

RAILROAD COMMISSION OF TEXAS

**COMPLAINT OF TARGA LIQUIDS §
MARKETING AND TRADE LLC §
AGAINST WEST TEXAS LPG §
LIMITED PARTNERSHIP AS OWNER § OIL & GAS DOCKET NO. 20-0292777
OF WEST TEXAS LPG PIPELINE §
SYSTEM §**

FINAL ORDER

Notice of Open Meeting to consider this Order was duly posted with the Secretary of State within the time period provided by law pursuant to Tex. Gov't Code Ann. Chap 551, et seq. (Vernon 2008 & Supp. 2015). The Railroad Commission adopts the following findings of fact and conclusions of law and orders as follows:

FINDINGS OF FACT

1. West Texas LPG Pipeline Limited Partnership (“WTXP”) owns the West Texas LPG Pipeline System (“WTPL Pipeline” or the “Pipeline”), which is approximately 2,245 miles in length and traverses 47 counties throughout the State of Texas.
2. Through November 2014, Chevron Pipe Line Company (“Chevron”) operated the Pipeline on behalf of WTXP. Chevron, directly or through its affiliates, also owned an 80 percent interest in WTXP.
3. The applicable T-4 permit number is 00963.
4. The Pipeline is a common carrier pipeline, engaged in the business of transporting natural gas liquids (“NGLs”) for hire from one place to another within the State of Texas.
5. The Pipeline, or segments thereof, has transported crude petroleum, refined products, and most recently—and currently—Y-grade NGLs. Crude petroleum transportation service began in approximately 1904; refined products service began in approximately 1953; and Y-grade NGLs service began in approximately 1957. The Pipeline currently transports only Y-grade NGLs.
6. The Pipeline does not transport coal or any mixture of coal, carbon dioxide or hydrogen, feedstocks for carbon gasification, or any derivative products of carbon gasification.
7. WTXP currently provides Targa Liquids and Marketing and Trade, LLC (“Targa”) and other shippers intrastate transportation services for NGLs from West Texas to Mont Belvieu, Texas.
8. Targa is currently the largest intrastate shipper of NGLs on the Pipeline.

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9. Until December 2013, WTXP's "R.R.C. Tariff Nos. 65, 94, and 96," as filed with the Commission and published on Chevron's website, governed NGL shipments by Targa and similarly-situated shippers on the Pipeline (the "Cancelled Tariffs").
10. The Cancelled Tariffs could previously be obtained by requesting a copy from the Railroad Commission or by downloading a copy from Chevron's website, http://www.chevronpipeline.com/customers_shippers/tariffs.aspx.
11. WTXP's rates under the Cancelled Tariffs were not determined by the Commission.
12. On December 19, 2013, WTXP filed cancellation notices with the Commission for the Cancelled Tariffs, with cancellation effective as of January 1, 2014.
13. The Cancelled Tariffs were properly cancelled by WTXP effective January 1, 2014.
14. The process by which WTXP cancelled its Cancelled Tariffs was not improper.
15. On January 1, 2014, WTXP issued new tariffs for the Pipeline, labeled "Texas Common Carrier No. 1.0.0" (a rules sheet with general terms and conditions of service), "Texas Common Carrier No. 2.0.0" (a rate sheet with local and volume incentive rates), and "Texas Common Carrier No. 3.0.0" (a rate sheet with local rates) (collectively, the "New Tariffs"). The New Tariffs were not filed with the Commission.
16. WTXP's rates under the New Tariffs were not determined by the Commission.
17. Effective January 1, 2014, the New Tariffs were posted to and available on the Chevron website, http://www.chevronpipeline.com/customers_shippers/tariffs.aspx.
18. On January 1, 2014, WTXP increased its intrastate pipeline rates under the New Tariffs above what those rates had been in the Cancelled Tariffs. WTXP sent notice to Targa of the changes and made the revised New Tariffs available on Chevron's website but did not file the revised New Tariffs with the Commission.
19. On July 1, 2014, WTXP increased certain rates under one of the New Tariffs that addresses local volume and incentive rates, sent notice to Targa of the changes, and made the revised tariff available on Chevron's website. WTXP did not file the revised tariff with the Commission.
20. Targa has shipped NGLs on the Pipeline pursuant to the terms of the New Tariffs and paid the rates contained within the New Tariffs.

21. On August 15, 2014, Targa filed its Complaint in this matter. In its Complaint, Targa alleges that WTXP cannot “opt out” of its status as a regulated common carrier subject to the Commission’s jurisdiction and that WTXP’s New Tariffs were illegitimate and unauthorized because they were never filed with the Commission. Targa does not allege that the rate contained in the New Tariffs is unreasonable and does not allege that WTXP has discriminated against Targa or any other shipper.
22. In its Complaint, Targa requests that the Commission award Targa reparation and reimbursement under Sections 111.186 (Reparation and Reimbursement) and 111.187 (Reimbursement of Excess Charges) of excess charges paid by Targa over and above the rates contained in the Cancelled Tariffs.
23. Targa’s Complaint was docketed as Oil and Gas Docket No. 20-0292777.
24. WTXP responded to Targa’s Complaint on September 4, 2014.
25. On November 7, 2014, the Examiners previously assigned to this docket issued an interim ruling, in which those Examiners determined that, pending resolution of this matter, the filed-rate doctrine required WTXP to charge only those rates contained in the Cancelled Tariffs, which previously had been on file with the Commission. This interim ruling provided that WTXP could charge the rates contained in its New Tariffs once the New Tariffs were filed with the Commission.
26. On November 14, 2014, WTXP appealed the November 7, 2014 interim ruling to the Commission. WTXP’s Motion for Rehearing was overruled as a matter of law on January 2, 2015, when the Commission took no action on it.
27. On November 21, 2014, WTXP filed the New Tariffs with the Commission. The filed New Tariffs contained the following jurisdictional disclaimer on the cover pages:

This tariff is filed with the Texas Railroad Commission for the information of shippers and potential shippers of West Texas LPG Pipeline Limited Partnership, a Texas intrastate common carrier. By filing this tariff, West Texas LPG Pipeline Limited Partnership does not submit to the jurisdiction of the Texas Railroad Commission under Chapter 111 of the Texas Natural Resources Code.
28. From January 1, 2014, when the Cancelled Tariffs were properly cancelled by WTXP, until November 21, 2014, when WTXP filed its New Tariffs with the Commission, no operative rates or tariffs relating to the rates contained in the New Tariffs were on file with the Commission.
29. Between January 1, 2014, and October 31, 2014, Targa paid an amount to WTXP that was approximately \$827,000, excluding interest, in excess of the rates contained in WTXP’s Cancelled Tariffs.

30. In December 2014, Oneok Partners, LP (“Oneok”) acquired Chevron’s interest in WTXP. Since December 2014, Oneok has owned an 80 percent interest in WTXP and operates the Pipeline on behalf of WTXP.
31. Targa was not invoiced for its November 2014 shipping activity until after the New Tariffs had been filed at the Commission. Since November 1, 2014, Targa has been invoiced for its shipping activity at the rate on file with the Commission in the New Tariffs.
32. Notice of hearing was issued on December 22, 2014. The Notice stated that the issues that may be addressed at the hearing included, but were not limited to, the following:
 - Whether the last applicable tariffs filed by WTXP with the Commission (the Cancelled Tariffs) should be the effective tariffs;
 - Whether WTXP should pay reparations or refunds for charges that exceeded those authorized by the Cancelled Tariffs; and
 - Any and all other non-rate issues raised in the pleadings, evidence or argument that are necessary for the Commission to render a final decision on the merits.
33. Alleged publication defects of the New Tariffs and removal of the jurisdictional disclaimer contained on the cover pages of the filed New Tariffs were not noticed issues in the formal Notice of Hearing.
34. The hearing on the merits was held on February 18, 2015. Neither alleged publication defects of the New Tariffs nor removal of the jurisdictional disclaimer contained on the cover pages of the New Tariffs were addressed or discussed at the February 18, 2015 hearing on the merits.
35. The parties filed post-hearing briefs and post-hearing reply briefs on March 13, 2015, and April 6, 2015, respectively.
36. The record was formally closed on April 6, 2015.
37. Subsequent to the hearing on the merits and post-hearing submissions by the parties, the docket was reassigned to the Proposal for Decision’s undersigned Examiners. The Proposal for Decision’s undersigned Examiners have read the record.
38. No parties have moved to intervene in this docket.
39. No shipper on the Pipeline, other than Targa, has filed a complaint at the Commission related to the New Tariffs.

CONCLUSIONS OF LAW

1. The WTPL Pipeline is a common carrier as that term is used in TEX. NAT. RES. CODE ANN., Section 111.020(d) (Vernon 2001 & Supp. 2014) and is therefore subject to the jurisdiction of the Railroad Commission of Texas.
2. As a common carrier, the WTPL Pipeline is subject to all provisions of the Common Carrier Act, TEX. NAT. RES. CODE §§ 111.002, 111.003, 111.011-111.025, 111.131, 111.133-111.142, 111.181-111.190, 111.221-111.227, and 111.261-111.262.
3. The Commission has jurisdiction over WTXP and the WTXP Pipeline to hear and determine any question relating to the enforcement of Subchapters C (Public Utilities), D (Common Purchasers), and F (Rates) of TEX. NAT. RES. CODE Chapter 111 (Common Carrier Act), along with Sections 111.004, 111.025, 111.131 through 111.133, 111.136, 111.137, and 111.140 of the Common Carrier Act.
4. This matter was processed in accordance with the requirements of TEX. NAT. RES. CODE Chapter 111 (Common Carrier Act) and the Administrative Procedures Act (Tex. Gov't Code Sections 2001.001-2001.902).
5. Chapters 81 and 111 of the Texas Natural Resources Code vest the Commission with the authority to regulate rates charged by common carrier pipelines.
6. The scope of Subchapter F (Rates) of the Common Carrier Act extends to—and does not prohibit—reimbursements in situations other than formal ratemaking proceedings.
7. Sections 111.185 (Temporary Rates), 111.186 (Reparation and Reimbursement), and 111.187 (Reimbursement of Excess Charges) extend to—and do not prohibit—reimbursements in ratemaking proceedings where common carrier tariffs were not filed with the Commission.
8. The filed-rate doctrine is inapplicable here because WTXP properly cancelled its Cancelled Tariffs before it began charging new rates under the New Tariffs.
9. Commission Rule 3.71(21) imposes a mandatory duty for common carriers to file their tariffs with the Commission.
10. With respect to the issues properly heard and determined by the Commission in this proceeding, there is no relief to which Targa is entitled.

IT IS THEREFORE ORDERED that WTXP is a common carrier subject to all provisions of the Common Carrier Act over which the Commission has jurisdiction in this complaint proceeding.

IT IS FURTHER ORDERED that WTXP immediately shall file with the Commission its New Tariffs and any subsequent amendments thereto, with the legal disclaimers on the cover pages removed, in accordance with Commission Rule 3.71(21).

IT IS FURTHER ORDERED that there is no relief in this complaint proceeding to which Targa is entitled.

IT IS FURTHER ORDERED that this matter shall be referred to the Commission's Enforcement Division for further proceedings.

It is further **ORDERED** by the Commission that this order shall not be final and effective until 25 days after the Commission's order is signed, unless the time for filing a motion for rehearing has been extended under Tex. Gov't Code §2001.142, by agreement under Tex. Gov't Code §2001.147, or by written Commission Order issued pursuant to Tex. Gov't Code §2001.146(e). If a timely motion for rehearing of an application is filed by any party at interest, this order shall not become final and effective until such motion is overruled, or if such motion is granted, this order shall be subject to further action by the Commission. Pursuant to Tex. Gov't Code §2001.146(e), the time allotted for Commission action on a motion for rehearing in this case prior to its being overruled by operation of law is hereby extended until 90 days from the date Commission Order is signed.

SIGNED this 15th day of December, 2015.

RAILROAD COMMISSION OF TEXAS
David Porter
CHAIRMAN DAVID PORTER
Christi Craddick
COMMISSIONER CHRISTI CRADDICK

COMMISSIONER RYAN SITTON

ATTEST:

Kathy Way
SECRETARY