

MAY 6 1997

Decision 97-05-031 May 6, 1997

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of Application of ARCO PIPE LINE COMPANY, a Delaware Corporation, for authority to increase transportation rates for crude petroleum products pursuant to the provisions of Section 454 of the Public Utilities Code of the State of California.

Application 96-10-029
(Filed October 17, 1996)

OPINION

ARCO Pipe Line Company (APL or applicant) requests an 8% increase in its intrastate rates for the transportation of crude oil between points in California. All current shippers of intrastate traffic were notified of the requested increase.

By a filing dated November 20, 1996, Ultramar Inc. (Ultramar), a customer and refiner of crude oil transported through applicant's system, protested APL's application. By agreement dated February 18, 1997, APL and Ultramar have resolved their differences and settled the issues raised in the Ultramar protest, subject to Commission approval.

No other protests have been filed, and a public hearing is not required.

The Application

APL is a common carrier pipeline company operating between points in California under tariffs on file with the Commission.

Its last rate increase of 8% was authorized on October 26, 1994 (Application (A.) 94-06-030, Decision (D.) 94-10-053). Applicant's current request is for a general 8% increase.

Applicant states that its current request for increased rates, if granted, will result in a rate of return for 1996-1997 of 9.69% and a return on equity of 10.16% for that year. It compares these measures with the rate of return of 9.67% and the return on equity of 10.96% authorized in 1994 by the Commission (D.94-10-053).

APL alleges that it experienced an overall rate of return for test year 1995 of 3.33% with a negative return on equity of -3.18%. Because of these low returns, the application states that a general rate increase of 8% is necessary to bring its return to a level consistent with the business risk associated with operating an oil pipeline system.

Settlement

Following the filing of its protest to the application, Ultramar entered into discussions with applicant with a view toward settlement of the case, and, on February 18, 1997, APL and protestant filed a proposed settlement of their dispute together with a motion for its adoption by the Commission.

As all directly affected parties have been apprised of the settlement proposal and concur with it, and because the only other known party who might potentially be affected has provided a written consent to the settlement proposal, APL and Ultramar move that the notice, meeting and comment provisions of Rule 51, Rules of Practice and Procedure, be waived in the public interest. The motion demonstrates that the requested waiver of procedural rules will not impair the public interest, and we will grant it.

Article 13.5 (Rule 51 et seq.) of the Commission's Rules of Practice and Procedure addresses the general rules governing stipulations and settlements in Commission proceedings. In order to adopt a settlement, we must find that it is: (1) reasonable in light of the whole record, (2) consistent with law, and (3) in the public interest (Rule 51.1(e)). Further, in D.92-12-019, we articulated our policy as to the role which all-party settlements can play in assisting the Commission in discharging its regulatory responsibilities.

We stated that as a precondition to approval of an all-party settlement, the Commission must be satisfied that the proposed all-party settlement:

- a. commands the unanimous sponsorship of all active parties in the instant proceeding;
- b. that the sponsoring parties are fairly reflective of the affected interests;

- c. that no term of the settlement contravenes statutory provisions or prior Commission decisions; and
- d. that the settlement conveys to the Commission sufficient information to permit us to discharge our future regulatory obligations with respect to the parties and their interests.

Since there were only two active parties to this proceeding, and they both support the Settlement, the first precondition regarding unanimous support is satisfied. The sponsoring parties are fairly reflective of the affected interests, and no term of the settlement contravenes statutory provisions or prior Commission decisions. Regarding the fourth precondition, the Settlement provides for a general rate increase in conformity with regulatory principles.

Based upon the entire record in this proceeding, we find that the Settlement is reasonable, consistent with law, and in the public interest; furthermore, the settlement can be approved under the "all-party settlement" criteria of D.92-12-019.

Findings of Fact

1. On October 17, 1996, APL filed A.96-10-029 requesting authority for a general rate increase of 8% for intrastate transportation of crude oil.
2. Applicant estimates that the application will result in a rate of return for 1996-1997 of 9.69% and a return on equity for 1996-1997 of 10.16%.
3. In 1994, applicant was granted a rate increase estimated to yield a rate of return of 9.67% and a return on equity of 10.96% (D.94-10-053).
4. The application is designed to produce the level of revenues last found reasonable by the Commission in 1994 (D.94-10-053).
5. Applicant alleges that it experienced an overall rate of return for 1995 of 3.13% with a negative return on equity of -3.18%.
6. A protest to the application was filed by Ultramar and is to be withdrawn upon Commission approval of an all-party settlement between applicant and Ultramar filed on February 18, 1997.

7. The Motion of ARCO Pipe Line Company to File Settlement and Stipulation, the Settlement of the Protest of Ultramar Inc., and attached Exhibits A, B, and C are reasonable, consistent with law, and in the public interest.

8. The settlement meets the all-party settlement criteria of D.92-12-019 in that all active parties support it, these parties are fairly reflective of the affected interests. No term or the settlement contravenes statutes or prior Commission decisions and the settlement permits the Commission to discharge its regulating obligations.

9. The increased rates and charges authorized by this decision are justified and reasonable; present rates and charges insofar as they differ from those prescribed herein, are, for the future, unjust and unreasonable.

10. The effective date of this order should be the date of signature as the authorized rates were designed to take effect as early as practicable.

Conclusions of Law

1. The proposed rate increase of 8% should be authorized.
2. The Motion of ARCO Pipe Line Company to File Settlement and Stipulation should be granted.
3. The motion of the parties that the notice, meeting, and comment provisions of Rule 51, Rules of Practice and Procedure should be granted.
4. The Settlement and Stipulation should be approved.

ORDER

IT IS ORDERED that:

1. The Motion of ARCO Pipe Line Company to File Settlement and Stipulation is granted.
2. The motion of the parties that the notice, meeting, and comment provisions of Rule 51, Rules of Practice and Procedure is granted.
3. The Settlement and Stipulation is approved.
4. ARCO Pipe Line Company is authorized to file the revised tariff schedules set forth in the Settlement and Stipulation resulting in an 8% increase in rates.

5. The filing shall comply with General Order 96. The effective date of the revised schedules shall be five days after the date of filing. The revised schedules shall apply only to service rendered on and after their effective date.

6. This is a final order and the proceeding is closed.

This order is effective today.

Dated May 6, 1997, at San Francisco, California.

P. GREGORY CONLON
President

JESSIE J. KNIGHT, JR.
HENRY M. DUQUE
JOSIAH L. NEEPER
RICHARD BILAS
Commissioners