

Decision 83 04 046 APR 6 1983**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of Application of:)

FOUR CORNERS PIPE LINE COMPANY, a)
 Delaware corporation, for authority)
 to increase transportation rates)
 for crude petroleum and petroleum)
 products pursuant to the provisions)
 of Section 454 of the Public Utilities)
 Code of the State of California.)

Application 82-04-66
 (Filed April 28, 1982,
 Amended July 7, 1982)

Tuttle & Taylor, by Jeffrey M. Hamerling
and Jeffrey R. Pendergraft, Attorneys
 at Law, for applicant.

Carol A. Harris, Attorney at Law, for
Southern Pacific Pipe Lines, Inc.,
 interested party.

Patricia Bennett, Attorney at Law,
Joe Matson, Robert Bouchet, and
Bill Nagao, for the Commission staff.

INTERIM OPINION

Four Corners Pipe Line Company (applicant or Four Corners) operates as a pipeline company transporting crude and refined petroleum products in California. In this application it seeks authority under Public Utilities Code § 454 for a general increase in its intrastate rates of approximately 30%.

A regularly scheduled hearing was held on February 8, 1983 before Administrative Law Judge Mallory in San Francisco. At the hearing Four Corners and the Commission staff (staff) indicated that they were in disagreement with respect to the factors which the Commission should consider in determining reasonable levels of earnings for petroleum pipeline companies.

The staff also asserted that financial and operating information from Four Corners required by the staff for processing the application had only recently been furnished to it or was still in preparation.

A staff report prepared by witness Nagao of the Commission's Revenue Requirements Division was marked for identification as Exhibit 1. That exhibit contains a recommendation that the reasonable rate of return for Four Corners' intrastate pipeline operations is 12.5%, which would result in a recommended revenue increase of 10%.

Four Corners argued that the traditional approach used by the staff to determine an appropriate equity return and rate of return should not be used in pipeline proceedings. Four Corners pointed out that on November 30, 1982, the Federal Energy Regulatory Commission (FERC) had issued its decision setting forth its policy concerning regulation of interstate pipelines. FERC questioned the historical and philosophical underpinnings for utility-type regulation of pipelines in its Opinion No. 154 involving protests to the rates of the Williams Pipe Line Co. FERC found that the relevant conditions of 1906 do not prevail today, and that competition, both intermodal and intramodal, does exist in the industry. Finding "the case for aggressive Federal intervention in oil pipeline ratemaking flimsy," FERC ordered its Oil Pipeline Board "to refrain from initiating any suspensions or investigations in cases where no aggrieved person requests such action." Four Corners asks that this Commission apply the same standards for intrastate petroleum pipeline rate increases that are applicable to interstate pipeline under the FERC.

Also in dispute is the appropriate level of expenses and income taxes to be assigned Four Corners' 1983 test year intrastate pipeline operations.

Request was made for postponement of the receipt of evidence in order that Four Corners and the staff may negotiate appropriate test year expense and rate base levels, and concerning the type of proceeding which would be appropriate in which to consider new ratemaking policies for petroleum pipeline companies. Pending resolution of these issues, Four Corners requested, and the staff agreed, to the issuance of an interim order granting an increase at a level not disputed by the staff.

A stipulation was filed on February 25, 1983 signed by counsel for Four Corners and the staff under which an increase of approximately 12.9% was agreed to by the parties, as more specifically shown in Table 1. On March 14, 1983 Four Corners filed a pleading accepting an interim rate increase and requesting a public hearing concerning unresolved issues.

The pleading states that Four Corners and the staff have continued to negotiate over a number of matters in dispute but have failed to reach any further agreements. At the prehearing conference, Four Corners' counsel indicated that after the Commission approved an interim rate increase, Four Corners would request that the Commission defer further proceedings on this rate increase application pending Commission action on an anticipated "generic" application which would request the Commission to modify its procedures concerning regulation of petroleum pipeline companies. The staff has informed Four Corners that it prefers to resolve this pending rate increase application and not defer further proceedings pending consideration of a generic application.

As Four Corners and staff have not been able to reach agreement on a higher interim rate increase, Four Corners is prepared to proceed as expeditiously as possible with a hearing, focusing on the major areas of disagreement. Four Corners requests that the Commission schedule a hearing for mid-April or as soon

after as possible on those issues identified in the pleading without waiving any rights. Four Corners has voluntarily limited the issues to those that it believes can be resolved expeditiously.

On March 18, 1983 staff filed a response to Four Corners' supplemental statement and request for hearing. The staff pleading states that issues were raised by it in addition to those described in Four Corners' pleading which the staff wishes to have considered in the hearing to be scheduled. The staff is ready for hearing.

Table 1, below, sets forth a statement of earnings for a 1983 test year based on the 12.9% interim increase stipulated to by the parties.

TABLE 1
Four Corners Pipe Line Company
Summary of Earnings for California
1983 Estimated
(000)

		Staff Recommendation:
Operating Revenues		\$27,308
Operating Expenses	\$24,000	
Less: Staff Adjustment	<u>2,692</u>	<u>21,308</u>
Net Operating Income Before Income Taxes		6,000
Federal and State Income Taxes		<u>-1,850</u>
Net Operating Income		<u>\$ 4,150</u>
Net Plant Investment at December 31, 1982		\$33,000
Staff Adjustment		<u>200</u>
Net Adjust. Plant Investment		<u>\$33,200</u>
Return on Investment		<u>12.5%</u>

Findings of Fact

1. A public hearing in A.82-04-66 was held on February 8, 1983 at which no shippers appeared.
2. The principal parties to the proceeding are applicant and the staff.
3. The principal parties disagree with respect to reasonable expenses, taxes, and rate base for a 1983 test year.
4. The principal parties were not ready to proceed on February 8 but stipulated to an interim increase of 12.9% pending further hearing.
5. An interim increase of 12.9% is justified, pending further hearing.

Conclusions of Law

1. Further hearing should be held concerning unresolved issues.
2. Pending further hearing an interim increase of 12.9% will be reasonable and should be granted.
3. As the increases are justified and are not opposed, the order should be effective on date of issuance.

INTERIM ORDER

IT IS ORDERED that:

1. Four Corners Pipe Line Company is authorized to increase the rates and charges in its Tariff Cal. PUC 36 between points of origin and destination shown in Exhibit A to its amended application by 12.9%. The increase shall be subject to refund pending a final decision in this matter.
2. The tariff publication authorized in the preceding paragraph may be filed with the Commission on the effective date of this order to become effective five days after the date of filing.

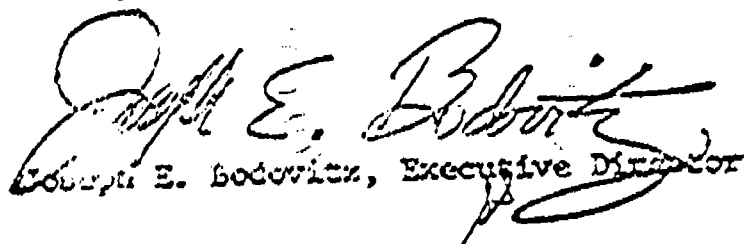
3. A further hearing in A.82-04-66 is scheduled before Administrative Law Judge Malloy at 10 a.m., April 21, 1983, in the Commission's Courtroom, State Building, 350 McAllister Street, San Francisco, CA 94102.

This order is effective today.

Dated APR 6 1983, at San Francisco, California.

LEONARD M. GRIMES, JR.
President
VICTOR CALVO
PRISCILLA C. CREW
DONALD WIAL
Commissioners

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY.


Joseph E. Bobovitch, Executive Director



Findings of Fact

1. A public hearing in A.82-04-66 was held on February 8, 1983 at which no shippers appeared.

2. The principal parties to the proceeding are applicant and the staff.

3. The principal parties disagree with respect to reasonable expenses, taxes, and rate base for a 1983 test year.

4. The principal parties were not ready to proceed on February 8 but stipulated to an interim increase of 12.9% pending further hearing.

5. An interim increase of 12.9% is justified, pending further hearing.

Conclusions of Law

1. Further hearing should be held concerning unresolved issues.

2. Pending further hearing an interim increase of 12.9% will be reasonable and should be granted.

3. As the increases are justified and are not opposed, the order should be effective on date of issuance.

INTERIM ORDER

IT IS ORDERED that:

1. Four Corners Pipe Line Company is authorized to increase the rates and charges in its Tariff Cal. PUC 36 between points of origin and destination shown in Exhibit A to its amended application by 12.9%.

2. The tariff publication authorized in the preceding paragraph may be filed with the Commission on the effective date of this order to become effective five days after the date of filing.