UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Nora Mead Brownell, and Suedeen G. Kelly.

Trans Alaska Pipeline System	Docket No. OR89-2-019
Exxon Company, U.S.A. v. Amerada Hess Pipeline Corporation	Docket No. OR96-14-008
Tesoro Alaska Petroleum Company v. Amerada Hess Pipeline Corporation	Docket No. OR98-24-004
BP Pipelines (Alaska), Inc.	Docket No. IS03-137-003
ExxonMobil Pipeline Company	Docket No. IS03-141-003
Phillips Transportation Alaska, Inc.	Docket No. IS03-142-003
Unocal Pipeline Company	Docket No. IS03-143-003
Williams Alaska Pipeline Company, L.L.C.	Docket No. IS03-144-003

OPINION NO. 481-B, ORDER ON REHEARING AND CLARIFICATION

(Issued June 1, 2006)

1. On October 20, 2005, the Commission issued Opinion No. 481,[1] an order on the exceptions to the Initial Decision (ID), issued by Administrative Law Judge Edward Silverstein (ALJ).[2] The issue addressed by the Commission was the method of making

[1] *Trans Alaska Pipeline System*, 113 FERC ¶ 61,062 (2005).

[2] *Trans Alaska Pipeline System*, 108 FERC ¶ 63,030 (2004).

monetary adjustments among shippers of Alaska North Slope (ANS) oil on the Trans Alaska Pipeline System (TAPS). The adjustments, based upon the value of the "cuts" in the crude oil tendered, are made through a "Quality Bank," which either compensates or charges a shipper for the difference in quality between the crude oil tendered by that shipper and the crude oil received by that shipper. Shippers with lower quality oil pay into the Quality Bank, and shippers with higher quality oil receive payments from the Quality Bank.

2. As a result of court remands, valuation of the Resid cut was an issue set for hearing. Opinion No. 481 affirmed the ALJ's ruling that the new Resid valuation should be applied retroactive to February 1, 2000. Opinion No. 481 also affirmed the ALJ's rulings that there should be new valuations for the West Coast Naphtha and West Coast Vacuum Gas Oil (VGO) cuts, and that the valuations would be prospective. Among the parties requesting rehearing of Opinion No. 481 were Petro Star, Inc., and the TAPS Carriers. In its request for rehearing, Petro Star contended that new West Coast valuations for VGO and Naphtha must be used when valuing Resid for the retroactive period. The TAPS Carriers requested that the Commission specify what costs should be used in certain calculations valuing the cuts.[3]

3. On March 29, 2006, the Commission issued Opinion No. 481-A,[4] which granted rehearing in part, denied rehearing in part, and granted clarification as to certain issues. Opinion No. 481-A affirmed the rulings that the new valuations for the West Coast Naphtha and VGO cuts will be applied on a prospective basis. However, it granted Petro Star's request that from October 3, 2002, the new valuations for these cuts as coker products should be used when calculating the retroactive value for West Coast Resid.

4. ExxonMobil Company and Tesoro Alaska Company (EM/T) and ConocoPhillips Alaska, Inc. (Conoco) seek rehearing asserting that the new valuations for the West Coast Naphtha and VGO cuts can only be applied prospectively.[5] The TAPS Carriers also filed a renewed request for rehearing of Opinion No. 481-A seeking further clarification regarding a certain cost issue that was not addressed in Opinion No. 481-A. This order

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[3] Conoco and jointly ExxonMobil Corporation and Tesoro Alaska Company (EM/T) filed answers to the TAPS Carriers' request. In their answers they included figures for the costs that should be used in the Quality Bank cut calculations.

[4] *Trans Alaska Pipeline System*, 114 FERC ¶ 61,323 (2006).

[5] Conoco both supports and adopts EM/T's contentions. This order refers to EM/T's arguments.

grants the TAPS Carriers' request and specifies what cost figure should be used, and denies the requests for rehearing.[6]

I. The TAPS Carriers' Request for Clarification

A. Background

5. In Opinion No. 481, the Commission affirmed the ALJ's method for determining typical coking costs, which in turn, would be used to determine the value of Resid, one of the "cuts" in the crude oil tendered, subject to one modification regarding deheading equipment. Specifically, the Commission stated that:

> Therefore, we agree that deheading equipment should be added to the ISBL estimate. We disagree, however, on the ALJ's adoption of Jenkins's position that a refinery would probably include automatic deheading equipment for both the top and the bottom heads simply because the incremental cost was low. As Jenkins admitted, the preponderance of automatic deheading systems are bottom systems and not top systems. Therefore, we find that a typical coker would only have bottom automatic deheading equipment.[7]

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[6] Union Oil Company of California and OXY USA Inc. jointly filed a request for rehearing of Opinion No. 481-A. They state that Opinion No. 481-A denied the request for rehearing filed by BP Exploration (Alaska), Inc. (BP) that the Commission had failed to calculate the end result of the Resid value, and had failed to compare that result to the overall zone of reasonableness for the actual value of Resid established by the record in this case. In their request, at 2, they state that the Commission erred "in denying the request for rehearing of BP regarding the Commissions' failure to make a ruling on the overall justness and reasonableness of the Resid valuation." Since the request merely argues that the denial of rehearing was error, we reject it as improper under the Commission's Rules and Regulations. Rehearing of an order on rehearing lies only when the order on rehearing modifies the result reached in the original order in a manner that gives rise to a wholly new objection. *Southern Natural Gas Co. v. FERC*, 877 F.2d 1066, 1073 (D.C. Cir. 1999) (*citing Tennessee Gas Pipeline Co. v. FERC*, 871 F.2d 1099, 1109-10 (D.C. Cir. 1988)). *See also Londonderry Neighborhood Coalition v. FERC*, 273 F.3d 416, 423-24 (1st Cir. 2001).

[7] Opinion No. 481 at P 35 (footnote omitted).

6. In response to the TAPS Carriers' clarification request relating to coker costs the Commission stated that: "[A]s the ALJ found that O'Brien's cost curve should be used to value Resid, we clarify that the TAPS Carriers must use this approach *along with O'Brien's cost figures* unless the ALJ specifically referenced otherwise, *e.g.*, adopted Jenkins's estimate for a specific cost."[8]

B. Request for Rehearing

7. TAPS Carriers state that in Opinion No. 481-A the Commission addressed their prior request for clarification, but did not address one issue. That issue is what cost should be used for automatic bottom deheading equipment in the calculation of coker capital costs used to determine the value of the Resid cut. They explain that neither Opinion No. 481 nor 481-A specified what cost should be used for automatic bottom deheading equipment, and that the record contains several cost figures that might be used. The TAPS Carriers state that they take no position on what that amount should be since they function as neutral stakeholders with respect to the Quality Bank.[9] They state that until that amount is set, they cannot implement the methodology the Commission has prescribed for calculating the Quality Bank payments and receipts.

8. ConocoPhillips Alaska, Inc. (Conoco), Williams Alaska Petroleum Inc.(Williams), and jointly BP Exploration (Alaska) Inc and BP America Production Company filed answers to the TAPS Carriers' request.

C. Discussion

9. The TAPS Carriers are correct that neither Opinion Nos. 481 and 481-A, nor the ID made a finding as to the cost of bottom automatic deheading equipment. Moreover, upon further review of the record in this proceeding, we find that Mr. O'Brien, whose costs are to be used for the capital costs unless otherwise stated by the ALJ, did not file testimony addressing the cost of automatic deheading equipment. Under these circumstances, we will grant the TAPS Carriers' request and specify the figure to be used for rehearing.

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[8] *Id.* at P 50 (emphasis added).

[9] The TAPS Carriers state that their role is simply to administer the Quality Bank in compliance with the Commission's orders through the independent Quality Bank Administrator.

10. Although Mr. O'Brien did not provide the cost of bottom automatic deheading equipment, the record contains several cost estimates. One cost estimate, presented by Eight Parties, is $2,616,810 (in 2000 dollars) which was the amount of a proposal for a Hahn & Clay automatic bottom deheading system for the BP Carson Refinery in California.[10] A second estimate, presented by EM/T, is $5.7 million (in 2000 dollars) which is the Hahn and Clay vendor quote adjusted to include an installation cost of 119 percent of the base cost.[11] The third estimate, which was presented by Eight Parties but supported by EM/T, is $8,989,303 (in 2000 dollars) based on EM/T witness Jenkins's cost estimate of $4.1 million for the bare equipment cost of four automatic bottom deheaders multiplied by 119 percent for installation costs.[12]

11. We reject the estimate based on EM/T witness Jenkins's cost estimates because the ALJ rejected Jenkins's detailed cost estimate as not "objective or accurate enough."[13] Moreover, it appears that the Hahn & Clay estimate already includes installation costs[14] making EM/T's additional 119 percent inappropriate. We find that the Hahn & Clay $2,616,810 estimate for bottom deheading equipment to be just and reasonable. Therefore, we clarify that the TAPS Carriers should use the $2,616,810 figure for the cost of bottom deheading equipment.

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[10] Exhibit No. WAP-84. The vendor quote is for a Hahn & Clay automatic deheading device installed on a six-drum coker in 1993. The estimate included base costs, installation costs and indirect costs (using Jenkins's assumptions of installed cost times the "California Factors") of $3,335,173. The total of this quote was then adjusted to $2,223,449 to represent a four-drum system (2/3 of the 1993 estimate), and then adjusted to year 2000 dollars using the Nelson Farrar Index to arrive at the Hahn & Clay estimate of $2,616,810 ($2,223,449 times (1542.7/1310.8)).

[11] EM/T Reply Brief at 82 n. 43 (November 19, 2003).

[12] Eight Parties Initial Post-Hearing Brief at 73 (September 12, 2003).

[13] ID at P 1184.

[14] *See* Exhibit No. WAP-84.

II. West Coast Valuations Naphtha and VGO in the Retroactive Resid Valuation

A. Background

12. Valuation of the Resid cut was an issue set for hearing. The ALJ and the Commission accepted the parties' Joint Stipulation providing that Resid would be valued as a coker feedstock methodology.[15] Under that methodology a "before cost" value of Resid is calculated as the weighted average value of products into which Resid is made when it is processed through a coker, and then processing costs are subtracted to arrive at a final value. The ID held that "the Parties appear to agree that West Coast Resid should be valued on a West Coast basis."[16] Opinion No. 481 affirmed the ALJ's ruling that the new Resid valuation should be applied on a retroactive basis to February 1, 2000.

13. Thus, the value of West Coast Naphtha and West Coast VGO affect valuation of West Coast Resid, and the valuations of both West Coast Naphtha and VGO were issues at the hearing. In 1994 the Commission directed that the Gulf Coast Naphtha price should be used to value the Naphtha cuts on both the Gulf Coast and West Coast because there was no published Naphtha price on the West Coast. In *Tesoro*[17] the Court held that parties were entitled to a ruling on whether circumstances had changed so that this should no longer apply.

14. In the TAPS ID, the ALJ found that the use of the Gulf Coast Naphtha price assessment to value the Naphtha cut on the West Coast was not just and reasonable, and concluded that the Tallett methodology should be used to value West Coast Naphtha. He also held that the new valuation should be applied prospectively.[18] Opinion No. 481 affirmed both rulings.

15. The Commission had also previously held that the Gulf Coast price for high sulfur VGO would be the reference price for both the Gulf Coast and the West Coast because of

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[15] The stipulation is set forth in the ID, 108 FERC ¶ 63,030 at P 25.

[16] *Tesoro Alaska Petroleum Co. v. FERC*, 234 F.3d 1286(1) (D.C. Cir. 2000).

[17] *Id.* at P 1234.

[18] *See* 108 FERC at 65,606 P 2730. Tallett's regression formula establishes relationships between Gulf Coast Naphtha's value as a feedstock and the prices of end-products derived from it, namely gasoline and jet fuel. Those relationships and West Coast prices are then used for those same end-products to calculate the value of West Coast Naphtha. *Id.* at P 459-531.

concern that the West Coast price was thinly traded, and was thus subject to manipulation. In *Tesoro* the Court held that this issue should be considered again by the Commission. Accordingly, valuation of West Coast VGO was an issue at the hearing.

16. The parties, in an October 3, 2002 Stipulation,[19] stipulated that the West Coast VGO should be valued on the basis of the OPIS West Coast High Sulfur VGO weekly price, but disagreed as to the effective date. The ALJ held that West Coast VGO would be valued using the OPIS West Coast High Sulfur VGO weekly price on a prospective basis.[20] Opinion No. 481 affirmed both rulings.

17. In its request for rehearing of Opinion No. 481, Petro Star contended that West Coast valuations for VGO and Naphtha must be used within the coker feedstock methodology retroactively so that Resid will not be undervalued relative to other cuts. It argued that to prescribe Gulf Coast-based valuations for the coker VGO and coker Naphtha components which the record evidence had demonstrated are inaccurate, would render the Resid valuation unjust and unreasonable. Petro Star asserted that the new value should be used in calculation from October 3, 2002, the date the parties stipulated the value of these cuts.

18. Among other things, Opinion No. 481-A affirmed the rulings that the new valuations for the West Coast Naphtha and VGO cuts will be applied on a prospective basis. However, it granted Petro Star's request that from October 3, 2002, the new valuations for these cuts as coker products should be used when calculating the retroactive value for West Coast Resid because "using the new valuations more accurately reflects the value of Resid."[21]

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[19] The stipulation provided:

1. West Coast VGO shall be valued based on the published OPIS West Coast High Sulfur VGO weekly price.

2. The Parties disagree as to the effective date of the new West Coast VGO value. However, the Parties agree that if a different West Coast Naphtha valuation methodology is adopted in this proceeding, it and the new West Coast VGO value should have the same effective date.

[20] ID at PP 2767 and 2770.

[21] 114 FERC ¶ 61,323 P 49.

B. Requests for Rehearing and Answer

19. In their requests for rehearing EM/T and Conoco assert that the new valuations for the West Coast Naphtha and VGO cuts can only be applied prospectively.[22] Further they assert that the stipulation regarding the Resid valuation specifically requires the existing Quality Bank values for these cuts to be used and the new valuation of West Coast Naphtha and VGO to be applied on a prospective basis. Moreover, they argue, the October 3, 2002 stipulation, referred to in Opinion No. 481-A, did not stipulate the values of the West Coast Naphtha and VGO cuts as of October 3, 2002. In fact, they contend, use of the new values to value the West Coast Resid would violate the filed rate doctrine because the new values for West Coast Naphtha and VGO became effective only when the Commission issued Opinion No. 481. Petro Star moved for leave to answer, together with an answer.[23]

C. Discussion

20. Parties whose crude contains little Resid seek to have the Resid cut valued as low as possible. As a result of Opinion No. 481, which applies the new Resid valuation retroactive to October 1, 2000, those parties benefit because the new valuation yields a lower value for the Resid cut than its valuation under the prior method. In addition, Petro Star asserted that "VGO and Naphtha comprise almost half the products made when Resid is processed as a coker feedstock.… If their values are too low, Resid values also will be too low."[24] The new valuations for West Coast Naphtha and West Coast VGO yield a higher value for these products than when the Gulf Coast prices were used to value the West Coast products. Thus, to use the Gulf Coast prices for the West Coast products for the retroactive Resid period will benefit those parties whose crude contains lesser amounts of Resid.

21. The purpose of retroactive application of the new Resid valuation was in recognition of the Court's ruling in *Exxon*,[25] that retroactivity is favored because it

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[22] Conoco both supports and adopts EM/T's contentions. This order refers to EM/T's arguments.

[23] The Commission grants the motion since it provided information helpful in the disposition of the issue.

[24] Petro Star November 21, 2005 request for rehearing at 15-16.

[25] *Exxon Company, U.S.A. v. FERC*, 182 F.3d 30 (D.C. Cir. 1999).

"would make the parties whole," and prevent some parties "divvy[ing] up a windfall at the expense of [other] parties,"182 F.3d at 49-50. But what would make the parties whole where the value of the Resid cut is to be determined on a retroactive basis, when that value is based on the value of products whose Quality Bank value the evidence established was not just and reasonable. Opinion No. 481-A reached the fair result, namely, that while the value of the Resid cut would be recalculated back to February 1, 2000, in calculating that value the value of cuts produced from the Resid, which had been challenged and held to no longer be just and reasonable, should not be used for the entire period. In determining when use of the new just and reasonable values should begin, Opinion No. 481 made reference to the parties' October 3, 2002 Joint Stipulation.

22. EM/T assert that the Commission erred in reaching its conclusion that the new value for West Coast Naphtha and VGO should be used in the coker calculation back to October 3, 2002 "as the date the parties stipulated the value of those cuts" because that stipulation does not so provide.

23. EM/T is correct that the October 3, 2002 stipulation did not establish an agreed-upon Naphtha price. The stipulation did provide for an agreed-upon West Coast VGO price. Moreover, the stipulation provided that if a new West Coast Naphtha valuation methodology was adopted for West Coast Naphtha, then the new values for both Naphtha and VGO "should have the same effective date." What the Commission was addressing was how to value the Resid on a retroactive basis, where its value was determined in part by the value of cuts whose valuations had been challenged as not just and reasonable. The ALJ, and Opinion No. 481, held that those valuations could no longer continue, and for purposes of their valuations as cuts under the distillation methodology, the new values would be applied prospectively. However, in recalculating the value of the Resid cut retroactively, to reach the result the Court directed, "to make parties whole," Opinion No. 481-A concluded that the new values should be used.

24. The question presented then was the date from which the new values should be used. The October 3, 2002 stipulation set the new valuation reference price for West Coast VGO, namely, "the published OPIS West Coast High Sulfur VGO weekly price." The ALJ had also ruled that the Tallett Methodology should be used for valuing West Coast Naphtha, because using the Gulf Coast Naphtha price was not just and reasonable. Since the evidence on this issue related to the period before October 3, 2002, and the stipulation had provided for the same effective date for the new valuation of West Coast Naphtha and VGO, the October 3, 2002 date was an appropriate and reasonable date from which to commence the new valuation. In fact, EM/T had argued for a March 1, 2003 effective date for the new value of West Coast VGO because "the parties have stipulated that the effective date for any new Naphtha value and the agreed upon VGO value should

be the same."[26] Thus, Opinion No. 481-A held that October 3, 2002 was the date from which the new values would be used for this limited purpose.

25. EM/T also argues that the Commission ignored the parties' stipulation as to how the Resid would be valued. EM/T cites to that part of the stipulation that provided that

> (B) Second, values are determined for each of the nine Coker products. For all of the coker products except Fuel Gas and Coke, the Quality Bank value for that product is to be used….[27]

26. EM/T contends that since the Commission held that the new West Coast Naphtha and VGO valuation would be applied prospectively, under the stipulation, those values could not be applied to the retroactive Resid period.

27. However, EM/T ignores that appended to the stipulation was a footnote which stated:

> There are disputes among the parties as to the Quality Bank values to be used for certain of the cuts, but the parties agree that once these disputes are resolved, *the resulting value should be used for valuing Resid, (emphasis added).*[28]

Having found that use of the Gulf Coast prices for the West Coast Naphtha and VGO was not just and reasonable, it is reasonable and appropriate to use the new value for the retroactive valuation of the Resid cut, even if the new valuation of the West Coast Naphtha and VGO cuts, as cuts in themselves, would be applied prospectively. If the Resid cut's value was to be recalculated for the retroactive period using the new Resid valuation because it was unfair to parties whose crude contained little Resid to use the old valuation, how would it be fair to apply the unjust and unreasonable valuations of cuts produced under the Coker methodology to the retroactive period? Applying the now rejected values for the retroactive period would result in a windfall to some parties, contrary to the very purpose of the retroactive application of the new Resid valuation that *Exxon* mandated.

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[26] 108 FERC ¶ 63,030 P 2768.

[27] 108 FERC ¶ 63,030 P 25.

[28] *Id.* n.10.

28. EM/T also asserts that the hearing was limited to disputed issues that the Joint Stipulation specified regarding the Resid valuation, and the West Coast Naphtha and VGO valuation were clearly not specified as any of those issues. Because the Joint Stipulation expressly mandated that for all of the products produced by the coking of the Resid cut except Fuel Gas and Coke, "the Quality Bank value for that product is to be used," EM/T argue that the Joint Stipulation mandates that the same values that are used by the Quality Bank to value the Naphtha and VGO cuts as parts of the TAPS streams must also be used to value the Naphtha and VGO that is produced by the coking of the Resid cut. However, this is simply the same argument discussed above in different words, and we reject the argument for the same reason.

29. Another argument advanced by EM/T is that the Commission erred in agreeing that Petro Star's proposal will "more accurately reflect the value of the Resid" cut over the period from October 3, 2002, to November 1, 2005. That, they argue, is contrary to the Commission's own findings in this case, referring to the Commission's discussion of why those cuts' new values would be applied prospectively when valued as parts of the TAPS stream under the distillation methodology.

30. However, in Opinion No. 481-A, the Commission was faced with the question of what valuations for West Coast coker VGO and coker Naphtha would yield the most empirically accurate West Coast Resid value, and held that the new valuations, from October 3, 2002, would yield that result. This is a question different from whether there was any basis on which the new values for those cuts, as one of the cuts under the distillation methodology, could be applied retroactively in light of the status of the existing Quality Bank values for those cuts as the legal rate. That the Commission concluded there was no basis for doing so in that situation is not inconsistent with the Commission's conclusion in Opinion No. 481-A.

31. Finally, EM/T argues that applying the new West Coast Naphtha and VGO values to retroactively value the West Coast Resid cut violates the filed rate doctrine. They contend that the West Coast Naphtha and VGO cut valuations used by the Quality Bank are filed rates because they are the only values for West Coast Naphtha and VGO that were just and reasonable prior to November 1, 2005 – and hence, the only values that were lawful were those values prescribed by the Commission and incorporated in the TAPS Carriers' tariffs during that period.

32. Opinion No. 481-A recognized that this analysis was correct in valuing those costs as one of the parts of the TAPS stream under the distillation methodology. However, it held that the new valuation for those cuts in the retroactive Resid calculation required different treatment. EM/T argue that there is no basis for distinguishing between the West Coast Naphtha and VGO that are valued by the Quality Bank as parts of the TAPS stream, and the West Coast Naphtha and VGO coker components of the Resid cut. They

state that "[b]oth [straight run and coker VGO and Naphtha valuations] are used by the Quality Bank for the sole purpose of determining the value of the Naphtha and VGO in the various TAPS streams." Indeed, they claim that "they are precisely the same petroleum products with the same technical specifications and qualities."[29]

33. Moreover, they contend that even if there were some difference in the "purpose" for which the West Coast Naphtha and VGO valuations are used when valuing the Resid cut, the same tariff values for Naphtha and VGO must be used because the filed tariff rate is the only lawful rate "for all purposes." They cite *Maislin Industries, U.S., Inc. v. Primary Steel, Inc. (Maislin)*[30] where the Court stated "the legal rights of shipper as against carrier in respect to a rate are measured by the published tariff. Unless and until suspended or set aside, this rate is made, *for all purposes*, the legal rate, as between carrier and shipper"[31] (emphasis supplied).

34. *Maislin* is inapposite. That case involved the validity of a policy adopted by the Interstate Commerce Commission relating to the requirement under the Interstate Commerce Act (Act), 49 U.S.C. § 10101 *et seq* (1982 ed.) that motor common carriers must file their rates with the ICC, and both carriers and shippers must adhere to these rates. The ICC adopted a policy that relieved a shipper of the obligation of paying the filed rate when the shipper and carrier privately negotiated a lower rate. In *Maislin* the negotiated rate was never filed, and the carrier, in bankruptcy, later sought to receive the higher filed rate amount. The ICC upheld the shipper's defense finding that the carrier engaged in an unreasonable practice when it attempts to collect the filed rate after the parties have negotiated a lower rate.

35. The Court reversed stating:

> The Act, as it incorporates the filed rate doctrine, forbids as discriminatory the secret negotiation and collection of rates lower than the filed rate …. By refusing to order collection of the filed rate solely because the parties had agreed to a lower

[29] EM/T rehearing request at 11-12.

[30] 497 U.S. 116 at 126 (1990)

[31] *Id.* at 12.

> rate, the ICC has permitted the very price discrimination that the Act by its terms seeks to prevent.[32]

Here there is no issue of a negotiated lower rate. Rather, the issue is whether for the limited purpose of calculating the value of Resid for the retroactive period, the newly determined just and reasonable value of the coker products can be used.

36. Moreover, we disagree with the contention that the West Coast coker Naphtha and coker VGO are the same as the Naphtha and VGO cuts. Coker VGO and coker Naphtha are manufactured from Resid when Resid is run through a coker. To arrive at the value, all of the costs of coking must be incurred for the coker products to exist. Moreover, as Petro Star notes in its Answer, "this fundamental fact means that Resid will be inaccurately valued if *West Coast* costs and *Gulf Coast* product prices are used to value West Coast Resid."[33]

37. Since it is the Resid valuation that is being determined in this proceeding, there is no reason why that value cannot include application of the new values of two coker components of the Resid on a retroactive basis, even if those values will not be used retroactively for those cuts as parts of the TAPS stream under the distillation methodology. Accordingly, we affirm on rehearing that the new valuations for the West Coast Naphtha and VGO cuts are to be used in valuing Resid in the retroactive period from October 3, 2002.

III. BP's Motion to Modify the Heavy Distillate Reference Price

38. On May 17, 2006, BP filed a second renewed motion that the Commission order immediate use of new Heavy Distillate price adopted in Order No. 481, and order interim relief back to February 1, 2000, based on this price. Order No. 481 held that BP's original motion was moot because that order established the reference price for the Heavy Distillate cut, with retroactive refunds back to February 1, 2000. BP renewed its motion after Opinion No. 481 was issued, and Opinion No. 481-A similarly stated "This order moots BP's renewed motion," 114 FERC ¶ 61,323 at 62,200 n.10.

39. BP states in the instant renewed motion that because Order No. 481 provided that if rehearing requests were filed, compliance with the Commission's order would be deferred until thirty days after a final order, the subsequent filing of rehearing requests

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[32] *Id.* at 130.

[33] Petro Star Answer at 9.

has delayed implementation of Order No. 481. As a result, the new Heavy Distillate reference price still is not in effect. BP asserts that large refunds are owed to TAPS Heavy Distillate shippers based on the new reference price, and the amount of the refunds continues to mount while the old reference price, which was adopted on an interim basis in February 2000, remains in effect. Accordingly, BP requests that the Commission immediately order the new Heavy Distillate reference price into effect, and order interim refunds based on this new reference price for Heavy Distillate back to February 1, 2000.

40. We deny the motion. This order is the final order that triggers the compliance filing, and we direct the TAPS Carriers to make a compliance filing within thirty days of the order. We will not order interim refunds as to this one cut because refunds are due on other cuts as well. The TAPS' Quality Bank Administrator will be required to calculate the refunds due, or payments owed, for all shippers for all the Quality Bank cuts using the reference prices determined in this proceeding.

The Commission orders:

(A) The TAPS Carriers' request for clarification is granted as discussed in the body of this order.

(B) The requests for rehearing of EM/T and Conoco are denied.

(C) The TAPS Carriers are directed to make the required compliance filing within thirty days of this order.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.