, it is neither known nor measurable at this time when (or if) they might eventually become so.

IV.B.3.b. AFE 70864: Connection of Crimson & Chevron Lines to PBF and Marathon

Q114. Is Crimson proposing to include a Test Period CPIS addition in connection with AFE 70864?

A114: Yes. Crimson proposes to add $1,489,000 to rate base in the Test Period, with an "estimated in-service date" of September 30, 2022.[169] Importantly, this proposed Test Period CPIS addition is incremental to the $1.5 million CPIS addition Crimson has proposed to implement as of early 2021, and it is related to the same project and supported by the same AFE documents that were discussed above in Section IV.B.2.a.[170]

Q115. Does this proposed Test Period CPIS addition appear to be redundant?

A115: Yes. As discussed above, Crimson's general ledger data indicates **[BEGIN HC PROT]** [redacted] **[END HC PROT]** Additionally, the AFE support for the $1,489,000 Test Period amount is equal to the *total* authorized spending amount in the most recent supplemental AFE.[172] Based on these facts, it would appear that the proposed Test Period CPIS addition is simply redundant with the earlier CPIS addition. Accordingly, it would be appropriate to reject this Test Period CPIS addition even if were not associated with a project that fails to meet the used and useful standard (as discussed above in Section IV.B.2.a). As it is, there are two reasons to exclude this amount.

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[169] Response to request P66-CRIMSON 3.4, included in Exhibit No.___(MRT-0051 and Excel file Bates stamped CRIMSON22 001520, included in Exhibit No.___(MRT-0043).

[170] Response to request P66-CRIMSON 6.5(e), included in Exhibit No.___(MRT-0045).

[171] *Supra* at Section IV.B.2.a.

[172] Response to request P66-CRIMSON-6.8 and documents Bates stamped CRIMSON22 001538-001540 at 001538, included in Exhibit No.___(MRT-0052).

IV.B.3.c. AFE 70774: Ventura Pipeline Consolidation Project

Q116. What is the nature and purpose of this project?

A116: According to Crimson, the goal of this project is to shift certain transportation movements that currently occur using Crimson's Line 600 pipeline segment to use the Ventura 10-inch line instead, and consolidate them with existing movements on that line. The relevant AFE documents indicate that the system modifications necessary to achieve this are justified because **[BEGIN HC PROT]** [redacted] **[END HC PROT]**

Q117. When and at what value does Crimson propose to capitalize its expenditures on the Ventura Pipeline Consolidation Project into rate base during the Test Period?

A117: According to its Forecast Capital Expenditures ledger, Crimson proposes to add $6,173,786 to its CPIS, based on an estimated in-service date of December 31, 2022.[174] However, Crimson has subsequently stated in response to data requests that it now "expects the project to become operation in Q1 2023."[175]

Q118. What is the total authorized amount for this project per the most recent supplemental AFE?

A118: It is $4,187,000, based on a February 2021 estimate.[176]

Q119. How much has Crimson actually spent on this project to date?

A119: This is not entirely clear. Crimson claims that its "$6,173,786 figure accounts for total expenses incurred by Crimson for the Ventura consolidation project as of December 2021."[177] However, Crimson's general ledger data indicates that Crimson has actually spent **[BEGIN HC PROT]** [redacted] **[END HC PROT]** Based on this

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[173] Response to request P66-CRIMSON-6.8 and documents Bates stamped CRIMSON22 001531-001540 and CRIMSON22 004233-004248, included in Exhibit No.___(MRT-0052).

[174] Response to request P66-CRIMSON 3.4, included in Exhibit No.___(MRT-0051 and Excel file Bates stamped CRIMSON22 001520, included in Exhibit No.___(MRT-0043).

[175] Response to request P66-CRIMSON-6.8(a), included in Exhibit No.___(MRT-0052).

[176] Response to request P66-CRIMSON-6.8)(c) and document Bates stamped CRIMSON22 001538-001539, included in Exhibit No.___(MRT-0052).

[177] Response to request P66-CRIMSON-6.8(c), included in Exhibit No.___(MRT-0052).

[178] Tolleth Carrier Property Workpapers, contained in Exhibit No.___(MRT-0044).

discrepancy, in my view the notion that Crimson's total capital expenditures on the project will equal its forecast is not adequately supported.

Q120. What rate base treatment do you recommend with respect to Crimson's forecast CPIS additions for the Ventura Consolidation Project (AFE 70774)?

A120: Based on the information available at this time, I recommend the entirety of the proposed $6,173,786 addition be excluded from rate base. As discussed above, the available information indicates that Crimson's estimates of projected in-service date and total expenditures of this project may be speculative.

Moreover, a clearly articulated purpose of the project is to reduce operating expenses by an estimated $550,000 per year, but Crimson states that thus far it "has not realized or quantified the reduction in operating expenses that was estimated for this project because this project has not yet been completed and placed into service."[179] If Crimson is permitted to include a projected CPIS amount in rate base before the project is actually completed and placed in service, it is only reasonable that it should include an estimate of the anticipated operating cost savings (i.e., $550,000 per year) as a Test Period reduction to operating expenses in the cost of service. In my opinion, the better supported approach is to exclude any estimated capital additions from rate base until the project is in service, at which point the operating cost reductions will also become known and measurable.[180]

IV.B.4. Summary of Recommended Exclusions for Crimson's Proposed Rate Base Additions

Q121. Will you please summarize the impact of your recommended exclusions on Crimson's proposed SoCal system carrier property balances?

A121: Inclusive of CPIS Additions, Retirements, and Adjustments, Crimson proposes to increase the gross carrier property balance of the SoCal system by $30.4 million in 2016 through the Base Period, with an additional $10.7 million increase in the Test Period.[181] Based on my analysis in Section IV.B.2 above, I recommend that $9.9 million of the $30.4 million proposed 2016-Base

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179 Response to request P66-CRIMSON-6.8(b), included in Exhibit No.___(MRT-0052).

180 I note that for purposes of my cost of service analysis, eliminating the CPIS addition reduces the cost of service less than would an incremental $550,000 reduction to Test Period operating expenses.

181 Tolleth Carrier Property and Capex Workpapers, included in Exhibit No.___(MRT-0044).

Period CPIS increase be excluded.[182] Also, for the reasons explained in Section IV.B.3 above, I recommend excluding $8.0 million of Crimson's $10.7 million Test Period increase.[183]

After accounting for these exclusions, I calculate a gross carrier property balance of $72.7 million in the Base Period and $75.4 million in the Test Period.[184] The development of the SoCal rate base (reflecting accumulated depreciation and accrual / amortization of AFUDC) based on my recommended carrier property balances is summarized in my cost of service model.[185]

IV.C. RETURN ON RATE BASE

Q122. What rate of return parameters did Dr. Webb employ in his SoCal system cost of service estimate?

A122: For both Base Period and Test Period, Dr. Webb used an Equity Ratio of 60.00%, Cost of Debt of 6.50%, and Rate of Return of Equity of 15.66%.[186] These parameters translate into a Weighted Cost of Capital of 12.00%.[187]

Q123. What rate of return inputs do you employ in your SoCal system cost of service estimate?

A123: For both Base Period and Test Period, I accepted Mr. Upton's recommendations and used an Equity Ratio of 55.00%, Cost of Debt of 5.71%, and Rate of Return of Equity of 10.97%.[188] These parameters translate into a Weighted Cost of Capital of 8.60%.[189] For historical inputs for 2015 to May 2021, I used an Equity ratio of 60.00%, Cost of Debt of 8.88%, Cost of Equity of 11.20%, to align with CPUC Decision 20-11-026[190].

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[182] *Id.*
[183] *Id.*
[184] *Id.*
[185] Tolleth Cost of Service Model, at Statement E, included in Exhibit No.___(MRT-0017).
[186] Webb Testimony, Section III; Exhibit No. MJW-003.
[187] Exhibit No. MJW-003, Statement C.
[188] Answering Testimony of Lee O. Upton III, Exhibit No. LOU-0001.
[189] Tolleth Cost of Service Model, at Statement C, included in Exhibit No.___(MRT-0017).
[190] Note that Dr. Webb used a series of different cost of debt and cost of equity inputs for 2015 to May 2021 than those in CPUC Decision 20-11-026. See Exhibit No.MJW-003, Workpaper 1.

V. TEST PERIOD COST OF SERVICE AND COMPARISON TO TEST PERIOD REVENUE AT PRE-APPLICATION RATES

Q124. What is your estimate of the total cost of service for Crimson's SoCal system?

A124: I estimate that the total cost of service pertaining to the SoCal system crude transportation rates at issue in this proceeding—after applying credits for non-transportation revenue and transportation revenue from PUC Tariff 109 (not a subject of the rate increase sought by Crimson in A.22-06-017)—is $21.8 million, which is approximately $ 8.1 million lower than Dr. Webb's $30.0 million cost of service recommendation.[191]

FIGURE 14
CRIMSON SOCAL SYSTEM TEST PERIOD COST OF SERVICE AND REVENUE
TOLLETH VS. WEBB RECOMMENDATIONS

			Webb Analysis	Tolleth - Adjusted Base Period	Tolleth - Adjusted Oct21-Sep22
			[1]	[2]	[3]
Equity Ratio	*(%)*	[a]	60.00%		55.00%
Return on Equity	*(%)*	[b]	15.66%		10.97%
Cost of Debt	*(%)*	[c]	6.50%		5.71%
WACC	*(%)*	[d]	**12.00%**		**8.60%**
Rate Base	*($ thousands)*	[e]	57,098		43,932
Return on Rate Base	*($ thousands)*	[f] = [d] x [e]	6,850		3,780
Operating Expenses	*($ thousands)*	[g]	27,325		24,568
Depreciation and Amortization	*($ thousands)*	[h]	2,752		2,318
AFUDC Depreciation	*($ thousands)*	[i]	63		44
COS Before Revenue Credits	*($ thousands)*	[j] = sum ([f]:[i])	**36,991**		**30,710**
Pipeline Loss Allowance Revenue Credit	*($ thousands)*	[k]	(6,677)	(8,419)	(7,818)
PUC 109 and Other Non-Transportation Revenue Credit	*($ thousands)*	[l]	(352)	(1,077)	(1,050)
Total COS	*($ thousands)*	[m] = SUM([j]:[l])	**29,962**	**21,214**	**21,841**
Throughput	*(bbl thousands)*	[n]	28,078	29,293	29,649
Revenue @ Pre-Application Rates	*($ thousands)*	[o]	**22,368**	**23,192**	**22,976**
Revenue Excess (Deficiency)	*(%)*	[p] = 1 - [m]/[o]	**-33.9%**	**8.5%**	**4.9%**

Source: Exhibit No.___(MRT-0017)

[191] This follows my recommended "Adjusted Oct21-Sep22" approach to estimating Test Period Throughput and Revenue (including the non-transportation and PUC 109 revenue credits). If the "Adjusted Base Period" approach were used instead, my cost of service estimate (net of revenue credits), would be $21.2 million, $8.7 million lower than Dr. Webb's estimate.

Q125. What do you conclude regarding the level of Crimson's SoCal system crude oil transportation rates that would permit Crimson a reasonable opportunity to recover the cost of service?

A125: As described above in Section III, my recommended estimate of reasonable Test Period throughput under the crude oil transportation tariffs at issue in this proceeding (using the "Adjusted Oct21-Sep22 Actuals" approach) corresponds to estimated annual transportation revenue of $23.0 million at existing (pre-Application) rates. My $21.8 million estimate of the Test Period cost of service for the CPUC system is 4.9 percent lower than my estimate of the Test Period revenue.[192] Therefore, reasonable levels for the CPUC intrastate transportation rates at issue in this proceeding should incorporate at least a 4.9 percent uniform **decrease** relative to the corresponding levels that were listed in Crimson's SoCal system CPUC tariffs prior to the Application.

VI. CRIMSON'S APPLICATION FOR A MEMORANDUM ACCOUNT AND SURCHARGE TO TRACK AND RECOVER AB 864 CAPITAL IMPROVEMENT EXPENDITURES

Q126. Can you please describe what Crimson is proposing with respect to its proposed Assembly Bill ("AB") 864 Memorandum Account and surcharge?

A126: AB 864 was enacted on October 8, 2015 in response to a 2015 oil spill in Santa Barbara.[193] It imposed requirements on entities operating pipelines in environmentally and ecologically sensitive areas.[194] Specifically, AB 864 required that by July 1, 2018 operators of such pipelines submit plans to retrofit existing pipelines with the best available technology for coastal spill prevention and mitigation ("CBAT")[195] by July 1, 2020.[196] The law is implemented by the Office of the State Fire Marshall ("OSFM"), which was required to adopt implementing regulations by July 1, 2017.[197]

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[192] If the "Adjusted Base Period" approach is instead, with my Test Period cost of service of $21.2 million and revenue at pre-Application rates of $23.2 million, at least an 8.5% decrease in transportation rates should be applied to Crimson's SoCal system tariffs.

[193] Application No. A.22-03-013 at 4 ("Surcharge Application").

[194] Cal. Gov't Code § 51013.1; Surcharge Application at 4; Testimony of Larry M. Alexander in Support of Crimson on AB 864 Issues (un-numbered) at 1:3-9 ("Alexander AB 864 Testimony"). Note however that the Application and Mr. Alexander's testimony claims that AB 864 "added Section 51013.3 to the Government Code." I am told that Counsel has been unable to locate such a section. Rather it is their understanding that AB 864 was codified in § 50103.1 and amends the Elder California Pipeline Safety Act of 1981.

[195] CBAT stands for "coastal best available technology." Surcharge Application at 4 n.4; Alexander AB 864 Testimony at 1 n.2.

[196] Cal. Gov't Code § 51013.1(b)(1).

[197] Cal. Gov't Code § 51013.1(c)(1).

These regulations were adopted on October 1, 2020 and implemented in §§ 2100-2120 of Chapter 19 of the California Code of Regulations. According to Crimson's AB 864Surcharge Application, it began incurring expenses to comply with these new requirements in the second quarter of 2020.[198]

On March 15, 2022, Crimson filed Application No. A.22-03-012 requesting implementation of its AB 864-related Memorandum Account and surcharge on transported crude oil barrels. In this Surcharge Application, Crimson claimed that it should be allowed both to create a Memorandum Account to track its AB 864-related costs and to impose a $0.14 surcharge for the recovery of such costs. Crimson requested that its proposed Memorandum Account be made effective retroactively to cover costs back to April 2020,[199] which is when Crimson initiated preliminary evaluation and spill modeling to identify system upgrades required for compliance to AB 864 and related OSFM regulations.[200] As discussed below, in my understanding of the Commission's policies surrounding the establishment Memorandum Accounts, such a retroactive treatment would be unprecedented.

However, while its AB 864 Surcharge Application was unclear on this point, it now appears that Crimson is not seeking to include any of the preliminary assessment and modeling costs in its proposed surcharge, but has rather embedded those costs within the Base Period operating expenses (specifically GL Account 6455 Regulatory Compliance Expenses) included within its A.21-06-024 and A.22-06-017 general rate increase Applications.[201] Rather, Crimson is proposing to institute a three year uniform surcharge on trunk line barrels to recover an estimated $8.55 million in capital expenditures it expects to incur for system improvement projects associated with the installation of CBAT and in accordance with its CalFire approved implementation plan.[202]

Q127. Does Crimson's Surcharge Application or testimony justify its request for a Memorandum Account and surcharge?

A127: No. Neither Crimson's Surcharge Application nor its witnesses AB 864 Surcharge testimony provide any valid justification for why these AB 864 CBAT implementation capital expenditures

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[198] Surcharge Application at 13 n.14.

[199] *Id.* at 13-14 & nn.14-15.

[200] Response to request P66-CRIMSON-5.4 and 5.5 and document Bates stamped CRIMSON22 001303.

[201] *See supra* at Section IV.A.2; *see also* Alexander AB 864 Testimony at 5-6, n. 7.

[202] Alexander AB 864 Testimony at 4-5 (Table II, identifying system improvement projects with estimated cost totaling $8.55 million), 5-6, n. 7 (stating "$8.55 million [is the] projected, forward-going cost of implementing the approved AB 864 pipeline retrofits and improvements") , 8:22-23 (stating the intention to recover the $8.55 million over three years via the proposed surcharge).

should be treated differently than other similar system improvement costs being addressed in the carrier's ongoing and consolidated general rate Application in Docket A.22-06-017.

Q128. Can you please summarize your conclusions regarding the appropriateness and reasonableness of Crimson's proposed AB 864 Memorandum Account and related surcharge.

A128: I believe Crimson's request to implement a Memorandum Account and related surcharge recovery mechanism for the recovery of its AB 864-related costs is misplaced and inappropriate as it is fundamentally inconsistent with the Commission's policies and precedent for implementing Memorandum Accounts and/or surcharges.

Importantly, the costs in question clearly represent capital investment in system improvement facilities and projects,[203] which by their nature extend the useful life and improve the performance of Crimson's SoCal system facilities and provide benefits to customers over the remaining life of the system. The standard and proper accounting treatment for such costs is for them to be capitalized on Crimson's balance sheet,[204] and the corresponding proper ratemaking treatment is to include them in rate base when the projects are completed and become used and useful in the provision of Crimson's crude oil transportation service.[205]

This is the opposite of Crimson's proposal, which seeks guaranteed dollar-for-dollar recovery over an accelerated 3-year period. Such a request is particularly egregious given that most of the improvement projects will not be completed and placed in to service until sometime in 2024 or 2025. This not only violates established Commission policy and precedent but creates the potential for serious intergenerational inequities among shippers and violations of cost causation principles with respect to the recovery of long-lived capital improvement assets that are designed to provide benefits for shippers well into the future, and not just for the three years the surcharge is requested to be in effect.

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[203] *See* response to requests P66-CRIMSON-1.11 and associated produced AFE documents, included in Exhibit No. ___(MRT-0053).

[204] *See* Crimson's Capital vs. Expense Accounting Policy in document Bates stamped CRIMSON22 001307-001317 at 001307 ("Capital improvements that extend the useful life or that increase the capacity or revenue capability of the asset are to be capitalized.") and 1308 ("Major projects such as overhauls or replacements will be capitalized if the future service potential of the asset being repaired is increased […] or the capability of the asset is enhanced."), included in Exhibit No.___(MRT-0047).

[205] *See supra* at Section IV.B.1.

Q129. Does Crimson treat the AB 864 system improvement costs for which it is seeking surcharge recovery as capital costs for accounting and budgeting purposes?

A129: Yes, Crimson has acknowledged that the CBAT implementation projects in question are budgeted and treated as capital AFEs,[206] and the general ledger accounting entries tracked to those AFEs have, to date, only recorded costs in capital work in progress (WIP) accounts.[207] Further, in response to a specific data requests, Crimson stated that "should its surcharge application that is the subject of A.22-03-013 be denied, the probable accounting treatment of the AB 864 expenditures would be to capitalize them" in accordance with its capitalization vs. expense accounting policy.[208]

Q130. Has Crimson acknowledged that substantial capital expenditures on these projects will not be incurred until several years in the future?

A130: Yes. In a "Preliminary Estimated Expenditure Forecast" apparently prepared specifically in response to a data request, Crimson states that "detailed engineering work started in Q3 2022," and projects that only $560,000 will have been spent by the end of this year, with more than half the estimated $8.55 million yet to be invested by the end of 2023.[209]

Q131. How much capital expenditure has Crimson incurred so far?

A131: According to its general ledger entries, Crimson had spent only **[BEGIN HC PROT]** [redacted] **[END HC PROT]** of the projected $8.55 million total.[210]

VI.A. MEMORANDUM ACCOUNT PRINCIPLES

Q132. Please explain your understanding of the purpose of the Commission's Memorandum Account process.

A132: A memorandum account "allows a utility to track costs arising from events that were not reasonably foreseen in the utility's last [general rate case.] By tracking these costs in a memorandum account,

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206 Response to request P66-CRIMSON-5.3(b), included in Exhibit No.___(MRT-0053).

207 Tolleth Carrier Property and Capex Workpapers, included in Exhibit No.___(MRT-0044).

208 Response to request P66-CRIMSON-5.8(d), included in Exhibit No.___(MRT-0047).

209 *See* response to requests P66-CRIMSON-1.11 and associated produced "AB-864 Project Information Overview" document, included in Exhibit No. ___(MRT-0053).

210 Tolleth Carrier Property and Capex Workpapers, included in Exhibit No.___(MRT-0044).

a utility preserves the opportunity to seek recovery of these costs at a later date without raising retroactive ratemaking issues."[211] This is "an appropriate ratemaking tool when recovery is uncertain for the tracked revenues or costs."[212]

Importantly though, "when the Commission authorizes a memorandum account, it has not yet determined whether recovery of booked costs is appropriate, unless so specified."[213] Rather, "the utility shall bear the burden when it requests recovery of the recorded costs, to show that additional recovery of the types of costs recorded in the account is appropriate, that the utility acted prudently when it incurred these costs and that the level of costs is reasonable."[214]

Therefore, the narrow benefit of a memorandum account is that without such an account the inclusion of the relevant costs that occurred between a utility's general rate cases in rates would violate the rule against retroactive ratemaking.[215]

Q133. Does Crimson's request for an AB 864 Memorandum Account comport with this purpose and principle?

A133: No. Contrary to the Commission's guiding principles, Crimson is seeking to establish a Memorandum Account and recover related costs simultaneously prior to any detailed evaluation of the costs. Indeed, the vast majority of Crimson's AB 864-related capital expenditures have not even occurred and the related facilities will not be placed into service until as far out as 2025.

Q134. What factors are considered by the Commission in evaluating whether the use of a Memorandum Account is reasonable?

A134: There are generally four factors the Commission considers when evaluating whether to authorize a Memorandum Account in a specific circumstance. First, whether "[t]he expense is caused by an

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[211] D.12-03-022 at 11, *PacifiCorp*, 2012 WL 960073 (Mar. 8, 2012); *see also* D.11-07-057 at 31-32, *Golden State Water Co.*, 2011 WL 3375597 (July 28, 2011) (quoting D.10-04-031 at 43-44, *San Gabriel Valley Water Co.* (Apr. 13, 2014)); Res. No. W-4835, *Cal. Water Serv. Co.*, 2010 WL 3278983 (Aug. 12, 2010).

[212] ALJ Decision Granting Interim Approval at 15 n.16, *Pac. Pipeline Sys. LLC*, Docket No. A.05-05-002, 2005 WL 1649713, at *7 (July 8, 2005) ("tracking of these costs in a memorandum account will make it easier for both PPS and the Commission to identify the costs resulting from the storms and landslides in Winter 2004-05 and will facilitate the Commission's determination of the amount to either be granted as a rate increase or to be refunded to shippers with interest.") (citing D.03-12-057 at 10 n.11, *S. Cal. Gas Co.*, 2003 WL 23138822 (Dec. 18, 2003)).

[213] *Id. See also* Res. No. W-4824, *Cal.-Am. Water*, 2010 WL 1496322, at *4 (Apr. 8, 2010).

[214] Res. No. W-4824, *Cal.-Am. Water*, 2010 WL 1496322, at *4.

[215] *Id.*, at *3 ("By tracking these costs in a memorandum account, a utility preserves the opportunity to seek recovery of these costs at a later date without raising retroactive rate-making issues.").

event of an exceptional nature that is not under the utility's control."[216] Second, whether "[the expense cannot have been reasonably foreseen in the utility's last GRC and will occur before the utility's next scheduled rate case."[217] Third, whether "[t]he expense is of a substantial nature in the amount of money involved."[218] Fourth, whether "[t]he ratepayers will benefit by the memorandum account treatment."[219] Despite these numerous factors, the Commission has made clear that it is only ever asking one question: "whether a utility should be permitted to seek recovery of these costs at a later date."[220]

VI.B. CRIMSON'S MEMORANDUM ACCOUNT ASSOCIATED WITH ITS AB 864-RELATED EXPENDITURES IS NOT JUSTIFIED UNDER COMMISSION POLICY AND PRECEDENT

Q135. Has Crimson addressed any of the factors considered by the Commission in evaluating requests for Memorandum Accounts?

A135: No. Nowhere in its Surcharge Application or testimony does Crimson make any meaningful attempt to address the Commission's factors for approving a Memorandum Account. In particular, other than a few conclusory statements, Crimson fails to address whether the AB 864-related expenditures were unforeseeable and substantial. It also fails to establish that these safety and integrity capital expenditures were exceptional in nature or that ratepayers will benefit from any type of Memorandum Account treatment of these capital expenditures.

Q136. Does Crimson's AB 864-related costs and expenses meet the necessary factors for use of a Memorandum Account?

A136: No. First, in order for a Memorandum Account to be appropriate, the costs at issue "cannot have been reasonably foreseen in the utility's last GRC,"[221] such that the carrier runs the risk of not being able to include such costs and expenses in its next general rate case. Here, Crimson initiated general rate cases in June 2020, June 2021, and June 2022.[222] Because Crimson was clearly aware of its

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216 D.12-03-022 at 12, *PacifiCorp (U901E)*; *see also* Res. No. W-4835, *Cal. Water Serv. Co.*

217 D.12-03-022 at 12, *PacifiCorp (U901E)*.

218 *Id.*

219 *Id.*

220 *Id.*

221 D.11-07-057 at 31-32, *Golden State Water Co.*

222 *See* Application (Southern California), *Crimson Cal. Pipeline L.P.*, Docket No. A.22-06-017 (June 30, 2022); Application (Southern California), *Crimson Cal. Pipeline L.P.*, Docket No. A.21-06-024 (June 30, 2021); Application (Southern California), *Crimson Cal. Pipeline L.P.*, Docket No. A.20-06-010 (June 30, 2020).

AB 864 obligations and costs prior to these dates and were able to be included, to the extent appropriate, in the carrier's rate filings, the costs are not eligible for Memorandum Account treatment.

Specifically, there is no reasonable dispute that Crimson could have reasonably foreseen its AB 864 obligations and costs prior to its June 2020, June 2021, and/or June 2022 rate increase applications and taken steps to specifically include any appropriate costs in rates. As discussed above, AB 864 was enacted in 2015 and became effective in 2018.[223] And the OSFM promulgated the relevant regulations in 2020.[224] Crimson's instant general rate increase Application and related testimony unambiguously identify that it was *incurring* AB 864-related expenses as early as April 2020.[225] Therefore not only were Crimson's AB 864-related costs reasonably foreseeable prior to its most recent three general rate increase Applications, they were foreseen in fact.

Indeed, Crimson had the opportunity to include any appropriate AB 864-relatecd costs in its rate applications filed in June 2020, June 2021, and June 2022. To the extent Crimson chose not to do so, that does not form a valid rationale for the Commission to approve Memorandum Account treatment for Crimson's AB 864-related capital expenditures.

Q137. Do you consider Crimson's AB 864-related costs "substantial" under the Commission factors for evaluating the appropriateness of Memorandum Accounts?

A137: Crimson estimates that its costs will be approximately $8.55 million for all of its AB 864-related expenditures.[226] Standing alone, this number could be considered substantial within the context of Crimson's overall cost of service. However, what Crimson fails to identify is that its estimated $8.55 million in AB 864-related expenditures is not an annual number but a figure that reflects estimated costs over an approximately 3-5 year period,[227] and which would properly be recovered over the remaining life of the system assets which they will improve.

Crimson's estimated $8.55 million spread over 5 years equates to approximately $1.71 million annually which is much less substantial in the context of Crimson's overall cost of service. By

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[223] ASSEMB. B. 864, 2015 Leg. Sess. (Cal. 2015) (codified at Cal. Gov't Code § 51013.1).

[224] 19 Cal. Code Regs. §§ 2100-2120.

[225] Surcharge Application at 13-14 & nn.14-15; Alexander AB 864 Testimony at 5-6 n.7.

[226] Surcharge Application at 14-15; Alexander AB 864 Testimony at 6:11-14, 8:22-23 (estimating $8.55 million).

[227] *See* response to request P66-CRIMSON-1.11 and associated documents, included in Exhibit No.___(MRT-0053) at 18 (noting an estimated project end date of February 1, 2025) *and* Surcharge Application at 13-14 & nn.14-15 (noting that Crimson began incurring AB 864 costs in the second quarter of 2020).

comparison, in its A.22-06-017 rate increase Application, Crimson is seeking to include $26.6 million of carrier property additions (not to mention adjustments and transfers) in rate base for the period 2016 through the end of the Base Period, representing more than $4.0 million of capital expenditure on an annual average basis, and it proposes to add an incremental $10.7 million in rate base during the Test Period alone.[228]

More importantly, however, is the fact that whether this value can be considered objectively or subjectively "substantial" is that Crimson will still have the opportunity to recover these costs in its rates once the AB 864 capital expenditures are actually made and the related facilities are actually placed in service. As discussed herein, Crimson has identified in its AFEs associated with its referenced AB 864 projects that the primary facilities to be constructed are to be placed in service in 2024 and/or 2025.[229] Once these facilities are placed in service, Crimson will have the opportunity to include these facilities in rate base for rate design purposes and earn a reasonable return on its investments. No Memorandum Account is necessary for the recovery expenditures associated with these facilities.

Q138. Do you consider Crimson's AB 864-related costs to be associated with an event of an exceptional nature not under the control of the carrier?

A138: No. The type of expenditures that Crimson is referring to with respect to its AB 864 compliance is best characterized as normal safety and/or integrity improvement expenditures. Indeed, Crimson should be striving to have the best available technology associated with its facilities for safety and integrity purposes.

Indeed, FERC dealt with a similar situation where a carrier sought to have its expenditures associated with compliance with a PHMSA Corrective Action Order and bringing certain of its facilities up to par from a safety and integrity perspective handled outside of a general rate proceeding. In that proceeding, FERC clarified that what the carrier was referring to was best characterized as "ongoing maintenance, repair, and safety of a pipeline as well as compliance with PHMSA orders and regulations [and] are the type of ongoing and routine expenses that are appropriately recovered through the normal ratemaking process."[230] The same conclusion is applicable to Crimson's AB 864-related costs. Pipeline safety and integrity compliance

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[228] *See supra* at Section IV.B.

[229] *See* response to request P66-CRIMSON-1.11 and associated documents, included in Exhibit No.___(MRT-0053).

[230] *Tesoro Logistics Nw. Pipelines LLC*, 153 FERC ¶ 61,118, at P 23 (2015).

requirements are regularly being adjusted and simply because there is cost associates with ongoing compliance or the cost is higher than expected does not make the expenditure exceptional or extraordinary.

Further, as to whether Crimson's AB 864 costs are outside the control of the carrier, compliance costs can only be referred to as commonplace and quite routine and not out of the ordinary. That these costs should not be considered extraordinary is confirmed by the fact that Crimson regularly capitalizes similar integrity and safety costs without seeking any type of Memorandum Account treatment.[231]

Q139. Do you consider the use of a Memorandum Account and surcharge-related structure for Crimson's AB 864-related costs to be a benefit for ratepayers?

A139: No. In fact, I believe Crimson's Memorandum Account and surcharge proposal would unreasonably burden current shippers by forcing them to bear the cost of capital improvements that will provide benefits over the long term, thereby violating principles of cost causation and intergenerational equity, not to mention established Commission precedent and policy. Crimson's proposal would require current shippers, over the next three years, to guarantee the recovery of the capital expenditure associated with Crimson's AB 864 system integrity and safety improvements, while future shippers receive the ongoing benefit of the improvements without paying anything. This is the definition of intergenerational *in*equity, the avoidance of which is the reason rate recovery for these types of facilities operates through the mechanism of rate base. Capitalizing improvement expenditures into rate base ensures that the invested capital is depreciated over its useful life so that all of the shippers using these facilities and benefitting from their service bear a portion of the cost of these projects.

Further, as noted above, Crimson's CBAT implementation projects have barely been started and will not be placed in service until 2024 and 2025. As discussed in Section IV.B.1 above, established Commission precedent dictates that costs for facilities that have not yet been placed in service cannot be recovered in rates. As the Commission explained in D.84-09-089, "Over the years, this

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[231] *See* response to request P66-CRIMSON-3.2, included in Exhibit No.___(MRT-0048) and Excel file Bates labeled CRIMSON22 001318, included in Exhibit No.___(MRT-0019) (showing multiple substantial rate base additions for system integrity and maintenance capital AFE projects such as "ILI Repairs", "Vault" maintenance, and installation of "ATMOS Lead Detection System"). Notably, installing ATMOS and installing a vault are substantial contributors to Crimson's proposed $8.55 million of total AB 864 CBAT spending. Alexander AB 864 Surcharge Testimony at 4-5 (Table II).

Commission has closely adhered to the 'used and useful' principle, which requires that utility property be actually in use and providing service in order to be included in the utility's ratebase."[232]

Accordingly, the fact that Crimson's AB 864 facilities have not been fully constructed and placed in service directly precludes the recovery in current rates of the costs associated with these facilities, whether it be via a surcharge and/or a Memorandum Account method. Once such facilities have been placed service, Crimson will have the opportunity seek to include the same in rate base and earn a reasonable return on its invested capital.

In sum, Crimson's proposal to implement a Memorandum Account for use in recovering its AB 864-related costs meets none of the Commission's established standards for use of Memorandum Accounts and should properly be rejected.

VI.C. CRIMSON HAS NOT JUSTIFIED ITS REQUEST FOR THE IMMEDIATE IMPOSITION OF A SURCHARGE RELATED TO THE MEMORANDUM ACCOUNT

Q140. Even if the Commission were to endorse the use of a Memorandum Account for recording Crimson's AB 864-related costs, would that necessarily imply, as Crimson claims, that all these costs are then recoverable in rates?

A140: No. The purpose of a memorandum account is to "*preserve[] the opportunity to seek recovery* of [unforeseeable] costs at *a later date* without raising retroactive ratemaking issues."[233] In allowing the creation of a Memorandum Account, the Commission is not making a determination of "whether recovery of booked costs is appropriate, unless so specified."[234] Crimson should only be allowed to recover these costs—if ever—when it can "show that additional recovery of the types of costs recorded in the account is appropriate, that the utility acted prudently when it incurred these costs and that the level of costs is reasonable."[235] Crimson has not attempted to make any of those showings here – nor could it in light of the fact that the vast majority of the AB 864 costs are yet to be incurred and will be incurred over the next three to five years. Accordingly, there is no basis

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[232] D.84-09-089, *S. Cal. Gas Co.*, 16 CPUC 2d 205 (1984); D.18-12-021 at 167, *Cal.-Am. Water Co.* (Dec. 20, 2018) ("This project has not been completed despite being funded in multiple rate cycles and Cal-Am does not provide sufficient information that demonstrates that this project is likely to be completed in 2019. Therefore, we find that this project should be removed from rate base"); D.12-06-040 at 17, *Cal.-Am. Water Co.* (June 27, 2012) ("The definition of a used and useful public utility asset is one that provides direct and ongoing benefits to customers.").

[233] D.12-03-022 at 11, *PacifiCorp* (emphasis added).

[234] *Id.*

[235] Res. No. W-4835, *Cal. Water Serv. Co.*, 2010 WL 3278983, at *4 (Aug. 12, 2010).

upon which these costs should be the subject of immediate and guaranteed recovery in rates on a current basis as sought by Crimson.

If the Commission *were* to grant some sort of Memorandum Account treatment in this context, its effect would merely be to preserve the opportunity for Crimson to seek recovery of its AB 864-related costs at a later time—such as in a future general rate case proceeding. At that time, the Commission could evaluate all of Crimson's costs and revenues to determine whether *any* adjustment to rates—be it a general tariff increase or a uniform per-barrel surcharge—is even necessary. If Crimson wants to seek to include these costs in rates, the proper course would be to file a rate case once its facilities are complete and placed into service where all of its costs and revenues could be evaluated in combination with its AB 864-related costs to ensure that revenue and costs are appropriately matched and reasonable rates are derived.

In short, Crimson has put the cart before the horse. There is no basis upon which Crimson should be allowed to implement a Memorandum Account and an immediate surcharge to recover costs before they are actually incurred and the subject facilities are actually placed in service. At such time, the Commission could properly conduct an orderly examination of Crimson's entire cost of service—including the subject AB 864 costs—and compare them to revenues. As discussed further below, such an investigation could also develop a record as to the proper ratemaking treatment for Crimson's AB 864-related costs, with that determination hinging on whether they constitute extraordinary expense items meriting surcharge treatment or are more properly capitalized and placed into rate base as recommended by Crimson's own accounting policies and budgeting actions. However, given at present the vast majority of the AB 864-related facilities have not been constructed, let alone placed into service, this is clearly not the time for such an adjudication.

Q141. Are there any other factors associated with the use of Memorandum Accounts which would limit Crimson's use of this mechanism as a vehicle for recovering costs associated with compliance with AB 864's requirements?

A141: Yes. Where an event occurs that is appropriate for the creation of a Memorandum Account, it is Commission practice to exclude any costs associated with that event that were incurred prior to the actual institution of the Memorandum Account.[236] Therefore, even if Crimson's future AB 864-

[236] D.12-12-030 at 81, *New Safety & Reliability Reguls. for Nat. Gas Transmission & Distribution Pipelines*, 2012 WL 6759968 (Dec. 20, 2012) ("It is a well established tenet of the Commission that ratemaking is done on a prospective basis. The Commission's practice is not to authorize increased utility rates to account for previously

related expenditures were somehow eligible for Memorandum Account treatment, all costs incurred associated with AB 864 compliance prior to the approval of the Memorandum Account would need to be excluded from such treatment. Accordingly, any AB 864-related costs incurred by Crimson prior to any approval of the Memorandum Account would need to be excluded from recovery. It is unclear as to when the Commission would, if ever, approve Crimson's proposed Memorandum Account. Nevertheless, not until such approval is given could Crimson begin to record its AB 864-related costs for Memorandum Account treatment. Crimson's attempt to have its AB 864-related compliance costs effectively pre-paid violates this established Commission principle.

VI.D. CRIMSON'S PROPOSED USE OF A SURCHARGE MECHANISM FOR THE RECOVERY OF A DISCRETE SET OF AB 864 COMPLIANCE COSTS SHOULD BE REJECTED

Q142. If Crimson were denied the use of a Memorandum Account to provide for the recovery of its AB 864-related costs, could Crimson still use its proposed surcharge mechanism to recover such costs?

A142: No. As discussed above, because Crimson's estimated AB 864-related compliance expenditures are fundamentally tied to facilities that have not yet been constructed and placed in service, it is wholly inappropriate and contrary to Commission precedent and policy to allow in rates, including surcharges, the recovery of costs that may be associated with such projects.

Q143. Are there any other reasons which would preclude Crimson from implementing a surcharge mechanism to recover is estimated and discrete AB 864-related compliance costs?

A143: Yes. It is my opinion that Crimson's proposal to employ a surcharge mechanism is incompatible with the Commission's narrow use of and permission for surcharges to recover costs. Surcharges are a mechanism by which carriers may, under rare circumstances, recover specific costs separate and apart from its rates set pursuant to general rate proceedings. Surcharges can only ever be appropriate when they are necessary "to maintain a reasonable rate of return."[237] This standard requires that the Commission be able to review a carriers' current rates, including the alleged

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incurred expenses, unless, before the utility incurs those expenses, the Commission has authorized the utility to book those expenses into a memorandum or balancing account for possible future recovery in rates. This practice is consistent with the rule against retroactive ratemaking.") (quoting *S. Cal. Water Co.*, D.92-03-094 43 Cal. P.U.C. 2d 596, 600 (1992)). *Id.* at 82-83 (rejecting request to retroactively implement memorandum account). *See also* D.07-07-041 at 5-6, *Pac. Gas & Elec. Co.*, 2007 WL 2229378, at *1 (July 26, 2007) (dealing with "catastrophic event memorandum accounts").

[237] Res. O-0043 at 8, *Santa Fe Pac. Pipelines, L.P.* (Oct. 24, 2002).

increase addressed by a surcharge, to determine the reasonableness of its rate of return and assess whether a surcharge is warranted.[238] As discussed in my testimony above, Crimson is not entitled to any rate increase in this proceeding associated with the appropriate and reasonable costs it has sought to be recovered in this matter. Moreover, Crimson is not entitled to include in rates costs associated with facilities it has not yet placed in service which represents the vast majority of the AB 864-related facilities. Accordingly, Crimson has failed to meet the fundamental test the Commission has laid out for use of surcharges – no surcharge is needed to maintain a reasonable rate of return for its services. Indeed, once the referenced AB 864-related facilities are placed in service they can be added to rate base in connection with a rate proceeding where the carrier will have the opportunity to earn a reasonable return on these investments.

Q144. Has Crimson cited to any Commission precedent supporting its request to employ a surcharge mechanism to recover its AB 864-related compliance costs?

A144: Yes. Crimson witness Dr. Webb cites to *Pac. Pipeline Sys. LLC*, D.05-07-036 (May 4, 2005) as a basis for supporting Crimson's AB 864 surcharge mechanism request.[239] However, in my opinion, that case has no relevance to Crimson's situation and fails to support its proposal.

Q145. Please explain why you believe that D.05-07-036 has no application to Crimson's proposal and fails to support its request for a surcharge to recover its AB 864-related compliance costs.

A145: D.05-07-036 involved an Application by Pacific Pipeline System LLC ("PPS") for authorization to impose a temporary surcharge of $0.10 per barrel on all shipments of oil that were to be received by PPS in the San Joaquin Valley and shipped on its Line 63 trunk line to destinations in the Los Angeles Basin. The purpose of this temporary surcharge was to recover the costs of repairs to its Line 63 system and the clean-up and restoration of Posey Canyon Creek and Lake Pyramid that resulted from storms and landslides during the Winter of 2004-05.[240] PPS's Application was premised on the Commission's Resolution E-3238 (adopted in 1991) where the Commission authorized utilities to establish Catastrophic Emergency Management Accounts ("CEMAs"), in order to record their costs related to (a) restoring utility service to customers; (b) repairing, replacing, or restoring damaged utility facilities; or (c) complying with governmental agency orders

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[238] *Id.*

[239] Testimony of Michal J. Webb in Support of Crimson on AB 864 Issues (un-numbered) at 8:18-9:7, 10:4-13 ("Webb AB 864 Testimony").

[240] D.05-07-036, *Pac. Pipeline Sys. LLC* (July 21, 2005).

resulting from declared disasters.[241] In such a context, the utility may recover costs recorded in a CEMA through rates only upon a specific request by the utility, a showing of the reasonableness of these costs, and approval by the Commission in a future rate proceeding.[242]

Crimson's AB 864-related capital improvement projects do not meet any of the requirements necessary for the implementation for a CMEA surcharge. Simply put, the authorization PPS received to implement a CEMA surcharge in response to a declared disaster is fundamentally dissimilar from Crimson's mandate to incur compliance costs associated with the installation of CBAT facilities to maintain the safety and integrity of its pipeline in ecological sensitive areas.[243]

Q146. Did Crimson witness, Dr. Webb, cite to any other authority in support of the validity of Crimson's request to employ a surcharge mechanism to guarantee the recovery of its AB 864-related costs?

A146: Yes. Dr. Webb referenced FERC's approval to allow certain carriers to use surcharges to recover ULSD costs and September 11 security-related costs.[244] Once again, though, Dr. Webb's use of these cases is inapposite to Crimson's situation vis-à-vis AB 864. Specifically, Dr. Webb conveniently ignored FERC's most recent precedent regarding the use of surcharges to recover costs. For example, in *Chevron Pipe Line Co.*, 165 FERC ¶ 61,069 (2018), FERC clarified that the use of surcharges are disfavored and limited to special circumstances and should only be used "when the costs at issue are: (1) necessitated by factors beyond the pipeline's control; (2) extraordinary and nonrecurring; and (3) not industry-wide."[245]

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[241] *Id.* at 7-8, 14-18.

[242] *Id.* at 11-12 ("However, under § 455.3, PPS must file an advice letter to seek Commission approval of any portion of the surcharge that exceeds [a combined 10%rate increase for that year inclusive of a prior GRC] and if any portion of the surcharge is disapproved, PPS must reimburse shippers with interest for the disallowed charges. In order to facilitate prompt adjudication of the requested rate increase, PPS shall file this advice letter with the Commission Energy Division by no later than 180 days after the effective date of this decision.").

[243] *Tesoro Logistics Nw. Pipelines LLC*, 153 FERC ¶ 61,118, at P 23 (2015) ("ongoing maintenance, repair, and safety of a pipeline as well as compliance with PHMSA orders and regulations [and] are the type of ongoing and routine expenses that are appropriately recovered through the normal ratemaking process.").

[244] Webb AB 864 Testimony at 6:10-72 (discussing *Extraordinary Expenditures Necessary to Safeguard National Energy Supplies*, 96 FERC ¶ 61,299 (2001)).

[245] 165 FERC ¶ 61,069 at P 8.

Q147. Does Crimson's AB 864-related costs meet the FERC's criteria for employing a surcharge mechanism for cost recovery?

A147: No. While the AB 864-related costs could arguably be considered a potential factor outside the carrier's control, FERC clarified this one factor is not determinative and that this factor needs to be considered in the broader context of the cost at issue. In any event, Crimson's AB 864-related costs cannot be considered extraordinary or nonrecurring and are not unique to Crimson as the AB 864 requirements apply to all oil pipelines in California. As FERC explained in *Tesoro Logistics Northwest Pipelines LLC*, 153 FERC ¶ 61,118 (2015), in the context of oil pipeline safety and integrity expenditures required via a PHMSA Corrective Action Order, such costs cannot be considered extraordinary or nonrecurring as the "ongoing maintenance, repair, and safety of a pipeline as well as compliance with PHMSA orders and regulations [which are often modified and amended to create new requirements] are the type of ongoing and routine expenses that are appropriately recovered through the normal ratemaking process" and not via a surcharge.[246]

Further, FERC clarified that compliance with a government corrective action order, like any other regulatory compliance directive, may be unexpected, unanticipated, or underestimated. However, such factors do not make such compliance and related costs extraordinary.[247] Indeed, FERC specifically delineated that pipeline safety and integrity compliance expenditures "cannot compare to costs imposed on pipelines due to extraordinary events like Hurricane Karina or post-September 11 security costs, or even pipelines' compliance with new EPA ULSD requirements."[248] In sum, just like Crimson's surcharge request would be inappropriate and unreasonable under Commission precedent, it is just as inappropriate and unreasonable under FERC precedent.

Q148. Does this conclude your Answering Testimony?

A148: Yes.

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[246] *Tesoro Logistics Nw. Pipelines LLC*, 153 FERC ¶ 61,118 at P 23.

[247] *Id.*

[248] *Id.*

The statements in the foregoing declaration are true of my knowledge, except as to matters which are stated on information and belief, and as to those matters, I believe them to be true. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 11th day of November, 2022 at New York, NY.

Signature

Michael R. Tolleth
7 Times Square, Suite 1700
New York, NY 10036
212.789.3665