

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Joint Application of Union Pipeline Company (California) and ConocoPhillips Pipe Line Company to merge Union Pipeline Company (California) into ConocoPhillips Pipe Line Company.

Application 04-11-001
(Filed November 1, 2004)

O P I N I O N**Summary**

Union Pipeline Company (California) (UNOCAP), and ConocoPhillips Pipe Line Company (California) (ConocoPhillips Pipeline Company), together, Joint Applicants, seek authorization under Sections 854(a) and 851 of the Public Utilities Code to merge UNOCAP, a common carrier intrastate oil pipeline company, with ConocoPhillips Pipe Line Company. The Joint Application is unopposed and is granted.

Background

UNOCAP is a California corporation with its principal place of business in Long Beach, California. A wholly owned subsidiary of ConocoPhillips Company, UNOCAP is an intrastate pipeline company with 1,100 miles of oil pipelines between points in California which are comprised of six major pipeline

systems, designated as Lines 100, 200, 300, 400, 600, and 700.¹ It provides service under tariffs on file with the Commission.

In Decision (D.) 02-07-025 dated July 17, 2002, the Commission authorized ConPhillips Company to obtain control of UNOCAP through the merger of Phillips Petroleum Company (Phillips) and ConocoPhillips. ConocoPhillips was a newly formed Delaware corporation with its principal place of business in Houston, Texas. After the merger, ConocoPhillips became the parent company of both Phillips and Conoco and is the ultimate parent of UNOCAP.

ConocoPhillips Pipe Line Company is another Delaware Corporation with its principal place of business in Houston, Texas. Like UNOCAP, ConocoPhillips Pipe Line Company is also a wholly owned subsidiary of ConocoPhillips Company.

ConocoPhillips Company lies between the ultimate parent company of ConocoPhillips and the Joint Applicants in the overall corporate structure of these companies. The proposed merger eliminates one company (UNOCAP) without affecting the ultimate ownership of the regulated operations.

Description of Transaction

Joint Applicants state that only the current UNOCAP pipeline assets fall under the jurisdiction of the Commission and subject to the Joint Application. The parties state that they are requesting authorization from the Commission for the merger *per se* and for the transfer of any facilities. Joint Applicants believe that the Commission need not provide further environmental review, pursuant

¹ Maps of the UNOCAP pipeline system were provided as Exhibit 7 to the Joint Application.

to the California Environmental Quality Act (CEQA) Guideline Section 15061(b)(3) because UNOCAP will continue to be operated as it is now and because the Commission-approved tariffs will not be changed by the merger transaction. The parties point to D.02-07-025 and D.01-05-021, in both of which the Commission determined that a CEQA review was not required, which they view as similar situations. In D.02-07-025 (Application (A.) 02-04-044), the Commission authorized the transfer of control when Conoco and Phillips merged, and in D.01-05-021 (A.01-03-002) authorized the transfer of control of Tosco Corporation's wholly-owned subsidiary, Union Pipeline Company, to Phillips through a merger of Tosco with a Phillips subsidiary.

Procedural History

Notice of this application appeared in the Commission's Daily Calendar on November 3, 2004. No protests were received.

In Resolution ALJ 176-3142, dated November 19, 2004, the Commission preliminarily categorized this proceeding as ratesetting, and preliminarily determined that hearings were not necessary. Based on the record, we conclude that a public hearing is not necessary, nor is it necessary to alter the preliminary determinations. As no hearing is required, and pursuant to Rule 6.6 of the Commission's Rules of Practice and Procedure (Rule), Article 2.5 of the Rules ceases to apply to this proceeding.

Discussion

Public Utilities Code Section 854(a)² and Section 851³ require Commission authorization before a company may “merge, acquire, or control...any public utility organized and doing business in this state....” The purpose of these and related sections is to enable the Commission, before any transfer of public utility authority is consummated, to review the situation and to take such action, as a condition of the transfer, as the public interest may require. (San Jose Water Co. (1916) 10 CRC 56.)

UNOCAP asserts that its tariffs will not be affected by this transaction except to be reissued in the name ConocoPhillips Pipe Line Company. Further, UNOCAP facilities will continue to be operated in accordance with its Commission-approved tariffs as the Joint Application requests no changes in terms and conditions of service or rates.

² 854. (a) Section 854(a) provides in relevant part: No person or corporation, whether or not organized under the laws of this state, shall merge, acquire, or control either directly or indirectly any public utility organized and doing business in this state without first securing authorization to do so from the commission. (In part.)

³ 851. Section 851 provides in relevant part: No public utility other than a common carrier by railroad subject to Part I of the Interstate Commerce Act (Title 49, U.S.C.) shall sell, lease, assign, mortgage, or otherwise dispose of or encumber the whole or any part of its railroad, street railroad, line, plant, system, or other property necessary or useful in the performance of its duties to the public, or any franchise or permit or any right thereunder, nor by any means whatsoever, directly or indirectly, merge or consolidate its railroad, street railroad, line, plant, system, or other property, or franchises or permits or any part thereof, with any other public utility, without first having secured from the commission an order authorizing it so to do. (In part.)

Footnote continued on next page

CEQA

Under CEQA and Rule 17.1, we must consider the environmental consequences of projects that are subject to our discretionary approval. (Pub. Resources Code § 21080.) It is possible that a change of ownership and/or control may alter an approved project, result in new projects, or change facility operations, etc. in ways that have an environmental impact. Based upon the record, the change of ownership at issue in this proceeding will have no significant effect on the environment for a number of reasons.

Joint Applicants included Exhibit 8 to the application addressing whether Joint Applicants intend, post-merger, to make any changes in UNOCAP's operations (e.g., alterations of the pipeline and related physical plant). Joint Applicants state that they do not intend, post-merger, to make any changes to UNOCAP's operations that were not discussed in the Joint Application or that could have potential effects on the environment. No employees will be laid-off as a result of the merger, thus the system will continue to be operated by experienced and technically competent personnel.

Based upon the record, the proposed merger will have no significant effect on the environment because UNOCAP's facilities will continue to be operated as they are now, and its Commission-approved tariffs will be unchanged by this transaction. Therefore, the proposed project qualifies for an exemption from CEQA pursuant to Section 15061(b)(3)(1) of the CEQA guidelines and the

Commission need perform no further environmental review. (See CEQA Guidelines Section 15061(b)(3)(1).)⁴

Based on these findings, the proposed transaction is in the public interest as required by Section 854(a). We will authorize the merger of UNOCAP with ConocoPhillips Pipe Line Company.

Assignment of Proceeding

Michael R. Peevey is the Assigned Commissioner and Douglas M. Long is the assigned Administrative Law Judge in this proceeding.

Comments on Draft Decision

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Public Utilities Code Section 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

Findings of Fact

1. UNOCAP is a pipeline corporation as defined in Public Utilities Code Section 228, and operates as a common carrier intrastate pipeline company between points in California under tariffs on file with the Commission.
2. UNOCAP is a wholly owned subsidiary of ConocoPhillips. As a result, ConocoPhillips controls UNOCAP.
3. A merger of UNOCAP and ConocoPhillips Pipe Line Company results in no change to its operations or loss of jobs.

⁴ This is consistent with, among other decisions, D.03-02-071 for Lodi Gas Storage and D.03-06-069 for Wild Goose Storage.

4. After the merger, UNOCAP's operations as part of ConocoPhillips Pipe Line Company, will be operated in accordance with its Commission-approved tariffs; no changes in terms and conditions of service or rates were requested as part of this Joint Application.

5. This transfer of control will have no effect on the environment because UNOCAP's facilities will continue to be operated by ConocoPhillips Pipe Line Company as they are now and there will be no new construction.

6. The system will continue to be operated by experienced and technically competent personnel.

7. There were no protests to the application.

Conclusions of Law

1. The proposed transaction is in the public interest.

2. To the extent the Joint Application seeks authorization for a change of control pursuant to Public Utilities Code Section 854, the application should be approved.

3. The assets of UNOCAP remain subject to Commission jurisdiction after the transfer of their control to ConocoPhillips Pipe Line Company.

4. Article 2.5 of the Rules ceases to apply to this proceeding.

5. This transfer of control does not require further CEQA review by the Commission.

6. This order should be effective immediately.

O R D E R

IT IS ORDERED that:

1. The application of Union Pipeline Company (California) (UNOCAP), and ConocoPhillips Pipe Line Company (California) (ConocoPhillips Pipe Line Company) pursuant to Public Utilities Code Section 854 is approved.
2. ConocoPhillips Pipe Line Company shall notify the Director of the Commission's Energy Division in writing of the transfer of authority, as authorized herein, within 30 days of the date of the transfer. A true copy of the instruments of transfer shall be attached to the notification.
3. ConocoPhillips Pipe Line Company shall file an advice letter within 14 days of the date of transfer making the necessary revisions to implement its new tariffs and reflecting the authority granted herein, including the change in name, corporate office location, and corporate contact information.
4. ConocoPhillips Pipe Line Company shall make all books and records available for review and inspection upon Commission staff request.
5. The authority granted herein shall expire if not exercised within one year of the date of this order.
6. Application 04-11-001 is closed.

This order is effective today.

Dated _____, at San Francisco, California.