

February 14, 2018

VIA FIRST CLASS MAIL AND ELECTRONIC MAIL

Mr. Fred Gallante, City Attorney
City of Rialto
150 S. Palm Ave.
Rialto, CA 92376

Re: Public Utility Status of SFPP, L.P. and CalNev Pipe Line LLC

Dear Mr. Galante:

I am outside regulatory counsel for SFPP, L.P. ("SFPP") and Calnev Pipe Line LLC ("Calnev") and have represented them in numerous matters before the California Public Utilities Commission ("Commission") for the past twenty years relating to their regulation as public utility providers of intrastate pipeline transportation services. Kinder Morgan, Inc. ("Kinder Morgan"), the parent company of SFPP and Calnev, has asked that I provide you with my opinion establishing the status of SFPP and Calnev as public utilities subject to the jurisdiction of the Commission.

The Commission's jurisdiction is set forth in the California Public Utilities Code. With regard to the Commission's regulatory authority with respect to SFPP and Calnev, the pertinent code sections are as follows: (1) §227 which defines "pipe line" to include facilities used to "facilitate the transmission ...or delivery of crude oil or other fluid substances..."; (2) §228 which defines "pipeline corporation" to include "every corporation or person ...operating...any pipeline for compensation within this state"; and (3) §211 which defines "common carrier" as including corporations that transport oil [and other fluid substances, such as refined petroleum products] for compensation to the public.

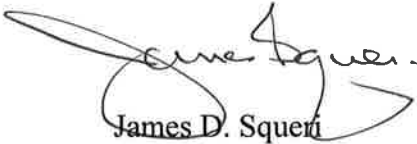
SFPP and Calnev are, and have been for many years, transporting refined petroleum products by pipeline to the public, i.e. third parties, within the state of California for compensation. Each pipeline has submitted itself to the jurisdiction of the Commission, and each has officially authorized tariffs on file with the Commission setting forth the rates, terms and conditions which govern the provision of public utility pipeline transportation services.

There are numerous decisions issued by the Commission over the years that demonstrate that both SFPP and Calnev are public utilities subject to the jurisdiction. For example, Commission Decision 07-11-050 included herewith expressly notes that SFPP and Calnev are "petroleum pipeline utilities." For your convenience, I also include a recent

Commission decision (D. 14-12-057), issued in December, 2014, which reflects a partial history of the Commission's longstanding regulation of SFPP and Calnev as public utilities.

Please feel free to contact me with regard to any remaining questions you might have with regard to the status of SFPP and Calnev as public utilities.

Very truly yours,



James D. Squeri

cc: Randy Parker
Dan Lyons
Alan Fore

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ATTACHMENT A

CPUC DECISION NO. 07-11-050

Decision 07-11-050 November 16, 2007

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Joint Application of SFPP, L.P. (PLC-9 Oil), CALNEV PIPE LINE, L.L.C., KINDER MORGAN, INC., and KNIGHT HOLDCO LLC for Review and Approval under Public Utilities Code Section 854 of the Transfer of Control of SFPP, L.P. and CALNEV PIPE LINE, L.L.C.).

Application 06-09-016
(Filed September 18, 2006)

Joint Application of The Goldman Sachs Group, Inc., American International Group, Inc., Carlyle Partners IV, L.P., Carlyle/Riverstone Global Energy and Power Fund III, L.P., for Exemption Under Section 852 of the Public Utilities Code for Certain Future Transactions Involving Non-Controlling Interests in California Public Utilities.

Application 06-09-021
(Filed September 22, 2006)
[Formally Consolidated]

ORDER DISMISSING APPLICATION
FOR REHEARING OF DECISION (D.) 07-05-061

On September 22, 2006 The Goldman Sachs Group, Inc., American International Group, Inc., Carlyle Partners IV, L.P., and Carlyle/Riverstone Global Energy and Power Fund III, L.P. (collectively, "Applicants") filed an application seeking an exemption under section 852 of the Public Utilities Code for themselves and their affiliates.¹ In relevant part, section 852 provides:

No public utility, and no subsidiary or affiliate of, or corporation holding a controlling interest in, a public utility, shall purchase or acquire, take or hold, any part of the capital stock of any other public utility, organized or existing under

¹ All statutory references are to the Public Utilities Code, unless otherwise noted.

or by virtue of the laws of this state, without having been first authorized to do so by the commission; provided, however, that the commission may establish by order or rule categories of stock acquisitions which it determines are exempt from this section.

The Applicants are affiliated with certain funds, investment vehicles and/or special purpose entities, which along with individual investors, will each own minority interests in Knight Holdco, LLC (“Knight”). Knight has entered into a merger agreement pursuant to which it will acquire Kinder Morgan, Inc. (“Kinder Morgan”) upon the satisfaction of certain conditions. Kinder Morgan, in turn, through its subsidiaries, indirectly owns interests in Santa Fe Pacific Pipeline Partners, L.P. (“SFPP”), and Calnev Pipe Line Company (“Calnev”). Both are California petroleum pipeline utilities. Applicants sought the exemption on claims that under a literal reading they and their affiliates may arguably be subject to section 852, and this would essentially eliminate their ability to buy securities of any other California public utility without additional applications and approvals. Among other things, Decision (“D.”) 07-05-061 grants two of the Applicants, the affiliates they individually or jointly control, and the affiliates that individually or jointly control them the requested exemption.²

Twenty-nine days after D.07-05-061 was mailed, the Consumer Federation of California (“CFC”), a party in the underlying proceeding, filed an application for rehearing. CFC’s claims fall into two groupings. CFC’s first group of claims relate to its broad allegations that the “Commission acted arbitrarily, unreasonably, and abused its discretion in granting Application 06-09-021 without issuing a reasoned decision explaining the basis for its decision.” (Application for Rehearing, p. 2.) The common thread within this first group of claims is CFC’s assertion that the Commission failed to address various issues and items. Specifically, CFC alleges that the Commission failed to consider: (1) its evidence going to corporate malfeasance, (2) the need to establish a standard of control, (3) evidence of the applicant’s prior failure to comply with federal

² D07-05-061 defers the issue of whether to grant the section 852 exemption to the two Carlyle entities.

regulations, (4) the Commission's inability to adequately monitor the Applicants acquisitions, and (5) this Commission's inability to obtain jurisdiction over and obtain information from the Applicants' out-of-state affiliates. (Application for Rehearing, pp. 2-3.)

CFC's second group of claims goes to the public interest determinations antecedent to an exemption to section 852's reporting requirements. CFC's claims in this regard are three-fold. First CFC claims that D.07-05-071 is unsupported by substantial evidence in that it requires, but lacks, a finding that the exemption will not harm the public interest. Second, CFC claims that this Commission unlawfully delegated its authority to determine what acquisitions of an ownership interest in a public utility will not harm the public interest. Third, CFC questions this Commission's authority and jurisdiction to grant an exemption to the section 852 reporting requirements. (Application for Rehearing, pp.3-4.)

Upon review of CFC's application for rehearing, it appears that CFC failed to meet the requisite deadline under section 1731(b), for the reasons stated below. Accordingly, we dismiss the rehearing application without resolving the substantive issues raised therein.

In relevant part, section 1731(b) provides:

No cause of action arising out of any order or decision of the commission shall accrue in any court to any corporation or person unless the corporation or person has filed an application to the commission for a rehearing within 30 days after the date of issuance or within 10 days after the date of issuance in the case of an order issued pursuant to either Article 5 (commencing with Section 816) or Article 6 (commencing with Section 851) of chapter 4 relating to security transactions and the transfer or encumbrance of utility property. (Pub. Util. Code, § 1731(b), emphasis added.)

D.07-05-061 approves, pursuant to section 854, the transfer of indirect ownership and control over jurisdictional portions of two common carrier pipeline utilities and grants

two of the Applicants an exemption to the section 852 reporting requirements. Both sections 852 and 854 fall within Article 6 of the California Public Utilities Act.

Consistent with section 1731(b), CFC was required to file its application for rehearing within 10 days of D.07-05-061 being mailed to parties. D.07-05-061 was mailed to parties on May 30, 2007 and CFC filed its application for rehearing 29 days later, on June 29, 2007. Having failed to file its application within the required 10 day time period, section 1731(b) bars consideration of CFC's application for rehearing. CFC's application for rehearing must therefore be dismissed as untimely.

THEREFORE, IT IS ORDERED that:

1. The application for rehearing of D.07-05-061, filed by CFC, is dismissed as untimely.

This order is effective today

Dated November 16, 2007, at San Francisco, California.

MICHAEL R. PEEVEY
President

DIAN M. GRUENEICH

JOHN A. BOHN

RACHELLE B. CHONG

TIMOTHY ALAN SIMON

Commissioners

ATTACHMENT B

CPUC DECISION NO. 14-12-057

Decision 14-12-057 December 18, 2014

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ARCO Products Company, Mobil Oil Corporation, and Texaco Refining and Marketing Inc. vs. SFPP, L.P., for violation of section 451 of the Public Utilities Code by charging rates that are not just and reasonable for the intrastate transportation of refined petroleum products.

And Related Matters.

Case 97-04-025
(Filed April 7, 1997)

Application 00-03-044
Application 03-02-027
Application 04-11-017
Application 06-01-015
Application 06-08-028
Application 08-06-008
Application 08-06-009
Application 09-05-014
Application 12-01-015
Case 00-04-013
Case 06-12-031
Case 12-03-005
Case 12-03-006
Case 12-03-007
Case 12-04-004
Case 12-04-006
Case 12-04-007

**DECISION ADOPTING A GLOBAL SETTLEMENT OF PROCEEDINGS
INVOLVING SFPP L.P.**

Summary

This decision adopts a comprehensive settlement of every pending proceeding involving SFFP, L.P. (SFFP), and every entity that ships refined petroleum products over its system in intra-California operations, and who have participated in some or all of the consolidated complaints and applications. By adopting the settlement, we close 18 different proceedings, and the pending rehearing of a previous decision, and we start with a clean slate of the pipeline and its customers going forward. We additionally resolve Application (A.) 08-06-009 which was filed by SFFP's affiliated entity, Calnev Pipe Line LLC (Calnev); in addition to addressing all pending dockets involving SFFP, the proposed settlement includes resolution of Calnev's A.08-06-009. The settlement includes a unique feature, whereby the settling parties agree on a three-year moratorium, as defined in the settlement, before the pipeline will file for any further rate relief.

As defined in the decision and the adopted settlement, SFFP, and the active parties to the settlement have agreed to confidential refunds for the individual shippers. We agree to hold the settlement's payments confidential. We therefore disclose no other cost information except we adopt the proposed tariffs, which are part of the settlement agreement. By adopting the settlement, we find that SFFP will have adequate revenues in order to safely operate its systems in such a way as to protect the environment, the pipeline's employees, and the general public. These proceedings are closed.

1. Procedural History

The consolidated proceedings have had a long and complex history, with various decisions, rehearings, appeals, and numerous hearings and briefings. The following is a comprehensive recap of the more recent relevant events.

On November 27, 2013, all open dockets involving SFPP, L.P. (SFPP)¹ were consolidated by an Order to Show Cause, dated November 27, 2013. By ruling dated April 3, 2014, the Presiding Administrative Law Judges (Presiding Judges) clarified that A. 09-05-014 and related cases A.08-06-008 and A.08-06-009 were included in the consolidation of all pending SFPP proceedings.² A summary of the procedural history and status of the consolidated proceedings is set forth as follows:

- 1) Case (C.) 97-04-025, filed April 7, 1997, encompasses a rate complaint proceeding involving certain issues initially identified by the Commission's rehearing order, Decision (D.) 98-08-033; the proceeding remains open to resolve the specific rehearing issues identified in D.12-03-026. These remaining issues include the effect upon the continuing reasonableness of SFPP's previously approved mainline rates of: (i) D.12-03-026's revised treatment of historical environmental expenses; (ii) D.11-05-045's disallowance of an income tax allowance and related treatment of the Accumulated Deferred Income Taxes (ADIT); and (iii) whether and to what extent SFPP is liable for refunds and reparations relating to its Watson Station and Sepulveda pipeline services.
- 2) A.00-04-013, filed April 24, 2000, requests Commission authorization of SFPP's request to consider market-based factors in evaluating the reasonableness of SFPP's pipeline rates. D.11-05-046, issued on May 26, 2011, in A.08-06-008/A.08-06-009, denied the request of SFPP and Calnev for market-based rate authority, which order has become final and non-appealable, thereby rendering A.00-04-013 moot.

¹ Application (A.) 08-06-009 was filed by SFPP's affiliated entity, Calnev Pipe Line LLC (Calnev); in addition to addressing all pending dockets involving SFPP, the proposed settlement includes resolution of Calnev's A.08-06-009.

² Presiding Judges' Amended Scoping Ruling dated April 3, 2014.

- 3) A.03-02-027, filed February 21, 2003, addresses the reasonableness of electric power surcharges and underlying rates collected by SFPP during a disputed period of time. D.11-05-045 addressed some but not all of the issues required to adopt a reasonable cost of service for the rate period at issue. The Commission did determine, among other things, that: (i) SFPP is not entitled to a ratemaking allowance for federal income tax expense; and (ii) SFPP's capital structure should be set at 60 percent equity and 40 percent debt, with a Return on Equity (RE) of 12.61 percent. The remaining issues bearing upon SFPP's reasonable cost of service during the period in question principally relate to throughput matters, cost allocation, and a determination of SFPP's reasonable operating expenses during such period.³ In response to the directive in D.11-05-045 that SFPP make a specified advice letter filing and pay refunds to all customers, SFPP filed, on August 26, 2011, Advice Letter 27 which, among other things, calculated refunds associated with the Commission's findings in D.11-05-045. Shipper Parties protested Advice Letter 27, which remains pending in the Energy Division.
- 4) A.04-11-017, filed November 16, 2004, addresses the reasonableness of increased SFPP intrastate rates of approximately \$10 million annually that went into effect on December 15, 2004. A.04-11-017 covers the period from December 15, 2004 to March 1, 2006 when the rate changes at issue in A.06-01-015 became effective. A.04-11-017 was protested. Issues raised by the application in A.04-11-017 and related protests involve disputed issues of material fact relating to SFPP's reasonable cost of service during the relevant time period, including, among others, issues relating to throughput, operating expenses, cost allocation,

³ D.11-05-045 (at 2) specifically indicated that various issues were left open "so that the parties could pursue settlement or a subsequent litigated determination." The proposed settlement resolves all outstanding issues, including open issues referenced in D.11-05-045.

and cost of capital. No subsequent, specific procedural actions have been taken by the Commission with respect to the pending A.04-11-017 proceeding.

- 5) A.06-01-015, filed January 26, 2006, addresses the reasonableness of increased SFPP intrastate rates of approximately \$5 million annually that went into effect on March 1, 2006. A.06-01-015 has been protested; no specific procedural actions have been taken by the Commission with respect to the pending application.
- 6) A.06-08-028, filed August 25, 2006, addresses the reasonableness of SFPP's request: (i) to reduce rates for its Watson Station movement and to increase its mainline rates by about \$3 million; and (ii) to impose a surcharge, the Ultra-Low Sulfur Diesel Recovery Fees, related to changed air quality regulations. The rate changes at issue in A.06-8-028 went into effect on October 11, 2006. A.06-08-028 has been protested, and no specific procedural action has been taken by the Commission with respect to the application, which remains pending. Issues raised by A.06-01-015 and A.06-08-028 and related protests involve disputed issues of material fact relating to: (i) the rate period at issue; and (ii) SFPP's reasonable cost of service during the relevant time period, including, among others, issues relating to throughput, operating expenses, cost allocation, cost of capital, and treatment of ADIT.
- 7) SFPP and its sister company, Calnev Pipeline LLC (Calnev), filed, on June 6, 2008, rate applications in A.08-06-008 and A.08-06-009, respectively, in compliance with Commission D.07-05-061; the filings did not propose any change in SFPP's or Calnev's rates. A.08-06-008 was amended by filing dated September 26, 2008, which filing increased SFPP's intrastate rates by \$5 million annually as of November 1, 2008. These applications, which have been consolidated with A.09-05-014, discussed below, have been the subject of an evidentiary hearing and have been submitted to the Presiding Judge. In this connection, the Presiding Judge issued an initial Proposed Decision on June 22, 2011, which was subsequently withdrawn. The

Presiding Judge issued a Revised and Reissued Proposed Decision on April 6, 2012, which is currently being held in abeyance pending a Commission rehearing decision in D.11-05-045. The material disputed issues include: (i) the rate period at issue; and (ii) SFPP's reasonable cost of service during the relevant time period, including, among others, issues relating to throughput, cost allocation, operating expenses, cost of capital, and treatment of ADIT.

- 8) A.09-05-014, filed May 12, 2009, increased SFPP rates by approximately \$5 million annually as of June 15, 2009. This application, as noted above, has been consolidated with A.08-06-008 and A.08-06-009. A.09-05-014, in conjunction with A.08-06-008, as amended, and A.08-06-009 have been the subject of an evidentiary hearing, which record has been submitted to the Presiding Judge. As noted above, these consolidated proceedings are the subject of a Revised and Reissued Proposed Decision which is currently being held in abeyance pending a Commission rehearing decision in D.11-05-045.
- 9) A.12-01-015 was filed January 30, 2012 and reduced SFPP's rates by 6.7 percent effective as of March 1, 2012. Following the filing by SFPP of A.12-01-015, Shipper Parties filed complaints in C.12-03-005 et al., seeking damages and asserting that SFPP's rates should be reduced by more than what SFPP proposed in the A.12-01-015 proceeding. These complaints and application have been the subject of an evidentiary hearing and have been submitted pending issuance of a proposed decision by the Presiding Judge. The material disputed issues include: (i) the rate period at issue; and (ii) SFPP's reasonable cost of service during the relevant time period, including, among others, issues relating to throughput, cost allocation, operating expenses, cost of capital, and treatment of ADIT.
- 10) On November 27, 2013, the Assigned Commissioner and Presiding Judges issued a modified scoping memorandum and order to show cause in the consolidated proceedings directing SFPP to show cause why specified rate changes should not be reversed, with the balance of unapproved

increases and unapproved decreases refunded to shippers with interest. A hearing on the order to show cause was conducted on December 18, 2013.

- 11) On January 10, 2014, the Presiding Judges issued their "Ruling on a Mandatory Settlement Procedure" directing the parties to make a good faith effort to settle all of the open SFPP dockets. Specifically, the Ruling required the following, among other things:
- Service by SFPP on Shipper Parties⁴ of a comprehensive settlement offer within 30 days of the ruling.
 - No less than 40 hours of direct negotiations between the representatives of each party with delegated authority to negotiate and reach a binding agreement.
 - Upon completion of settlement negotiations, a joint report from the parties advising the Presiding Judges regarding the results achieved and a schedule for filing a settlement agreement or a joint plan for continuing with the proceeding.

On April 3, 2014, the Presiding Judges issued their Amended Scoping Ruling suspending the consolidated proceedings until the earlier of October 1, 2014, or the date on which the parties advise the Presiding Judges that a global settlement has been reached or that a settlement is not possible.

By e-mail dated September 15, 2014, the Joint Parties advised the Presiding Judges that a global settlement of all open SFPP dockets has been achieved. In anticipation of a Commission decision approving the global settlement before year-end 2014, the Joint Parties further informed the Presiding Judges of their intention to file as quickly as would be practicable: (1) a fully executed

⁴ As noted in the Ruling at 2, "Shippers on the SFPP system are the Interested Parties: BP West Coast Products LLC, Chevron Products Company, Phillips 66 Company, DoconMobil Oil Corporation, Southwest Airlines Co., Tesoro Refining and Marketing Company, Ultramar Inc. and Valero Marketing and Supply Company.

settlement agreement resolving all open SFPP dockets and shipper complaints;
(2) a joint motion requesting Commission approval of the all-party settlement;
(3) a motion requesting confidential treatment of limited information that is proprietary to the parties; and (4) a motion to facilitate expedited submission of a proposed decision to the Commission.

On September 24, 2014, the Assigned Commissioner issued an Amended Scoping Memorandum, Ruling Consolidating Proceedings, and Revised Schedule, which, among other things, revises the scope of the consolidated proceedings:

to include specific consideration of a possible settlement on a "global" level addressing the issues across the proceedings and across time in such a way as to satisfy both the pipeline operator and the various shippers.

While expressly noting that the parties are free to request by motion any and all reasonable scheduling or other procedural treatment, the Amended Scoping Memo establishes the following procedural schedule:

- Comments by any interested party are due 30 days after the filing of any motion or motions for the adoption of a settlement.
- Replies to any comments are due 15 days later.
- Within 60 days of filing of a proposed settlement, the assigned Judges will determine whether to set any evidentiary hearings or requiring briefing on any matter whether contested or not.

On October 3, 2014, the parties filed the proposed settlement of all pending issues; they also filed a motion for expedited treatment, which has been considered when reviewing this settlement; and a motion to hold confidential the actual refunds to be made by SFPP, L.P. to the shippers. This decision expressly grants that motion herein.

2. The Record

The record in this proceeding consists of all filed documents and all exhibits received into evidence, as well as the transcripts of all hearings.

3. Standard of Review

SFPP bears the burden of proof to show that the rates it requests are just and reasonable and the related ratemaking mechanisms are fair.

In order for the Commission to consider any possible proposed settlement in this proceeding as being in the public interest, the Commission must be convinced that the parties had a sound and thorough understanding of the applications, and all of the underlying assumptions and data included in the record. This level of understanding of the applications and development of an adequate record is necessary to meet our requirements for considering any settlement.

4. Adopting a Proposed Settlement

As the United States Court of Appeals for the Ninth Circuit has observed, in evaluating a settlement the agreement must stand or fall on its own terms, not compared to some hypothetical result that the negotiators might have achieved, or that some believe should have been achieved:

Settlement is the offspring of compromise; the question we address is not whether the final product could be prettier, smarter or snazzier, but whether it is fair, adequate and free from collusion. (Hanlon v. Chrysler Corp., 150 F.3d 1011, 1027 (9th Cir. 1998).

Based upon our review of the extensive prepared testimony, evidentiary hearings and comprehensive briefing of the litigated applications, we find that the parties to the settlement had a sound and thorough understanding of the applications, and all of the underlying assumptions and data included in the record and, thus, we can consider the various individual settlements as offered

by competent and well-prepared parties able to make informed choices in the settlement process.

5. Pertinent Commission Rules

The Commission's Rules of Practice and Procedure (Rules) specifically address the requirements for adoption of proposed settlements in Rule 12.1 Proposal of Settlements, and subject to certain limitations in Rule 12.5 Adoption Binding, Not Precedential. Specifically, Rule 12.1(a) states:

Parties may, by written motion any time after the first prehearing conference and within 30 days after the last day of hearing, propose settlements on the resolution of any material issue of law or fact or on a mutually agreeable outcome to the proceeding. Settlements need not be joined by all parties; however, settlements in applications must be signed by the applicant and, in complaints, by the complainant and defendant.

The motion shall contain a statement of the factual and legal considerations adequate to advise the Commission of the scope of the settlement and of the grounds on which adoption is urged. Resolution shall be limited to the issues in that proceeding and shall not extend to substantive issues which may come before the Commission in other or future proceedings.

When a settlement pertains to a proceeding under a Rate Case Plan or other proceeding in which a comparison exhibit would ordinarily be filed, the motion must be supported by a comparison exhibit indicating the impact of the settlement in relation to the utility's application and, if the participating staff supports the settlement, in relation to the issues staff contested, or would have contested, in a hearing.

Rule 12.1(d) provides that:

The Commission will not approve settlements, whether contested or uncontested, unless the settlement is reasonable in light of the whole record, consistent with law, and in the public interest.

Rule 12.5 limits the future applicability of a settlement:

Commission adoption of a settlement is binding on all parties to the proceeding in which the settlement is proposed. Unless the Commission expressly provides otherwise, such adoption does not constitute approval of, or precedent regarding, any principle or issue in the proceeding or in any future proceeding.

6. Required Findings – Rules 12.1(d) and Rule 12.5

Based upon the record of this proceeding we find the parties complied with Rule 12.1(a) by making the appropriate filings and noticing a settlement conference. Based upon our review of the settlement documents we find that they contain a statement of the factual and legal considerations adequate to advise the Commission of the scope of the settlement and of the grounds for its adoption; that the settlement was limited to the issues in this proceeding; and that the settlement included a comparison indicating the impact of the settlement in relation to the utility's application and contested issues raised by the interested parties in prepared testimony, or would have contested in a hearing. These two findings that the settlement complies with Rule 12.1(a), allow us to conclude, pursuant to Rule 12.1(d), that the settlement is reasonable in light of the whole record, consistent with law, and in the public interest.

Based upon our review of the settlement document we find, pursuant to Rule 12.5, that the proposed settlement would not bind or otherwise impose a precedent in this or any future proceeding. We specifically note, therefore, that SFPP must not presume in any subsequent applications that the Commission would deem the outcome adopted herein to be presumed reasonable and it must, therefore, fully justify every request and ratemaking proposal without reference to, or reliance on, the adoption of this settlement.

7. Confidential Settlement Refunds

The interested parties, the shippers on SFPP's systems, are very large sophisticated corporations who are not the more typical residential or small commercial customer for whom the Commission most especially looks to ensure that their individual rights are protected, or whose interests are represented in the aggregate by our independent Office of Ratepayer Advocates. These customers are ably represented and have equal or greater resources to SFPP. (See a description in the Summary of the Settlement, below.)

In this proposed settlement the parties have negotiated refunds to the individual shippers reflecting the rates at the time, the services used, and the volumes shipped over SFPP's pipelines. They ask that these individual refunds be held confidential and we see no public interest that suggests we need to release that data. Therefore we grant the motion to hold the individual refunds confidential.

8. Three-Year Rate Filing Moratorium

The parties have agreed SFPP shall not file another rate application for three years from the date of this decision. (See a description in the Summary of the Settlement, below.)

We find that the rate filing moratorium is a reasonable term within the context of the settlement as a whole. In fact we note that these parties are particularly well suited to negotiate all rate and service issues on a near-equal footing and we therefore defer to their agreement on this matter of when and how to amend rates prospectively.

9. Summary of Settlement

A copy of the Settlement Agreement fully executed by all interested parties is set forth in Attachment 1. The principal elements of the proposed settlement,

including settlement of all outstanding issues in each of the pending SFPP dockets, are as follows:

Effective Date

The Settlement Agreement shall be effective as of the date upon which a Commission order approving the agreement without modification or condition is issued (Effective Date). If a timely objection to the Settlement Agreement is submitted to the Commission, the Effective Date shall be the date upon which a final Commission order that approves the Settlement Agreement without modification or condition is no longer subject to rehearing or judicial review.

Prospective Rate Reduction

Within two (2) business days of the Effective Date, SFPP shall file revised rates for intrastate service (Settlement Rates) reflecting a 12.42 percent reduction from its currently effective rates.

The Settlement Agreement includes Attachments A through H; by separate motion filed concurrently herewith, the Joint Parties request that proprietary information relating to individual party settlement payments, as set forth in Attachments B through H, be submitted under seal.

Rates are set forth in Attachment A to the Settlement Agreement. SFPP shall seek to make these reduced rates effective the first day of the next calendar month following the Effective Date (Commencement Date). The Shipper Parties agree not to protest the Settlement Rates filing unless such filing does not conform with the Settlement Agreement. SFPP agrees that it will maintain service quality, and will adhere to all Commission rules, decisions, General Orders and statutes including Public Utilities Code Section 451 requiring it to take all actions "necessary to promote the safety, health, comfort, and convenience of its patrons, employees, and the public."

Settlement Compensation

In addition to approximately \$54 million in refunds to all shippers, SFPP will make settlement payments to the Shipper Parties for the period through December 31, 2013 totaling approximately \$254 million. For the period January 1, 2014 through the date of payment, these amounts will be adjusted pursuant to the terms of the Settlement Agreement. Assuming SFPP's reduced settlement rates become effective by January 1, 2015, the total amount of refunds and settlement payments to be made by SFPP under the proposed Settlement Agreement is approximately \$319.15 million. This total settlement compensation amount effectively resolves approximately seventeen (17) years of litigation and enables the Commission to close eighteen (18) pending rate and complaint proceedings. This total settlement compensation includes refunds for all shippers on SFPP's intrastate system in connection with protests filed in Docket Nos. A.03-02-027 and A.09-05-014 as well as settlement payments to close multiple complaint proceedings, some of which have been pending since 1997. In addition to resolving all pending protest and complaint proceedings, the settlement compensation amount also achieves, as discussed herein, a system-wide rate reduction for all shippers together with a three-year moratorium period during which SFPP will not increase the proposed settlement rates, except in very limited circumstances. At the same time, the Joint Shippers will be precluded from challenging the settlement rates, except in limited situations, for the same three-year time frame. All settlement compensation includes interest to the date of payment calculated in compliance with Commission Rules.

Certification

Within five (5) business days of making the refunds and settlement payments identified herein, SFPP shall submit to the Commission a written certification that it has made the required payments.

Moratorium Period

Beginning with the date of execution of the Settlement Agreement (Execution Date) and continuing for three years thereafter (Moratorium Period), the Joint Parties agree to a moratorium on rate changes and rate challenges. During the Moratorium Period, Shipper Parties agree not to challenge the Settlement Rates, and SFPP agrees to maintain the Settlement Rates in effect and to not file any rate increase except increases attributable to cost increases solely attributable to changes in government mandates relating to pipeline safety or security arising during the Moratorium Period.

Right-of-Way Surcharge

Upon the Commencement Date, a surcharge shall be established to recover over a period of ten (10) years SFPP's increased Union Pacific Railroad (UPRR) right-of-way (ROW) expenses and associated interest expenses attributable to the period 2004 to 2011 and arising from an adverse California Superior Court judgment in SFPP's ongoing litigation efforts to contest UPRR's increased rental demands (Supplemental ROW Cost Amount). The initial balance of the Supplemental ROW Cost Amount shall be capped at \$45 million.

Other Elements of the Settlement Agreement

Other pertinent elements of the Settlement Agreement include the following:

- a. **Closure of All Dockets.** The Joint Parties agree that to the extent a settlement is reached it should resolve all pending

SFPP-related rate and complaint proceedings as well as the pending Calnev proceeding in A.08-06-009.

- b. Settlement Void Unless Approved Without Modification or Condition.** The Settlement Agreement shall be void unless approved by the Commission without modification or condition, although the Joint Parties would attempt to negotiate in good faith a revised settlement in the event the California Public Utilities Commission or a reviewing court rejects or modifies the settlement as filed.
- c. Timing and Method of Settlement Payments.** Settlement payments would be made by wire transfer within the time periods set forth in the Settlement Agreement and as referenced in Section IV.3 above.
- d. Scope and Impact of Settlement on Rates.** Joint Parties agree that any and all claims of the Shipper Parties with regard to SFPP's California intrastate rates and charges would be extinguished and closed through the Execution Date and any existing suspension and refund obligations in the associated proceedings will be satisfied.
- e. Support of Settlement Rates.** The Joint Parties agree that, if an entity not a party to the Settlement files a challenge to the Settlement Rates during the Moratorium Period, the Joint Parties shall support in writing the Settlement Rates before the Commission and oppose in writing any alteration of them during the Moratorium Period. The Joint Parties further agree that none of the Shipper Parties will encourage or assist any other shipper or person to file or pursue a complaint, protest, or any other form of challenge against the Settlement Rates during the Moratorium Period so long as SFPP complies with the terms of the Settlement.
- f. Future Rate Filings.** In any rate filing SFPP files subsequent to the Moratorium Period, SFPP shall be foreclosed from seeking to recover any costs attributable to the Moratorium Period. In any complaint or other form of challenge filed by a Shipper Party subsequent to the Moratorium Period, the Shipper Party shall be foreclosed from seeking any refunds, reparations, or other form of

compensation or relief attributable to SFPP's intrastate charges during the Moratorium Period, except to the extent, if any, SFPP's charges exceed the Settlement Rates.

- g. No Precedent.** Joint Parties agree that to the extent a settlement is reached, the settlement (and the CPUC's approval of the settlement) would not establish any precedent or practice with regard to SFPP's intrastate rates following the effective date of the Settlement Rates, nor would it alter existing precedent. The Settlement Agreement by the parties and the acceptance by the CPUC of the rates derived from the settlement agreement also will not be deemed the adoption or approval of any cost element or ratemaking principle, inasmuch as such rates are determined on a "black box" basis.

Joint Parties also agree that the Settlement Rates will not be deemed or considered, in any manner, reasonable for purposes of Section 734 of the California Public Utilities Code. Accordingly, if the Settlement Rates are challenged in a complaint after the Moratorium Period expires or if SFPP files to increase the Settlement Rates after the Moratorium Period expires and Shipper Parties challenge the increase, the relief available to Shipper Parties from the Commission could include: (i) a reduction in the rate down to the level the Commission finds reasonable; and (ii) refunds/reparations of the difference between the rates charged and the Commission-determined reasonable rates for the period beginning on the day following the last day of the Moratorium Period.

10. Discussion

As can be seen by the detailed and complex procedural history and thorough and far-reaching summary of the settlement, SFPP and the Shippers have concluded a complex series of proceedings to their mutual satisfaction. These sophisticated parties are the sole direct interest parties affected by this decision. After reviewing the settlement we find that the settlement is an

example for the future for SFPP rate proceedings where these parties are able to craft a working solution to their business needs. We accept their settlement and defer to their combined expertise on the details.

11. Submission

The motion to adopt a settlement was filed on October 3, 2014. After allowing an opportunity for anyone to protest, the consolidated proceeding was deemed submitted on November 4, 2014.

12. Waiver of Comment Period

Comment are waived because this decision adopts the unopposed settlement of all parties.

13. Assignment

Michael Peevey is the assigned Commissioner and Judges Karl Bemederfer and Douglas Long are the presiding officers of these consolidated proceedings.

Findings of Fact

1. There is a full and complete record composed of all filed documents and all exhibits received into evidence, as well as the transcripts of all hearings.
2. The parties engaged in years of discovery, litigation, and settlement.
3. The parties to the settlement adopted in this decision had a sound and thorough understanding of the application, and all of the underlying assumptions and data included in the record and could make informed decisions in the settlement process.
4. The adopted settlement is between competent and well-prepared parties who were able to make informed choices in the settlement process.
5. The three-year rate moratorium is agreed to by all parties.

6. The confidential terms of the individual refunds are agreed to by all parties.

Conclusions of Law

1. Applicant alone bears the burden of proof to show that its forecasts are reasonable.

2. The Test Year revenue requirements settlement is reasonable because it fairly balances intervenor interests and provides sufficient revenue to safely provide reliable service.

3. The adopted settlement provides sufficient information for the Commission to discharge its future regulatory obligations.

4. The three-year rate moratorium, as agreed to by all parties, is reasonable and lawful.

5. The confidential terms of the individual refunds, as agreed to by all parties, are reasonable and lawful.

6. The consolidated proceedings should be closed.

O R D E R

IT IS ORDERED that:

1. The October 3, 2014 Motion of BP West Coast Products LLC; Chevron Products Company (a Chevron U.S.A. Inc. division); ExxonMobil Oil Corporation; Phillips 66 Company; Southwest Airlines Co.; Tesoro Refining and Marketing Company; Ultramar Inc.; and Valero Marketing and Supply Company, and SFPP, L.P. (SFPP) and Calnev Pipe Line, L.L.C. (Calnev) to Approve a Settlement is granted.

2. SFPP, L.P. and Calnev Pipe Line, L.L.C shall make any necessary filings to implement the specific terms of the Settlement Agreement as one or more Tier 2 advice letters.

3. The individual settlement refunds made by SFPP, L.P. and Calnev Pipe Line, L.L.C. shall remain confidential.

4. These consolidated proceedings are closed.

This order is effective today.

Dated December 18, 2014, at San Francisco, California.

MICHAEL R. PEEVEY

President

MICHEL PETER FLORIO

CATHERINE J.K. SANDOVAL

CARLA J. PETERMAN

MICHAEL PICKER

Commissioners