

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION*

RESOLUTION O-0035

OCTOBER 7, 1999

RESOLUTION

Resolution O-0035. SFPP, L.P. (SFPP) seeks approval of its tariff for its Watson Facilities Gathering Enhancement System. Denied Without Prejudice.

By Advice Letter No. 10, Filed on October 6, 1998.

SUMMARY

By Advice Letter (AL) No. 10, SFPP, L.P. (SFPP) seeks approval of its tariff for its Watson Facilities Gathering Enhancement System.

Protests were filed by ARCO Products Company, Texaco Refining & Marketing Inc. and Mobil Oil Company ("ATM"); Chevron Products Company (hereinafter "Chevron"); and GATX Terminal Corporation.

Only Chevron filed comments on this matter.

This resolution denies without prejudice AL No. 10.

BACKGROUND

On October 6, 1998, SFPP, L.P. (hereinafter "SFPP") filed Advice Letter No. 10 pursuant to Ordering Paragraph (OP) No. 1 of Decision (D.) 98-08-033 issued in Case No. 97-04-025 on August 7, 1998. Ordering Paragraph 1 of D. 98-08-033 ordered SFPP to file a tariff for its gathering enhancement system ("initiating facilities") at The Watson Facilities within 60 days of the decision.

SFPP proposed to charge 3.2¢ per barrel for use of its Watson Facilities because of the need to increase incoming pumping rates from 10,000 barrel/hour to 15,000 barrel per hour. SFPP argued that the increase in pumping rates was necessary to respond to the increased demand for product in SFPP's market area. SFPP emphasized that at the request of the supplier, it undertook an analysis to determine whether there were alternatives to alleviate or reduce the cost to suppliers associated the increase in the incoming pumping rates.

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Rather than requiring suppliers to install their own pumps or larger diameter pipelines, which would require substantial capital investment on the part of the suppliers, SFPP invested its own capital in additional facilities to accommodate its suppliers. SFPP argued that the rate is reasonable and represents a negotiated rate for use of the Watson Facilities.

NOTICE

Notice of AL No. 10 was made by mailing copies to all known shippers and oil producers. Public notice of this filing has been made by publication in the Commission's Calendar.

PROTEST

On October 26, 1998, ARCO Products Company, Texaco Refining & Marketing Inc. and Mobil Oil Company ("ATM") filed a protest to this advice letter. ATM argued that this advice letter should be denied because the filing does not allow SFPP to depart from a cost-of-service methodology. Further, the Commission has not "authorized" SFPP to charge market-based rates because there has been no evaluation of the market power of SFPP. Finally, SFPP has the "burden" to support its cost-of-service ratemaking.

On October 26, 1998, Chevron Products Company ("Chevron") also filed a protest to this advice letter arguing that SFPP did not provide supporting cost justification of its proposed rates nor an explanation of the new proposed rules and regulation it included in its new proposed tariffs.

On November 2, 1998, SFPP filed its response to the protest of ATM and Chevron. First, SFPP argues that D.98-08-033 does not direct it to file a cost-of-service rate for the Watson facilities. Second, the Commission has not restricted SFPP to a cost-of-service analysis to determine whether any proposed rate is just and reasonable. Rather, SFPP argued that the Commission has the discretion to look at a variety of ratemaking methods, including market-based factors. Third, market demand caused the need to increase incoming pumping rates and gave rise to construction of the Watson Facilities as an alternative means and accommodation to meet the shippers needs. Finally, the rate of 3.2¢ per barrel is reasonable and was freely negotiated between and among sophisticated business entities who choose the Watson facilities over other alternatives.

On November 5, 1998, GATX Terminal Corporation filed its protest incorporating by reference Parts II.A. through II.D of the ATM protest.

On December 17, 1998, ATM filed its response to SFPP's November 2, 1998 letter.

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First, the incoming pump rate at the Watson facilities is not 15,000 barrels per hour. ATM asserts that at a FERC hearing, FERC Docket OR92-8, it was brought to light that "service" is provided to a shipper who enters Watson whether or not they meet the 15,000 barrel pump rate. Further, ATM argues that the greater pumping capacity is not needed; only modernization of the tank cleaning equipment was needed. Therefore, the cost for this have long since been recovered and the 3.2¢ charge is virtually pure profit. Finally, ATM examined the four alternatives to the Watson facilities that SFPP argues is available to shippers. ATM argued that each alternative was not economically viable.

DISCUSSION

SFPP's AL No. 10 should be denied without prejudice because the issues raised in this advice letter were addressed in D.99-06-093. In D.99-06-093, the Commission found that SFPP was charging unreviewed rates for services on the Watson enhancement facilities. It held that since it was granting rehearing of D.98-08-033, it was also an appropriate forum to determine the correct rate for the Watson facilities.

D.99-06-093 also stated that the rehearing would consider, if appropriate, ways to track those charges and make them subject to refund.

Finally, D.99-06-093 stated that the Commission would also consider whether or not it would be appropriate to charge a separate rate for the Watson facilities or roll the costs of the Watson Facilities into SFPP's general rates.

COMMENTS

The draft resolution of the Energy Division in this matter was mailed to the parties in accordance with P.U. Code Section 311(g). Comments were filed on September 21, 1999 by Chevron Products Company ("Chevron").

Chevron supports the recommendation of Energy Division to deny the advice letter without prejudice. Chevron argues that it and others rely upon the Watson facilities as an origin point from which they can move their products to market. Chevron believes SFPP's refusal to provide supporting cost data stems from SFPP's inability to justify the proposed rate. Chevron argued that SFPP continues to charge the same contract rate it established in 1991 without any cost justification.

Chevron offered three suggestions that it believes should be considered by the Commission. First, Chevron supports the proposal to track SFPP's unreviewed rates for services

at Watson facilities.¹ Chevron suggest SFPP be required to maintain its records and accounts in accordance with accounting procedures in the event the Commission finds it appropriate to order refunds and/or reparations. This recommendation appears reasonable since the rates charged by SFPP may be excessive.

Second, D.99-06-093 also proposes that any rehearing consider whether or not it would be appropriate to charge a separate rate for Watson facilities or roll the costs of the Watson facilities into SFPP's general rate. Chevron suggest the rates should be rolled into SFPP's general rates because the operating cost of this facility is small. This is an issue that should be resolved in a hearing since neither SFPP nor any of the protesters/commenters provided sufficient information to determine whether the operating cost of this facility is small.

Finally, Chevron urges the Commission to provide a forum in which the customers of SFPP may participate in reviewing whether the initial rate is cost justified and reasonable. This matter will be addressed in the upcoming proceeding.

FINDINGS

1. D. 98-08-033 required SFPP to file a tariff for its gathering enhancement system at the Watson facilities within 60 days of the decision.
2. On October 6, 1998, SFPP filed Advice Letter No. 10 proposing to charge 3.2¢ per barrel for use of its Watson Facilities because of the need to increase incoming pumping rates from 10,000 barrel per hour to 15,000 barrel per hour.
3. SFPP asserts the increase was necessary to respond to increased demand for product in its market area.
4. SFPP also emphasized that alternatives were available to alleviate or reduce the cost to shippers and suppliers.
5. On October 26, 1998, ARCO Product Company, Texaco Refining & Marketing, Inc. and Mobil Oil Company (hereinafter "ATM") filed a protest to this advice letter. ATM argued that SFPP's filing departs from a cost-of-service analysis and that the Commission has not authorized SFPP to charge market-based rates because there has been no evaluation of SFPP's market power. ATM further argued that SFPP has the burden to support its cost-of-service ratemaking.

¹D.99-06-093 at p. 6.

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6. Chevron Products Company also filed a protest arguing that SFPP did not provide sufficient cost justification of its proposed rates.

7. On September 21, 1999, Chevron Products Company filed comments to the draft resolution issued by Energy Division.

8. In D. 99-06-093, the Commission specifically addressed the issue of rates for the Watson facilities. The Commission found that SFPP was charging unreviewed rates for services at the Watson facilities.

9. Since it was granting rehearing of other issues, D.98-08-033 found that the rehearing was also an appropriate forum to determine the correct rate for the Watson facilities. The Commission also held that rehearing would consider, if necessary, ways to track those charges and make them subject to refund.

10. Chevron Products Company supports the tracking of charges and proposes that SFPP be required to maintain its records and accounts in accordance with accounting procedures in the event the Commission finds it appropriate to order refunds and/or reparations. This suggestion appears reasonable since the rates charged by SFPP may be excessive.

11. The Commission stated that it would also consider whether or not it would be appropriate to charge a separate rate for the Watson Facilities or roll the costs of the Watson Facilities into SFPP's general rates.

12. The protests are denied as moot.

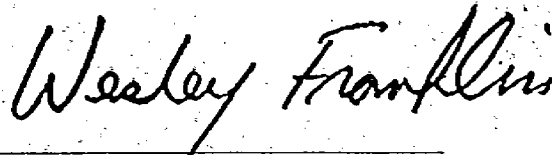
13. Advice Letter 10 should be denied without prejudice.

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THEREFORE IT IS ORDERED THAT:

1. SFPP, L.P.'s request for approval of its tariff for its Watson Facilities is denied without prejudice.
2. SFPP shall maintain its records and accounts in accordance with accounting procedures to track the rates charged for usage of the Watson facilities.
3. This resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed, and adopted at a Conference of the Public Utilities Commission of the State of California held on October 7, 1999. The following Commissioners voting favorably thereon:



WESLEY M. FRANKLIN
Executive Director

RICHARD A. BILAS
President
HENRY M. DUQUE
JOSIAH L. NEEPER
JOEL Z. HYATT
CARL W. WOOD
Commissioners