ConocoPhillips
Transportation Alaska, Inc.

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October 26, 2020

<u>OIL PIPELINE FILING</u>
<u>SPECIAL PERMISSION REQUESTED</u>

Kimberly D. Bose
Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

Re: ConocoPhillips Transportation Alaska, Inc. FERC No. 21.17.0

Dear Ms. Bose:

Enclosed for filing is FERC No. 21.17.0 of ConocoPhillips Transportation Alaska, Inc. ("CPTAI"), which is issued to comply with the orders issued by the Federal Energy Regulatory Commission ("Commission") in *Trans Alaska Pipeline System*, 113 FERC ¶ 61,062 (2005) (Opinion No. 481); 114 FERC ¶ 61,323 (2006) (Opinion No. 481-A); 115 FERC ¶ 61,287 (2006) (Opinion No. 481-B), and with the orders issued by the Regulatory Commission of Alaska ("RCA") in *In re Formal Complaint of Tesoro Alaska Petroleum Co*., P-89-1(104) / P-89-2(98) / P-94-4(37) / P-96-6(24) / P-98-9(16) / P-99-12(19) (2005); P-89-1(109) / P-89-2(103) / P-94-4(42) / P-96-6(29) / P-98-9(21) / P-99-12(24) (2006); P-89-1(111) / P-89-2(105) / P-94-4(44) / P-96-6(31) / P-98-9(23)/P-99-12(26) (2006).

I. <u>Explanation of Tariff Filing</u>

One of the components of the quality bank methodology that was approved by the Commission and the RCA concerns component valuation. The component unit value procedure is embodied in Item III.G.6 of the Tariff, which is not being changed as part of this Tariff submission. Item III.G.6 requires that the adjustments to the reference prices for Light Distillate and Heavy Distillate, as well as the Gulf Coast and West Coast coker costs ("Cost Adjustments") contained in Attachment 2 to the Tariff be revised each year in accordance with the changes to the Nelson-Farrar Cost Index (Operating Indexes Refinery) ("NFI"). The Tariff directs the Quality Bank Administrator ("QBA") to make the revisions by multiplying the Cost Adjustments for the previous year by the ratio of (1) the average of the monthly NFI indexes for the most-recent 12 consecutive months to (2) the average of the monthly NFI indexes for the previous 12 consecutive months. CPTAI filed FERC Tariff No. 21.16.0 on January 27, 2020 in FERC Docket No. IS20-169-000 (the "January 2020 Tariff"), to comply with that provision.

The transmittal letter that accompanied the January 2020 Tariff (the "Transmittal Letter") explained that the QBA had learned that the publisher of the NFI, Mr. Gary Farrar, had passed away. At that time, only 10 months of NFI data was available instead of the normal 12 months of NFI data, and due to Mr. Farrar's passing, it was unclear if the NFI would be published going forward. Accordingly, the Transmittal Letter explained that the QBA revised the Cost Adjustments using the average of the 10 months of NFI data that was available.

The QBA recently learned that a new company, Baker Engineering and Risk Consultants, Inc., has acquired the rights to and has begun publishing the NFI, including the NFI for the two months that were missing (July and August 2019) when CPTAI filed the January 2020 Tariff. Given that the NFI is again being published, the QBA will continue to use the NFI to revise the Adjustments annually, as the Commission and the RCA have directed.

The QBA has analyzed the impact that including the previously missing NFI data would have on the Cost Adjustments for the 12-month period beginning February 1, 2020. A table showing the QBA's calculations that result from including the additional two months of NFI data is attached to this letter as Exhibit A. The analysis shows that including the missing data results in decreases to the Adjustments. Accordingly, CPTAI has revised Attachment 2 to the Tariff to reflect the decreases.

CPTAI and the other owners of TAPS (collectively the "TAPS Carriers")[1] propose that the revised Cost Adjustments be implemented from February 2020 forward. Doing so is consistent with the orders of the Commission and of the RCA specifying how the Cost Adjustments should be revised each year and the TAPS Carriers' tariffs that implement those orders. The Transmittal Letter accompanying the January 2020 Tariff put shippers and other interested persons on notice of the interruption in the publication of the NFI.[2] Revising the Adjustments from February 2020 forward puts shippers and other interested persons in the position they would have been in had publication of the NFI not been temporarily interrupted. CPTAI has added a notice to the cover page of the Tariff stating that the decreases to the Adjustments will be effective from February 2020 forward.

Pursuant to Section 6(3) of the Interstate Commerce Act and 18 C.F.R. § 341.14, CPTAI requests special permission for the enclosed tariff to be effective on November 1, 2020, which is on five days' notice. As explained above, the TAPS Carriers are filing this tariff to revise cost adjustments to reflect NFI data that was not available when CPTAI filed the January 2020 Tariff. Allowing the tariff to go into effect on short notice will permit CPTAI to decrease the cost adjustments as soon as possible and allow the QBA to make the required adjustments in time for shippers to reflect the adjustments in year-end accounting. In addition, because the Quality Bank adjustments are calculated on a monthly basis, it is important that the tariff revisions become effective on the first day of a month or, in this case, November 1, 2020.

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[1] The TAPS Carriers are BP Pipelines (Alaska) Inc. ("BPPA"), ExxonMobil Pipeline Company ("EMPCo"), and ConocoPhillips Transportation Alaska, Inc. ("CPTAI").

[2] EMPCo and BPPA filed transmittal letters and tariffs that were substantively identical to the Transmittal Letter that was submitted by CPTAI with the January 2020 Tariff in Docket No. IS20-169-000.

II. Certification

Pursuant to 18 C.F.R. § 343.3 of the Commission's regulations, CPTAI hereby requests that any protest to its enclosed filing be telefaxed or emailed at the time it is filed to Daniel J. Poynor, at the following telefax number or email address: (202) 429-3902 or DPoynor@steptoe.com.

I hereby certify that on October 26, 2020, a copy of the enclosed tariff will be sent to each subscriber on the subscriber list of CPTAI by electronic service or other agreed-upon means of transmission.

Any questions regarding the accompanying tariff should be addressed to Barat LaPorte at (907) 265-6544.

Sincerely,

/s/ Frank Feghali

Frank Feghali
Enclosures

FERC ICA Oil Tariff **F.E.R.C. No. 21.17.0 (CPTAI)**
(Cancels F.E.R.C. No. 21.16.0)

CONOCOPHILLIPS TRANSPORTATION ALASKA INC. (CPTAI)
LOCAL PIPELINE TARIFF

CONTAINING THE TAPS
QUALITY BANK METHODOLOGY

GENERAL APPLICATION

This tariff shall apply only to those tariffs which specifically incorporate this tariff, and successive issues hereof, by reference.

NOTICES

This tariff is issued in part to comply with the orders issued by the Federal Energy Regulatory Commission in *Trans Alaska Pipeline System*, 113 FERC ¶ 61,062 (2005) (Opinion No. 481); 114 FERC ¶ 61,323 (2006) (Opinion No. 481-A); 115 FERC ¶ 61,287 (2006) (Opinion No. 481-B), and with the orders issued by the Regulatory Commission of Alaska (“RCA”) in *In re Formal Complaint of Tesoro Alaska Petroleum Co.*, P-89-1(104)/P-89-2(98)/P-94-4(37)/P-96-6(24)/P-98-9(16)/P-99-12(19) (2005); P-89-1(109)/P-89-2(103)/P-94-4(42)/P-96-6(29)/P-98-9(21)/P-99-12(24) (2006); P-89-1(111)/P-89-2(105)/P-94-4(44)/P-96-6(31)/P-98-9 (23)/P-99-12(26) (2006).

For rules and regulations other than the TAPS Quality Bank Methodology tariff, see F.E.R.C. No. 20.1.0 (CPTAI), and reissues thereof.

The provisions published herein will, if effective, not result in an effect on the quality of the human environment.

[N] The decreases shown in Attachment 2 to the tariff will be effective from February, 2020, forward. The Quality Bank Administrator will provide to Shipper revised schedules for each month showing the impact of the decreases and the resulting Quality Bank adjustments.

REQUEST FOR SPECIAL PERMISSION

Issued on five days’ notice under authority of 18 C.F.R. § 341.14. This tariff publication is conditionally accepted subject to refund pending a 30-day review period.

ISSUED: October 26, 2020 **EFFECTIVE:** November 1, 2020

ISSUED BY
Frank Feghali, Vice President
CONOCOPHILLIPS TRANSPORTATION ALASKA, INC.
[W]700 G Street~~, ANO-1020~~
Anchorage, Alaska 99501

COMPILED BY
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TAPS QUALITY BANK METHODOLOGY

I. GENERAL PROVISIONS

A. Definitions

"Barrel" – as used herein means forty-two (42) U.S. gallons at sixty degrees (60°) Fahrenheit and atmospheric pressure.

"Carrier" – as used herein means BP Pipelines (Alaska) Inc., ConocoPhillips Transportation Alaska, Inc., ExxonMobil Pipeline Company, Unocal Pipeline Company, the successor to any of them, and/or a pipeline company which may, by proper concurrence, be a party to a joint tariff incorporating this tariff by specific reference.

"Connection" – as used herein means a connection to TAPS (other than at Pump Station No. 1) for the purpose of receiving Petroleum into TAPS.

"Connection Base Petroleum" – as used herein means the Petroleum resulting from the commingling of (1) the Petroleum entering TAPS at a Connection and (2) the Petroleum in TAPS just upstream of the point of entry into TAPS at that Connection.

"Gravity" – as used herein means the gravity of Petroleum expressed in API degrees at sixty degrees (60°) Fahrenheit.

"Gravity Differential Value Per Barrel" – as used herein means the gravity differential value set forth in Section II, Item No. B(3)(iii), as established from time to time in accordance with Section III, Item E.

"GVEA" –as used herein means the Golden Valley Electric Association.

"LSR" – as used herein means Light Straight Run.

"Month or Monthly" – as used herein means a calendar month commencing at 0000 hours on the first day thereof and running until 2400 hours on the last day thereof according to Valdez, Alaska, local time.

"OPIS" – as used herein means Oil Price Information Service.

"Petroleum" – as used herein means unrefined liquid hydrocarbons including gas liquids.

"Platts" – as used herein refers to Platts Oilgram Price Report.

"PSVR" – as used herein means the Petro Star Valdez Refinery.

"Pump Station No. 1" – as used herein means the pump station facilities near Prudhoe Bay, Alaska where Petroleum is received into TAPS.

"Pump Station No. 1 Base Petroleum" – as used herein means the Petroleum stream resulting from deliveries into TAPS at Pump Station No. 1 by all Shippers.

"Quality Bank Administrator" – as used herein means the person appointed by the TAPS Carriers to administer the Quality Bank.

"Quality Bank Value" – as used herein means the value of each Petroleum stream as calculated in Section III.

"Shipper" – as used herein means a party who tenders Petroleum to Carrier for transportation and thereafter actually delivers Petroleum to Carrier for transportation.

"State" – as used herein means the State of Alaska.

"STUSCO" – as used herein means Shell Trading (US) Company.

"TAPS" – as used herein means the Trans Alaska Pipeline System.

"TBP" – as used herein means True Boiling Point.

"Valdez Terminal" – as used herein means the TAPS terminal located at Valdez, Alaska.

"Valdez Terminal Base Petroleum" – as used herein means the Petroleum delivered out of the Valdez Terminal.

"Volume" – as used herein means a quantity expressed in Barrels.

"Weighted Average" – as used herein means an average calculated on a Volume weighted basis.

B. Quality Bank Administrator

The TAPS Quality Bank shall be administered by the Quality Bank Administrator, who shall be appointed by the TAPS Carriers, and by those designated by the Quality Bank Administrator to assist the Administrator.

C. Information Furnished to the State of Alaska

The Quality Bank Administrator shall furnish to the State each month copies of the invoices for Quality Bank adjustments and supporting data sent to each shipper. Such information is furnished to the State based upon the State's representation that it will hold such information in confidence and that such information will be used only by officers or agents of the State in the exercise of the officers' or agents' powers.

D. Information Furnished to Carrier by Shipper

Carrier and its designee are authorized by Shipper to receive through measurement, connecting carriers or otherwise all information and data necessary to make the computations under Section II. Shipper will furnish Carrier or its designated Quality Bank Administrator, and consents to Carrier or its designated Quality Bank Administrator acquiring from other carriers or other persons, any additional information and data necessary to make the computations under Section II. Shipper also consents to Carrier or its agents disclosing to the designated Quality Bank Administrator all information and data necessary to make the computations under Section II. The name and address of Carrier's designated Quality Bank Administrator will be made available upon written request to Carrier.

II. QUALITY ADJUSTMENTS

A. Quality Adjustments

Shippers shall be debited and/or credited for all adjustments as provided for in this Section II with respect to all Petroleum shipped. The calculation of Shipper's debits and credits shall be made for each Month as required herein. The credit and debit balances for each accounting shall be adjusted among Shipper and all Shippers in TAPS by collecting funds from those Shippers (including Shipper, if applicable) having debit balances and by thereafter remitting funds collected to the Shippers (including Shipper, if applicable) having credit balances. In the event of delay in collection or inability to collect from one or more Shippers for any reason, only adjustment funds and applicable interest charges actually collected shall be distributed pro rata to Shippers having credit balances. A Monthly accounting shall be rendered to Shipper after the end of each Month.

B. Methodology

Shipper authorizes Carrier or its designee to compute adjustments among all Shippers in TAPS for quality differentials arising out of TAPS common stream operation. Shipper agrees to pay Carrier or its designee the adjustment due from Shipper determined in accordance with the procedures set out in this Section II.

The procedures for determining quality adjustments among all Shippers are specified in detail in the TAPS Quality Bank Methodology set forth in Section III.

As prescribed in detail in Section III, at the close of each Month, Carrier or its designated Quality Bank Administrator shall compute adjustments calculated as follows:

1. Pump Station No. 1 Adjustment - An adjustment based on the difference between the Quality Bank Value of Pump Station No. 1 Base Petroleum during a Month and the Quality Bank Value of Petroleum received into TAPS at Pump Station No. 1 for a Shipper during the same Month shall be calculated as follows:

    (i) the Quality Bank Value per Barrel of each stream received into TAPS at Pump Station No. 1 during the Month for a Shipper shall be determined by summing the Quality Bank Values of each component of one Barrel of that stream as determined in accordance with the TAPS Quality Bank Methodology.

(ii) the Quality Bank Value per Barrel of the Pump Station No. 1 Base Petroleum for the Month shall be determined by multiplying the Quality Bank Value per Barrel of each stream received into TAPS at Pump Station No. 1 during that Month by the number of Barrels of that stream received into TAPS at Pump Station No. 1 during that Month, summing the products so obtained and dividing the total by the number of Barrels of Petroleum received into TAPS at Pump Station No.1 during the Month.

(iii) if the Quality Bank Value per Barrel of the Pump Station No. 1 Base Petroleum for any Month is greater than the Quality Bank Value per Barrel of a stream of Petroleum received into TAPS at Pump Station No. 1 during the same Month for a Shipper, such Shipper shall be debited an amount calculated by multiplying such difference by the number of Barrels of such Petroleum received into TAPS for such Shipper at Pump Station No. 1 during that Month.

(iv) if the Quality Bank Value per Barrel of Pump Station No. 1 Base Petroleum for any Month is less than the Quality Bank Value per Barrel of a stream of Petroleum received into TAPS at Pump Station No. 1 during the same Month for a Shipper, such Shipper shall be credited an amount calculated by multiplying such difference by the number of Barrels of such Petroleum received into TAPS for such Shipper at Pump Station No. 1 during that Month.

2. Connection Adjustment - An adjustment based on the difference between the Quality Bank Value of any Connection Base Petroleum during a Month and the Quality Bank Value of a Shipper's Petroleum commingled at that Connection during the same Month shall be calculated as follows:

(i) the Quality Bank Value per Barrel of a Shipper's Petroleum commingled at a Connection during the Month shall be determined by summing the Quality Bank Values of each component of one Barrel of that Petroleum as determined in accordance with the TAPS Quality Bank Methodology.

(ii) the Quality Bank Value per Barrel of any Connection Base Petroleum for the Month shall be the Weighted Average Quality Bank Value of (1) the Petroleum entering TAPS at a Connection during the Month and (2) the Petroleum in TAPS just upstream of the point of entry into TAPS at that Connection during the Month.

(iii) if the Quality Bank Value per Barrel of any Connection Base Petroleum for any Month is greater than the Quality Bank Value per Barrel of a Shipper's Petroleum commingled at that Connection during the same Month, such Shipper shall be debited an amount calculated by multiplying such difference by the number of Barrels of such Shipper's Petroleum commingled at that Connection during that Month.

(iv) if the Quality Bank Value per Barrel of any Connection Base Petroleum for any Month is less than the Quality Bank Value per Barrel of Shipper's Petroleum commingled at that Connection during the same Month, such Shipper shall be credited an amount calculated by multiplying such difference by the number of Barrels of such Shipper's Petroleum commingled at that Connection during that Month.

3. Valdez Terminal Gravity Adjustment - An adjustment based on the difference between the Weighted Average Gravity of the Valdez Terminal Base Petroleum and the Weighted Average Gravity of Petroleum received out of the Valdez Terminal by a Shipper shall be calculated as follows:

(i) if the Weighted Average Gravity of the Valdez Terminal Base Petroleum for any Month is greater than the Weighted Average Gravity of Petroleum received out of the Valdez Terminal during the same Month by a Shipper, such Shipper shall be credited an amount calculated by multiplying such difference by the Gravity Differential Value Per Barrel and multiplying that total by the number of Barrels of such Petroleum received out of the Valdez Terminal during that Month by such Shipper.

(ii) if the Weighted Average Gravity of the Valdez Terminal Base Petroleum for any Month is less than the Weighted Average Gravity of Petroleum received out of the Valdez Terminal during the same Month by a Shipper, such Shipper shall be debited an amount calculated by multiplying such difference by the Gravity Differential Value Per Barrel and multiplying that total by the number of Barrels of such Petroleum received out of the Valdez Terminal during that Month by such Shipper.

(iii) The Gravity Differential Value Per Barrel is established at **[U]** $0.0356 for each one-tenth degree API Gravity (0.1º API).

C. Payment Provisions

In addition to the adjustments described in this Section II, Shipper agrees to pay Carrier or its designee a per Barrel charge to reimburse Carrier for the costs of administering the adjustments among Shippers under this Section II.

In the event any payment is made to Shipper hereunder and it is subsequently determined by any Federal or state court, administrative agency or other governmental entity having jurisdiction that no other Shipper was liable for the adjustment for which payment was made, Shipper receiving such payment shall upon receipt of an accounting from Carrier return the same to Carrier or its designee. Carrier shall promptly utilize same to reimburse all Shippers who made such payments.

All payments due from Shipper under this Section II shall be made by Shipper within 20 days of receipt of each accounting and, for any delay in payment beyond such 20 day period, shall bear interest calculated at an annual rate equivalent to 125% of the prime rate of interest of Citibank N.A. of New York, New York, on ninety-day loans to substantial and responsible commercial borrowers as of the date of accounting, or the maximum rate allowed by law, whichever is less.

If Shipper fails to make payment due hereunder within thirty (30) days of issuance of each accounting, Carrier shall have the right to sell at public auction either directly or through an agent at any time after such thirty (30) day period any Petroleum of Shipper in its custody. Such auction may be held on any day, except a legal holiday, and not less than forty-eight (48) hours after publication of notice of such sale in a daily newspaper of general circulation published in the town, city or general area where the sale is to be held, stating the time and place of sale and the quantity and location of Petroleum to be sold. At said sale Carrier shall have the right to bid, and, if it is the highest bidder, to become the purchaser. From the proceeds of said sale, Carrier will deduct all payments due and expenses incident to said sale, and the balance of the proceeds of the sale remaining, if any, shall be held for whomsoever may be lawfully entitled thereto.

Adjustment payments and administrative costs in this Section II are not a part of Carrier's transportation tariff rates, and such shall not be an offset or other claim by Shipper against sums due Carrier for transportation or other charges, costs, or fees due or collected under Carrier's tariffs.

III. QUALITY BANK PROCEDURES

A. Overview

A distillation-based methodology shall be implemented at all TAPS Quality Banks (other than the TAPS Valdez Marine Terminal Quality Bank).

This methodology for calculation of the TAPS Quality Bank debits and credits is based on valuations of Petroleum components. This methodology shall apply to the specific Petroleum streams identified in Sections III.B, III.C. and III.D. and also shall be applied to any streams tendered to TAPS through a new connection. The Quality Bank value of each Petroleum stream shall be the volume-weighted sum of the Quality Bank values of its components. The characteristics and volumes of components for each separate Petroleum stream are based on assay information obtained using a defined set of testing procedures as set forth in Section III.F. Quality Bank credits and debits are determined by comparing the Quality Bank value of each Petroleum stream to the appropriate calculated TAPS "reference" stream Quality Bank value.

B. Quality Bank Streams at Pump Station No. 1 Quality Bank

1. The TAPS Pump Station No. 1 Quality Bank assesses the following four streams: (1) PBU IPA;[1] (2) Lisburne; (3) Kuparuk Pipeline; and (4) Northstar.

2. The Pump Station No. 1 Quality Bank reference stream is the blended common stream leaving Pump Station No. 1. The reference stream Quality Bank value is

[1] PBU IPA is the abbreviation for the Prudhoe Bay Unit Initial Participating Areas.

calculated using the volume weighted average of the four Quality Bank streams identified above plus any streams tendered to TAPS through a new Pump Station No. 1 connection.

C. Quality Bank Streams at GVEA Quality Bank

1. The GVEA Quality Bank streams are the Petro Star refinery return stream delivered to TAPS by the GVEA Pipeline and the passing TAPS common stream at the GVEA offtake point, both of which are measured at the GVEA connection.

2. The GVEA Quality Bank reference stream is the blended TAPS stream immediately downstream from the GVEA return stream connection. The reference stream Quality Bank value is calculated using the volume weighted average of the GVEA Quality Bank streams identified above.

D. Quality Bank Streams at Petro Star Valdez Refinery Connection Quality Bank

1. The TAPS PSVR Connection Quality Bank streams are the refinery return stream delivered to TAPS by Petro Star and the passing TAPS common stream at the PSVR offtake point.

2. The Petro Star Valdez Quality Bank reference stream is the blended TAPS stream immediately downstream from the Petro Star return stream connection. The reference stream Quality Bank value is calculated using the volume weighted average of the two PSVR Quality Bank streams identified above.

E. Methodology for Valdez Tanker Load Out Quality Bank

1. A gravity-based Quality Bank methodology shall be used to determine the TAPS Quality Bank adjustments for volumes loaded out of the TAPS Marine Terminal at Valdez, Alaska. A Gravity Differential Value Per Barrel shall be calculated as specified in Items E.2 through E.5 below.

2. The daily average six month gravity differentials posted for November 1 - April 30 and May 1 - October 31 for California and West Texas Sour crude oils, applicable to the range(s) of gravity which includes the average API gravity of the TAPS commingled stream at Valdez (sometimes referred to as "ANS"), shall be determined. The postings of the following company shall be used for West Texas Sour crude oils: STUSCO. The postings of the following companies shall be used for California crude oils: Chevron Crude Oil Marketing, Exxon Mobil Corporation, STUSCO and Union 76. In the event that any of the aforementioned companies is merged or acquired by other companies, sells assets or reorganizes, the postings of any successor companies shall be utilized. As long as at least two companies' gravity differentials are posted in each region (West Texas and California), the postings shall be averaged to determine the gravity differentials for that region.

3. The aforementioned six-month average gravity differentials for the specified companies in each region shall be used to derive a simple average West Texas Sour differential and a simple average California differential.

4. The average West Texas Sour differential and the average California differential shall then be weighted by the percentage of ANS which is distributed east of the Rockies (including Puerto Rico and the Virgin Islands) and to the West Coast (including Alaska and Hawaii), respectively, which percentages were last determined in 2011 by averaging the percentage distributed to each region as was last reported by the Maritime Administration of the United States Department of Transportation in September 2011. Volumes exported from the United States shall be excluded from the calculation of the percentages distributed to each region. Percentages provided by the Maritime Administration of the United States Department of Transportation for the period from 1999 to 2011 indicated that 100 percent of ANS was delivered to the West Coast, which is the percentage that will continue in effect until further notice.

5. In the event that ANS is transported by pipeline from the West Coast to destinations east of the Rockies, the weighting of the average differentials shall be adjusted to reflect the percentage of ANS actually distributed to such regions both by vessel and pipeline. If such data regarding the destination of ANS transported by pipeline are not publicly available, the Quality Bank Administrator shall use the percentage of ANS distributed to such regions last used, provided, however, that any shipper may protest such determination by filing a complaint with the Quality Bank Administrator and thereafter filing an appropriate pleading with the FERC and RCA if the complaint is not otherwise resolved.

6. The Gravity Differential Value Per Barrel shall be reviewed each November and May, and shall be adjusted to the nearest hundredth of a cent per one-tenth degree API gravity per barrel whenever the amount of any change in the quality adjustment derived above is at least five (5) percent greater or five (5) percent less than the adjustment then in effect. The effective dates of any such adjustments shall be the following January 1 and July 1 respectively.

7. The Gravity Differential Value Per Barrel in effect shall be applied to the difference in gravity (in API degrees @ 60° Fahrenheit) between the weighted average gravity of the Petroleum delivered out of the Terminal during a calendar month and the weighted average gravity of Petroleum received out of the Terminal by an individual shipper during such month.

F. Methodology For Pump Station No. 1, GVEA Connection and PSVR Connection

1. Assay Methodology -- Sampling Procedure

Except as specified below, and except for the reference streams, each of the Quality Bank streams listed above (for Pump Station No. 1, GVEA, and PSVR Quality Banks) will be sampled by the Quality Bank Administrator using continuous monthly composite samplers on a flow rate dependent basis, and assays of these continuously collected samples shall be performed monthly by the Quality Bank Administrator.

2. Assay Analysis Procedure

a. Except as specified in paragraph b. below, the assays will include a TBP distillation and, as applicable, gas chromatograph analysis of each Quality Bank stream. Specifically, the TBP procedure will employ ASTM 2892 up to 650°F and ASTM 5236 for the 650 to 1050+°F range for the Petroleum samples. The light ends (175°F minus) from the Petroleum streams will be subject to a gas chromatograph analysis to determine the volumes of the propane ("C3"), Iso-butane ("iC4"), and normal butane ("nC4"), with the LSR (sometimes referred to as natural gasoline) volume determined by difference between the total of the three components and the measured 175°F minus volume.

b. The specific gravities of C3, iC4, nC4 will be derived from GPA Standard 2145.

3. Assay Data

a. The following volume and quality data will be determined for each stream.

Component	TBP Boiling Range °F	% Vol	Specific Gravity
Propane (C3)		X	X
I-Butane (iC4)		X	X
N-Butane (nC4)		X	X
LSR	C5-175	X	X
Naphtha	175-350	X	X
Light Distillate	350-450	X	X
Heavy Distillate	450-650	X	X
Gas Oil	650-1050	X	X
Resid	1050+	X	X
Full Petroleum Stream			X

b. The total volume must add to 100% and the total component weighted mass must be checked against the mass of the full Petroleum stream. These weight balances must be the same within calculation and assay precision. If the assay fails this threshold test of validity, a second assay shall be performed on the sample. An example of assay data required is presented in Attachment 1. These data are the basis for all calculations in this Quality Bank methodology. The Quality Bank operates on a calendar month basis, with the continuous samples retrieved for analysis on the last day of each month.

c. The Quality Bank Administrator shall investigate the validity of a sample if each of the following two tests is met.

(i) If one or more of an individual stream's reported component percentages for a month varies by more than the ranges indicated in the following table as compared to the prior month's assay.

Variation in % of Stream
Relative to Prior Month

Component	
Propane	± 0.1
I-Butane	± 0.1
N-Butane	± 0.25
LSR	± 0.5
Naphtha	± 1.0
Light Distillate	± 1.0
Heavy Distillate	± 1.0
Gas Oil	± 1.5
Resid	± 1.0

As an example, if a Petroleum stream's heavy distillate volume percent is 23% for the prior month, a heavy distillate volume percent less than 22% or greater than 24% (exceeding the ± 1% range) shall cause the Quality Bank Administrator to check the second test.

(ii) The second test is whether the volume change in the specific component has resulted in a significant change in the stream's relative value when compared to the prior month's relative value using the prior month's prices. If the change results in a price movement of more than ±15¢ per barrel, then the sample's validity must be investigated.

(iii) The Quality Bank Administrator shall ascertain from the tendering shipper(s) possible causes for the change in the stream's assay. The Quality Bank Administrator may have a second assay performed for the sample in question. The Quality Bank Administrator may decide that the first assay is valid, that the second assay is valid, or that the sample is invalid.

(iv) Should the Quality Bank Administrator determine that a sample is invalid, the last assay results accepted and used in the Quality Bank for the stream will be used instead of the invalid sample in the Quality Bank calculation.

G. Component Unit Value Procedure

1. Component unit values for the U.S. Gulf Coast and U.S. West Coast will be weighted by the percentage of ANS which was distributed east of the Rockies (including Puerto Rico and the Virgin Islands) and to the West Coast (including Alaska and Hawaii), respectively, as was last determined using placement data reported by the Maritime Administration of the United States Department of Transportation in September 2011.

2. In the event that ANS is transported by pipeline from the West Coast to destinations east of the Rockies, the price weighting shall be adjusted to reflect the percentage of ANS actually distributed to each region both by vessel and pipeline. If such data regarding the destination of ANS transported by pipeline are not publicly available, the Quality Bank Administrator shall use the percentage of ANS distributed to such regions last used. Percentages provided by the Maritime Administration of the United States Department of Transportation for

the period from 1999 to 2011 indicated that 100 percent of ANS was delivered to the West Coast, which is the percentage that will continue in effect until further notice.

3. All the product prices used to calculate the unit values of the components other than the Gulf Coast and West Coast Resid components are taken from Platts and OPIS as set forth in Attachment 2. Prices will be collected for each day markets are open and published prices are available (each "quote day"). The calculated monthly average price will be the average of each quote day mid-point price for the month. These monthly average prices (adjusted as shown in Attachment 2) are used to calculate component unit values each month.

4. The unit value of the West Coast Naphtha component is calculated using the formula given in Attachment 2, page 3.

5. The unit values of the Resid component on the Gulf Coast and the West Coast are calculated using the formulas given in Attachment 2, pages 4 and 5 respectively. The prices for petroleum coke and natural gas are taken from Pace Petroleum Coke Quarterly and Natural Gas Week, respectively. The unit values of all other subcomponents are the same as those specified for that material in Attachment 2. The Quality Bank Administrator shall have the discretion to retest the API gravity, sulfur content and carbon residue of the Resid component of the common stream whenever he believes that there may be a change in the common stream that will significantly affect the Resid component unit values. If the Quality Bank Administrator elects to retest the Resid component of the common stream and is satisfied that the sample is properly taken and tested, the new values for API gravity, sulfur content and carbon residue content shall be used to calculate the multipliers (product yields) in the Resid formulas given in Attachment 2, pages 4 and 5. The calculation of the new multipliers will be done using the spreadsheet depicted in Attachment 2, page 6.

6. In January of each year the adjustments to the prices used to value Light Distillate and Heavy Distillate (shown on Attachment 2 page 2) as well as the Gulf Coast and West Coast coker costs (shown on Attachment 2, pages 4 and 5) shall be revised in accordance with the changes in the Nelson-Farrar Cost Index (Operating Indexes Refinery), by multiplying the adjustments or costs for the previous year by the ratio of (a) the average of the monthly indexes that are then available for the most recent 12 consecutive months to (b) the average of the monthly indexes for the previous (*i.e.*, one year earlier) 12 consecutive months.

7. a. In the event that one of the product prices listed in Attachment 2 is no longer quoted in one of the two markets (West Coast or Gulf Coast), the price quoted for the product in the remaining market shall be used to value the entire component.

b. If both of the product prices listed in Attachment 2 for a component are no longer quoted or if the specifications or other basis for the remaining quotation(s) is radically altered, the Quality Bank Administrator shall notify the FERC, the RCA and all shippers of this fact and propose an appropriate replacement product price, with explanation and justification. Comments may be filed with the FERC and RCA within thirty days of the filing by the Quality Bank Administrator. If the FERC and RCA take no action within sixty days of the filing, the replacement product price proposed by the Quality Bank Administrator will become effective as of the sixtieth day. For the period between the time that quotation of a product price is discontinued or the specifications or other basis for a quotation is radically altered and the time that the Commissions approve the use of a replacement product price, the Quality Bank Administrator shall use as the unit value of the component in question the unit value for the last month for which a product price was available for such component.

8. For any particular month of Quality Bank calculations, the pricing data for the month of shipment will be used (i.e., the prices are current with the volumes and assay data).

H. Quality Bank Stream Component Calculation Procedure

After all volume, quality, and pricing data are collected, the Quality Bank Administrator will establish quality differentials for each stream identified in Sections III.B., III.C., and III.D.

I. Quality Bank Calculations Procedure

The assay data and calculation procedures required by this Methodology are summarized in the Attachments. The Attachments are for reference purposes only and are not intended to predict the impact of this procedure on any specific Petroleum stream or any specific company. In the event of a conflict between the provisions of this Methodology as set forth above and the Attachments, the provisions of this Methodology shall control.

ATTACHMENT 1: Yield Data for Example Streams
ATTACHMENT 2: Component Unit Value Pricing Basis
ATTACHMENT 3: Example Component Unit Values in $/Bbl
ATTACHMENT 4: Example Stream Values in $/Bbl
ATTACHMENT 5: Quality Bank Calculation Example

J. Unanticipated Implementation Issues

This Methodology is intended to contain a comprehensive treatment of the subject matter. However, unanticipated issues concerning implementation of this Methodology may arise. If so, the Quality Bank Administrator is authorized to resolve such issues in accordance with the best understanding of the intent of the FERC and RCA that the Quality Bank Administrator can derive from their orders regarding the Quality Bank methodology. The Quality Bank Administrator's resolution of any such issue shall be final unless and until changed prospectively by orders of the FERC and RCA.

Explanation of Symbols:
[D] Decrease
[N] New
[U] Unchanged rate
[W] Change in wording only

ATTACHMENT 1
YIELD DATA FOR EXAMPLE STREAMS

COMPONENT	DEFINITION BOILING RANGE (°F)	STREAM A	STREAM B	STREAM C
PROPANE (C_3)	--	0.15	0.00	0.10
ISOBUTANE (IC_4)	--	0.10	0.02	0.40
NORMAL BUTANE (nC_4)	--	0.50	0.10	2.00
LSR	C5-175	4.50	3.50	6.00
NAPHTHA	175-350	13.50	11.00	5.50
LIGHT DISTILLATE	350-450	9.00	9.00	2.00
HEAVY DISTILLATE	450-650	21.00	22.00	16.00
GAS OIL	650-1050	31.25	30.38	41.00
RESID	1050+	20.00	24.00	27.00
TOTAL		100.00	100.00	100.00
EXAMPLE VOLUME, Thousands Barrels per Month		34,000	9,000	2,500

ATTACHMENT 2

COMPONENT UNIT VALUE PRICING BASIS
EFFECTIVE 2/1/2020

PROPANE (C_3)

United States Gulf Coast	United States West Coast
Platts' Mt. Belvieu, TX spot quote for Propane.	OPIS's Los Angeles delivered spot quote for Propane.

ISOBUTANE (iC_4)

United States Gulf Coast	United States West Coast
Platts' Mt. Belvieu, TX spot quote for Isobutane.	OPIS's Los Angeles delivered spot quote for Isobutane.

NORMAL BUTANE (nC_4)

United States Gulf Coast	United States West Coast
Platts' Mt. Belvieu, TX spot quote for Normal Butane non-LST.	OPIS's Los Angeles delivered spot quote for Normal Butane.

LIGHT STRAIGHT RUN (C_5 – 175°F)

United States Gulf Coast	United States West Coast
Platts' Mt. Belvieu, TX spot quote for Natural Non-Targa.	OPIS's Bakersfield delivered spot quote for Natural Gasoline.

NAPHTHA (175° – 350°F)

United States Gulf Coast	United States West Coast
Platts' U.S. Gulf Coast spot quote for Waterborne Heavy Naphtha Barge.	See Attachment 2, page 3.

ATTACHMENT 2
(Continued)

COMPONENT UNIT VALUE PRICING BASIS

LIGHT DISTILLATE (350° - 450°F)

United States Gulf Coast	United States West Coast
Platts' U.S. Gulf Coast spot quote for Waterborne Jet Kerosene 54 less **[D]** 0.8812 cents per gallon.	Platts' U.S. West Coast spot quote for Waterborne Jet Fuel less **[D]** 0.8812 cents per gallon.

HEAVY DISTILLATE (450° – 650°F)

United States Gulf Coast	United States West Coast
Platts' U.S. Gulf Coast spot quote for Waterborne No. 2 less **[D]** 3.5241 cents per gallon.	Platts' U.S. West Coast spot quote for Los Angeles Pipeline ULS (EPA) Diesel less **[D]** 11.4022 cents per gallon.

GAS OIL (650° – 1050°F)

United States Gulf Coast	United States West Coast
OPIS's U.S. Gulf Coast spot quote for barge High Sulfur VGO.	OPIS's U.S. West Coast (Los Angeles basis) spot quote for High Sulfur VGO.

RESID (1050°F and Over)

United States Gulf Coast	United States West Coast
See Attachment 2, page 4.	See Attachment 2, page 5.

ATTACHMENT 2
(Continued)

U.S. West Coast Naphtha
Component Unit Value Pricing Basis

West Coast Naphtha Component Value, $ per Barrel = **[U]** 0.460 x Gasoline Price + **[U]** 0.516 x Jet Fuel Price + **[U]** -6.387

Where:

Gasoline Price – Platts' West Coast Waterborne Unleaded 87, $ per Barrel
Jet Fuel Price – Platts' West Coast Waterborne Jet Fuel, $ per Barrel
The prices used are the monthly average of the daily high and low prices.

The three constants in the equation were derived from a dual variable regression analysis of Platts' Gulf Coast monthly average prices for waterborne Naphtha, unleaded 87 Gasoline, and Jet/Kero 54 over the 10-year period January, 2010 through December, 2019. The Quality Bank Administrator will recompute the constants in the regression equation whenever circumstances require, but not less than once each year.

ATTACHMENT 2
(Continued)

U.S. GULF COAST RESID
COMPONENT UNIT VALUE PRICING BASIS

Resid Component Value, $ per Barrel =

(0.0348) x QB Propane Value, $/Bbl.

+ (0.0040) x QB Isobutane Value, $/Bbl.

+ (0.0264) x QB Normal Butane Value, $/Bbl.

+ (0.0616) x QB LSR Value, $/Bbl.

+ (0.1008) x QB Naphtha Value, $/Bbl.

+ (0.2046) x QB Heavy Distillate Value, $/Bbl.

+ (0.2929) x QB Gas Oil Value, $/Bbl.

+ (0.0631) x Coke Price([1]) - $5.00

+ (0.2989) x Natural Gas Price([2])

- **[D]** 13.2273([3])

(1) Monthly price quoted in *Pace Petroleum Coke Quarterly* for Gulf Coast high sulfur petroleum coke, >50 HGI, mid point price, $ per metric ton, converted to $ per short ton.

(2) Monthly Henry Hub natural gas spot price quote from *Natural Gas Week*, monthly weighted averages, $ per MMBtu.

(3) Gulf Coast coker and coker product treatment costs, including capital recovery, $ per Barrel.

ATTACHMENT 2
(Continued)

U.S. WEST COAST RESID
COMPONENT UNIT VALUE PRICING BASIS

Resid Component Value, $ per Barrel =

(0.0348) x QB Propane Value, $/Bbl.

+ (0.0040) x QB Isobutane Value, $/Bbl.

+ (0.0264) x QB Normal Butane Value, $/Bbl.

+ (0.0616) x QB LSR Value, $/Bbl.

+ (0.1008) x QB Naphtha Value, $/Bbl.

+(0.2046) x QB Heavy Distillate Value, $/Bbl.

+ (0.2929) x QB Gas Oil Value, $/Bbl.

+ (0.0631) x Coke Price([1]) - $8.75

+ (0.2989) x Natural Gas Price([2])+ $0.15

- [D] <u>14.8010</u>([3])

(1) Monthly price quoted in *Pace Petroleum Coke Quarterly* for West Coast low sulfur petroleum coke, >2% Sulfur, mid point price, $ per metric ton, converted to $ per short ton.

(2) Monthly California natural gas spot price quote from *Natural Gas Week*, gas price trends, (south, delivered to pipeline), $ per MMBtu.

(3) West Coast coker and coker product treatment costs, including capital recovery, $ per Barrel.

ATTACHMENT 2
(Continued)

COKER PRODUCT YIELD MULTIPLIERS
68 DEGREE F C5 CUT POINT (1)

[U]—Unchanged Rate (Yield). All rates (yields) on this page are unchanged.

Product	Base Yield (per Bbl.)[1]	Yield Impact per +1% MCR (per Bbl.)	Yield Impact per +1 °API (per Bbl.)	Yield Impact per +1% Sulfur (per Bbl.)	Revised Product Yield (per Bbl.)
Propane	0.0348	0.0000	0.0000	0.0000	0.0348
Isobutane	0.0040	0.0000	0.0000	0.0000	0.0040
Normal Butane	0.0264	0.0000	0.0000	0.0000	0.0264
LSR	0.0609	0.0014	0.0008	-0.0003	0.0616
Naphtha	0.0996	0.0023	0.0013	-0.0005	0.1008
Heavy Distillate	0.2080	-0.0078	-0.0039	-0.0013	0.2046
Gas Oil	0.2989	-0.0134	-0.0067	-0.0019	0.2929
Coke	0.0618	0.0030	0.0015	-0.0003	0.0631
Fuel Gas	0.2989	0.0000	0.0000	0.0000	0.2989

	Base	Caleb Brett 2001 Assay
MCR, %	23.00	23.1
°API	5.50	6.2
SULFUR, %	2.50	2.47

[1] From EMT-197 revised to use 68ºF cut point for C^5+

ATTACHMENT 3
EXAMPLE COMPONENT UNIT VALUES IN $/Bbl

COMPONENT NAME	WEST COAST ($/Bbl)	GULF COAST ($/Bbl)	WEIGHTED AVERAGE ($/Bbl)
PROPANE (C_3)	19.7925	15.0442	19.68
ISOBUTANE (iC_4)	24.1238	18.4333	23.99
NORMAL BUTANE (nC_4)	18.1125	18.4800	18.12
LSR (C_5 - 175°F)	18.5850	19.5854	18.61
NAPHTHA (175°F - 350°F)	21.3383	21.3383	21.34
LIGHT DISTILLATE (350°F - 450°F)	25.9817	22.9396	25.91
HEAVY DISTILLATE (450°F - 650°F)	23.0000	22.1112	22.98
GAS OIL (650°F - 1050°F)	20.8133	21.8133	20.84
RESID (1050°F and over)	14.6349	15.0000	14.64
WEIGHTING FACTOR	**97.71**	**2.29**	

ATTACHMENT 4
EXAMPLE STREAM VALUES IN $/Bbl

COMPONENT NAME	STREAM A	STREAM B	STREAM C
PROPANE (C_3)	0.029520	0.000000	0.019680
ISOBUTANE (iC_4)	0.023990	0.004798	0.095960
NORMAL BUTANE (nC_4)	0.090600	0.018120	0.362400
LSR (C5 - 175°F)	0.837450	0.651350	1.116600
NAPHTHA (175°F - 350°F)	2.880900	2.347400	1.173700
LIGHT DISTILLATE (350°F - 450°F)	2.331900	2.331900	0.518200
HEAVY DISTILLATE (450°F - 650°F)	4.825800	5.055600	3.676800
GAS OIL (650°F - 1050°F)	6.512500	6.331192	8.544400
RESID (1050°F and over)	2.928000	3.513600	3.952800
TOTAL	**20.460660**	**20.253960**	**19.460540**

ATTACHMENT 5
QUALITY BANK CALCULATION EXAMPLE

QUALITY BANK REFERENCE STREAM VALUE CALCULATION

	VOLUME (MBPM)	VALUE ($/Bbl)	TOTAL VALUE M$/Month
STREAM A	34,000	20.460660	$ 695.66
STREAM B	9,000	20.253960	$182.29
STREAM C	2,500	19.460540	$48.65
TOTAL	45,500	20.364823(1)	$926.60
(Reference Stream)			
(1) Total Value Divided by Total Volume			

QUALITY BANK PAYMENT/RECEIPT CALCULATIONS

	DIFFERENTIAL(2)	(MBPM)	PAYMENT OR RECEIPT M$/Month(3)
STREAM A	0.095837	34,000	$3,258.47
STREAM B	(0.110863)	9,000	$ (997.76)
STREAM C	(0.904283)	2,500	$ (2,260.71)
(2) Stream value minus reference value			
(3) Differential times volume			

Exhibit A

TAPS Quality Bank

Index Ratio & Price Adjustments

Effective: February, 2020

Nelson-Farrar Index Ratio

Index Ratio = 722.1 / 700.7 = 1.0304201501

Index Date	Issue Date	Index	Index Date	Issue Date	Index
Sep 2017	01/08/2018	693.8	Sep 2018	02/04/2019	711.5
Oct 2017	02/06/2018	696.0	Oct 2018	02/04/2019	727.7
Nov 2017	03/01/2018	688.5	Nov 2018	03/04/2019	718.7
Dec 2017	04/02/2018	692.6	Dec 2018	04/08/2019	742.9
Jan 2018	05/02/2018	696.4	Jan 2019	05/08/2019	740.8
Feb 2018	06/05/2018	722.4	Feb 2019	06/05/2019	728.8
Mar 2018	07/04/2018	705.6	Mar 2019	07/09/2019	734.2
Apr 2018	08/06/2018	713.6	Apr 2019	08/06/2019	722.4
May 2018	09/06/2018	708.1	May 2019	09/03/2019	713.2
Jun 2018	10/01/2018	693.6	Jun 2019	10/03/2019	719.5
Jul 2018	11/04/2018	701.8	Jul 2019	05/29/2020	707.9
Aug 2018	12/05/2018	696.5	Aug 2019	05/29/2020	697.1
	Average	700.7		**Average**	722.1

Reference Price Adjustments

(This year's Price Adjustments) = (Last year's Price Adjustments) x (Index Ratio)

	Gulf Coast			West Coast	
	(¢/Gal)	($/BBL)		(¢/Gal)	($/BBL)
Light Distillate					
2019	-0.8552	-0.3592	2019	-0.8552	-0.3592
2020	-0.8812	-0.3701	2020	-0.8812	-0.3701
Heavy Distillate					
2019	-3.4201	-1.4364	2019	-11.0656	-4.6475
2020	-3.5241	-1.4801	2020	-11.4022	-4.7889
Resid					
2019	N/A	-12.8368	2019	N/A	-14.3640
2020	N/A	-13.2273	2020	N/A	-14.8010

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

BP Pipelines (Alaska) Inc.	§	Docket No. IS20-171-000
ConocoPhillips Transportation Alaska, Inc.	§	Docket No. IS20-169-000
ExxonMobil Pipeline Company	§	Docket No. IS20-166-000
		(Not Consolidated)

JOINT RESPONSE OF BP PIPELINES (ALASKA) INC., CONOCOPHILLIPS TRANSPORATATION ALASKA, INC., AND EXXONMOBIL PIPELINE COMPANY TO MOTION TO INTERVENE, CONSOLIDATE AND PROTEST OF PETRO STAR INC.

Pursuant to Rule 343.3(b) of the Procedural Rules Applicable to Oil Pipeline Proceedings of the Federal Energy Regulatory Commission ("FERC" or "Commission"), 18 C.F.R. § 343.3(b) (2019), BP Pipelines (Alaska) Inc., ConocoPhillips Transportation Alaska, Inc., and ExxonMobil Pipeline Company (each individually, a "TAPS Carrier" and collectively, the "TAPS Carriers") hereby submit this joint response ("Joint Response") to the Motion to Intervene, Consolidate and Protest ("Protest") of Petro Star Inc. ("Petro Star"), filed in the above-captioned dockets on February 11, 2020. The Protest challenges the Trans Alaska Pipeline System ("TAPS") Quality Bank tariffs filed by each of the TAPS Carriers on January 27, 2020 (the "January 27 Tariffs" and the "January 27 Tariff Filings"), which became effective on February 1, 2020.

As set forth below, the Protest challenges existing tariff provisions and practices that were not changed by the January 27 Tariff Filings. Under Commission policy and precedent, a carrier's existing practices that the carrier does not propose to change in a tariff publication are not subject to challenge by a protest and may only be challenged by a complaint. In fact, Petro Star is already attempting to pursue these and other claims regarding the Quality Bank's methodology for valuing Resid (defined below) in the complaint proceeding that is now pending before the Commission on remand in Docket No. OR14-6-000 ("OR14-6"). If Petro Star believes it has a new basis for challenging the Quality Bank's valuation of Resid that is not within the scope of the pending complaint docket, it must shoulder the evidentiary and other burdens of filing a new complaint pursuant to the Commission's normal complaint procedures, and should not be permitted to evade those obligations by attacking existing tariff provisions and practices under the guise of a protest. Accordingly, the TAPS Carriers respectfully submit that the Commission should reject the Protest and permit the January 27 Tariffs to remain in effect, not subject to suspension or investigation.[1]

I. COMMUNICATIONS AND CORRESPONDENCE

Pursuant to Rule 2010 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.2010 (2019), the names and mailing addresses of the persons designated to receive service and to whom correspondence and communications concerning this proceeding should be addressed are as follows:

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[1] Because there are clear procedural grounds for rejection of the Protest, the TAPS Carriers do not attempt in this Joint Response to rebut or respond to Petro Star's claims in the Protest on a substantive basis. However, that the TAPS Carriers are not responding to the Petro Star's claims on a substantive basis should not be construed as a concession or an admission by the TAPS Carriers as to any claim or fact alleged by the Protest.

The TAPS Carriers respectfully request waiver of Rule 203(b)(3), 18 C.F.R. § 385.203(b)(3) (2019), to allow more than two persons to be included on the service list.

II. BACKGROUND

The TAPS Quality Bank is a mechanism that adjusts for the varying qualities (and thus values) of the crude oil streams transported on TAPS. In general, shippers that ship lower value crude oils on TAPS will pay into the Quality Bank, and shippers that ship higher value crude oil will receive payment out of the Quality Bank. The current Quality Bank formula is based on a distillation methodology in which each TAPS stream is sampled monthly, the samples are distilled into nine cuts, and market prices are then ascribed or derived for each cut. As relevant here, residual oil or "Resid" is one of the nine cuts, and consists of the heavy crude oil products that remain after petroleum has been distilled. Under the current Quality Bank methodology, the value of Resid is determined in part by the API gravity, sulfur content and microcarbon residue ("MCR") content of the Resid, as those components were measured by a 2001 assay (referred to as the "2001 Caleb Brett assay"). The 2001 Caleb Brett assay has been used in the Quality Bank's valuation of Resid for every year since the year 2000.[2] This methodology, including the use of the 2001 Caleb Brett assay to value Resid, has been approved by this Commission and the Regulatory Commission of Alaska ("RCA").[3] The TAPS Carriers, in conjunction with an independent firm that acts as the Quality Bank Administrator ("QBA"), administer the Quality Bank on behalf of the TAPS shippers and interested parties. Each TAPS Carrier files its own Quality Bank tariff, but all tariffs are substantively identical.

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[2] Opinion 481-B at P 21 (upholding Opinion 481-A's result that the value of the Resid cut would be recalculated back to February 1, 2000).

[3] *Trans Alaska Pipeline System*, 113 FERC ¶ 61,062 (2005) ("Opinion No. 481"); 114 FERC ¶ 61,323 (2006) ("Opinion No. 481-A"); 115 FERC ¶ 61,287 (2006) ("Opinion No. 481- B"); *In re Formal Complaint of Tesoro Alaska Petroleum Co.*, P-89-1(104) / P-89-2(98) / P-94-4(37) / P-96-6(24) / P-98-9(16) / P-99-12(19) (2005); P-89-1(109) / P-89-2(103) / P-94-4(42) / P-96-6(29) / P-98-9(21) / P-99-12(24) (2006); P-89-1(111) / P-89-2(105) / P-94-4(44) / P-96-6(31) / P-98-9(23)/P-99- 12(26) (2006).

In the January 27 Tariff Filings, the TAPS Carriers made a number of ministerial, non-substantive changes in Items III.E.4, III.E.5, III.G.1 and III.G.2 to ensure that such items accurately reflect the procedures currently employed to administer the TAPS Quality Bank. Each of these changes was explained in detail in the transmittal letters accompanying the January 27 Tariff Filings (the "Transmittal Letters").[4] In addition to these non-substantive clarifying changes, the January 27 Tariff Filings made one substantive change. Item III.G.6 of the tariffs requires that the reference prices for Light Distillate and Heavy Distillate, and West Coast and Gulf Coast coker costs used to value Resid, be adjusted in January of each calendar year based on the Nelson-Farrar Cost Index ("NFI") using the specific formula set forth in Item III.G.6. The NFI evaluates monthly changes in the costs of refinery operation and has been available to the QBA for many years via subscription services. The QBA calculated the changes to the reference prices and coker costs in accordance with the formula set forth in Item III.G.6, and updated the applicable prices and costs set forth in Attachment 2 of the January 27 Tariffs. These adjustments were also explained in the Transmittal Letters.[5] Notably, the January 27 Tariff Filings made no changes to Item III.G.6 itself, which is the tariff provision requiring adjustment of the reference prices and coker costs.[6] No other changes were implemented by the January 27 Tariff Filings.

While the January 27 Tariff Filings made no changes other than those described above, the TAPS Carriers explained in the Transmittal Letters that the NFI, which had been published for many years by Mr. Gary Farrar, had been discontinued due to Mr. Farrar's death in October 2019,

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4 *See* Transmittal Letters at 2.

5 *Id.*

6 The TAPS Carriers note that the ministerial wording changes reflected in Item III.G.6 of the January 27 Tariffs (*i.e.*, the correction of the name of the NFI to the "Nelson-Farrar Cost Index" instead of the "Nelson-Farrar Index" and the deletion of the phrase "published in the Oil & Gas Journal") were changes actually made in the prior versions of the tariffs that became effective Feb. 1, 2019 that were inadvertently identified as new wording changes in the January 27 Tariffs. *See* Exhibit 1 at pp. 13, 38, and 61.

and would not be available going forward.[7] Because the NFI was published on a two-month lagging basis, the last month of NFI data available for the Quality Bank calculations was for June 2019.[8] Therefore, in order to adjust the reference prices and coker costs for the January 27 Tariff Filings, the QBA used the NFI data for the period September 2018 through June 2019, rather than NFI data for September 2018 through August 2019, as that was the only NFI data that was available for the relevant period.[9] The Transmittal Letters explained that the QBA was in the process of identifying a replacement index, and that the TAPS Carriers would make another tariff filing to implement the use of the new index when it was identified.[10] The same information regarding the discontinuation of the NFI and the QBA's use of ten months of NFI data to make the adjustments required by Item III.G.6 was presented to shippers and interested parties, including Petro Star, in a memo from the QBA dated December 20, 2019 (the "December 20 Memo"), a copy of which is attached hereto as Exhibit 2.[11] Neither Petro Star nor any other shipper or interested party responded to the December 20 Memo.[12]

The Protest does not challenge any of the tariff changes implemented by the January 27 Tariff Filings. In fact, the Protest makes no mention of the ministerial changes made to Items III.E.4, III.E.5, III.G.1 and III.G.2, nor does it challenge the accuracy of the QBA's calculations to adjust the reference prices and coker costs set forth in Attachment 2. Instead, the Protest focuses solely on two existing tariff provisions that have been substantively unchanged for twenty years,

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7 Transmittal Letters at 2.

8 *See* Exhibit 2 at 3.

9 *Id.* As explained in Section III.B(2) below, the use of these data was required by the existing and unchanged provisions of Item III.G.6 and was also permissible under the discretion afforded the QBA under Item III.J, which also was not changed by the January 27 Tariff Filings.

10 *See* Exhibit 2 at 3.

11 *Id.*

12 *See* Transmittal Letters at 2.

and that were not changed by the January 27 Tariff Filings: (1) the QBA's use of the API gravity, sulfur content, and MCR content from the 2001 Caleb Brett assay to value Resid, as reflected in and required by Attachment 2 of the tariffs (and Opinion No. 481),[13] and (2) the QBA's use of ten months, rather than 12 months, of NFI data to adjust the West Coast and Gulf Coast coker costs, as required by Item III.G.6.[14] With regard to the 2001 Caleb Brett assay, Petro Star does not allege, nor could it, that the relevant tariff provision or the QBA's use of the assay was changed or impacted in any way by the January 27 Tariff Filings, as the QBA has used this assay to calculate the Resid values back to 2000.[15] Nonetheless, Petro Star asserts in the Protest that the QBA's use of the 2001 Caleb Brett assay is unreasonable, and improperly asks the Commission to direct the TAPS Carriers to amend their tariffs to require the use of Petro Star's assay from May 2019.

With regard to the use of ten months of NFI data, Petro Star claims that the use of ten months, rather than 12 months, of NFI data is a change in the QBA's practice that was not justified by the TAPS Carriers in the January 27 Tariff Filings, and asks the Commission to reject the January 27 Tariffs outright or suspend them for seven months.[16] In contrast to those claims, there was no reason for the TAPS Carriers to "justify" the alleged change in practice, as the use of ten months of NFI data is consistent with, and in fact required by, the existing and unchanged provisions of Item III.G.6 that direct the QBA to use the NFI data "then available" to calculate the annual adjustments to the reference prices and coker costs. The QBA's use of ten months of NFI data is also justified by Item III.J—unchanged by the January 27 Tariff Filings—that affords the QBA discretion to address "unanticipated implementation issues," such as the unanticipated

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13 *See* Protest at 1; Opinion No. 481 at PP 15–20 (affirming *Trans Alaska Pipeline System*, 108 FERC ¶ 63,030 at P 1147 (2004)).

14 *See* Protest at 1.

15 Opinion 481-B at P 21 (upholding Opinion 481-A's result that the value of the Resid cut would be recalculated back to February 1, 2000).

16 *Id.* at 15.

discontinuation of the NFI. The fact that these tariff provisions were not changed by the January 27 Tariff Filings is readily apparent from a comparison of the relevant provisions as they existed in the TAPS Carriers' baseline tariffs filed in 2010 and in the January 27 Tariff Filings.[17]

The existing, unchanged tariff provisions that Petro Star attempts to challenge in its Protest are directly related to the manner in which the TAPS Quality Bank values Resid. Notably, Petro Star has raised these and other issues and claims regarding Quality Bank's methodology for valuing Resid in the complaint proceeding already pending before the Commission on voluntary remand in OR14-6. There, Petro Star has argued that the Commission should open a general investigation into the justness and reasonableness of the Quality Bank's methodology for valuing Resid, which, if successful, would encompass the two tariff provisions that Petro Star attempts to challenge here through the wrong procedural mechanism. In that pending complaint docket, Petro Star has also sought discovery from the TAPS Carriers and the QBA regarding the exact practices that it challenges here and for which it seeks a technical conference—that is, the QBA's use of the 2001 Caleb Brett Assay and the hypothetical coker costs and adjustments using the NFI.

III. RESPONSE

As noted in Section II above, the Protest seeks to challenge existing practices with respect to the Quality Bank methodology, rather than the changes implemented by the January 27 Tariff Filings. The proper venue for challenging an existing tariff provision is through the submission of a complaint, not a protest.[18] Indeed, as described below, the Interstate Commerce Act of 1887 ("ICA") and Commission precedent dictate that a protest shall be limited to challenging only those

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[17] *Compare* Exhibit 3, which contains copies of the TAPS Carriers' 2010 Quality Bank baseline tariff filings, with the January 27 Tariffs submitted in the subject dockets.

[18] 49 U.S.C. app. § 15(7) (1988); 18 C.F.R. § 343.1 (2019).

changes reflected in the subject tariff publication. As such, Petro Star's Protest should be rejected because it is procedurally improper.

A. A protest may not be used to challenge a carrier's existing rates or practices.

It is incontestable that the ICA, Commission regulations, and Commission precedent prohibit the use of a protest to challenge a carrier's existing rates or practices, and that any party desiring to challenge a carrier's existing rates or practices must do so by filing a complaint and not a protest.[19] The plain language of the Commission's regulations are clear that a protest is not the proper vehicle to challenge a carrier's existing practices. Section 343.1 provides that:

> (a) *Complaint* means a filing challenging an existing rate or practice under section 13(1) of the Interstate Commerce Act.
> (b) *Protest* means a filing, under section 15(7) of the Interstate Commerce Act, challenging a tariff publication.[20]

Likewise, the ICA provides that a protest to a tariff publication must be limited to challenging only the newly-tariffed rates or practices set forth in the tariff publication. Section 15(7) of the ICA states:

> Whenever there shall be filed with the Commission any schedule stating a *new* individual or joint rate, fare, or charge, or any *new* individual or joint classification, or any *new* individual or joint regulation or practice affecting any rate, fare, or charge, the Commission shall have, and it is hereby given, authority . . . to enter upon a hearing concerning the lawfulness of such rate, fare, charge, classification, regulation, or practice . . ."[21]

The Commission has interpreted Section 15(7) of the ICA as limiting protests to challenging only "newly tariffed" rates or practices,[22] and has consistently rejected attempts by shippers to challenge

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19 *See* 18 C.F.R. § 343.1 (2019).

20 *Id.*

21 ICA § 15(7) *(emphasis added)*.

22 *See*, *e.g.*, *BP West Coast Prods., LLC v. FERC*, 374 F.3d 1263, 1277–78 (D.C. Cir. 2004); *SFPP, L.P.*, 63 FERC ¶ 61,014, at * 10 (1993) (noting that it is "not appropriate for the [Commission] to suspend the proposed tariff changes and initiate an investigation under section 15(7) when the focus of the protest was existing, unchanged, portions of the tariff").

existing rates or practices through a protest.[23] For example, in *Enbridge,* the carrier, Enbridge Pipelines (North Dakota) LLC ("Enbridge"), submitted a tariff filing that proposed certain amendments to its proration policy to address the proliferation of new shippers on its system.[24] The tariff was protested by a number of shippers, wherein the shippers challenged the practice by which Enbridge calculated prepayments for regular shippers.[25] Enbridge argued that the protest's challenges to its prepayment practices and related tariff provisions should be dismissed outright because Enbridge had not modified the protested tariff with respect to those practices or provisions.[26] The Commission agreed, and held that because Enbridge had not modified the prepayment provisions in the protested tariff filing, it would not consider the shippers' challenges to that provision contained in the protests.[27] In the order dismissing the shippers' protests, the Commission noted that "[c]oncerns about that [existing] provision cannot be raised in a protest but must be made in another proceeding."[28]

Similarly, in *Colonial*, an individual, Mr. R. Gordon Gooch, filed a protest challenging various tariffs filed by Colonial on, *inter alia*, the basis that the rates contained therein, although unchanged, were not just and reasonable.[29] As it had done in *Enbridge*, the Commission dismissed this portion of Mr. Gooch's protest, finding that "the proper method for challenging the justness and reasonableness of an existing rate is a complaint, and not a protest."[30]

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23 *See*, *e.g*., *Enbridge Pipelines (North Dakota) LLC*, 132 FERC ¶ 61,274 (2010) ("*Enbridge*"); *Colonial Pipeline Company*, 139 FERC ¶ 61,270 at P 8 (2012) ("*Colonial*"); *TE Products Pipeline Company, LLC*, 130 FERC ¶ 61,257 at P 16 (2010).

24 *Enbridge* at P 1.

25 *Id.* at PP 12, 33.

26 *Id.* at P 33.

27 *Id.*

28 *Id.*

29 *Colonial* at P 3.

30 *Id.* at P 8.

In rejecting shippers' attempts to challenge existing rates or practices through a protest instead of a complaint, the Commission has explained that permitting a protest to challenge an existing rate or practice would inappropriately shift the burden of proof from the shipper to the carrier. In *Texaco,* the Commission stated:

> Procedurally, where a pipeline files a proposed initial rate or change to an existing rate, the filing (a) empowers the Commission in its discretion to suspend and investigate the proposal, subject to refund; and (b) places the burden upon the pipeline to prove that the proposal will be just and reasonable, countering where necessary any "protest" raised by persons opposing the proposal -- pursuant to section 15(7) of the Act, 49 U.S.C. app. § 15(7). On the other hand, where a person seeks a change because it considers itself adversely affected by an existing rate, it does so by filing a complaint with the Commission, usually having the burden to prove that the rate is unjust and unreasonable insofar as the rate is in a tariff on file with the agency. If the rate is shown to be unlawful, the Commission then determines and prescribes a just and reasonable changed or substitute rate -- pursuant to sections 13(1) and 15(1) of the Act, 49 U.S.C. app. §§ 13(1) and 15(1).[31]

The above demonstrates that controlling law and longstanding Commission precedent dictate that a protest should be rejected if it concerns challenges to a carrier's existing practices that are unchanged by the subject tariff filing. As explained in detail in Section III.B below, because Petro Star's Protest challenges only the TAPS Carriers' existing practices, not practices changed or implemented by the January 27 Tariff Filings, the Protest should be rejected.

B. Petro Star's Protest challenges only existing tariff provisions and practices and therefore should be rejected.

Petro Star challenges the January 27 Tariff Filings on two bases: (1) the QBA failed to exercise its discretion in a reasonable manner by continuing to use the 2001 Caleb Brett assay to value Resid and allegedly failing to retest the Resid component of the TAPS common stream in the last 20 years;[32] and (2) the TAPS Carriers failed to justify the QBA's use of ten months of data

[31] *Texaco Refining and Marketing Inc. v. SFPP, L.P.*, 103 FERC ¶ 63,055, 65,136 (2003) ("*Texaco*").

[32] Protest at 1, 4-8.

from the NFI to adjust coker costs used in the Quality Bank methodology to value Resid, because the capital cost of the hypothetical coker has been fully recovered several times, and thus no further increase in the capital recovery component is justified.[33] Neither of the challenged practices was instituted or changed by the January 27 Tariff Filings.

1. *The January 27 Tariff Filings did not change the QBA's longstanding use of the 2001 Caleb Brett assay to value Resid.*

Petro Star claims there is no evidence the QBA has tested the Resid in the last 20 years, and that this alleged failure, as well as the QBA's continued use of the 2001 Caleb Brett assay to value Resid in the Quality Bank methodology, is unreasonable and an abuse of discretion.[34] To remedy this alleged abuse of discretion, Petro Star proposes that its assay from a single sample taken in May 2019 should be substituted for the 2001 Caleb Brett assay that is currently used in the Quality Bank methodology.[35] However, the January 27 Tariff Filings did not institute or alter the use of the 2001 Caleb Brett assay to value Resid, and thus this practice is not subject to challenge by a protest.

As explained above in Section II, under the current Quality Bank methodology, the value of the Resid cut is determined in part by the API gravity, the sulfur content, and the MCR content of the Resid, as those components were measured by the 2001 Caleb Brett assay. The use of the 2001 Caleb Brett assay to value Resid is reflected on page 6 of Attachment 2 of the January 27

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[33] Protest at 1-2, 11.

[34] Protest at 4-8. The TAPS Carriers reject Petro Star's allegation that the QBA has not tested the quality of the Resid in the last 20 years. This allegation appears to be grounded on the false assumption that, because Petro Star has not received data concerning the quality of the Resid, the QBA has not tested the quality of the Resid. The Quality Bank tariffs do not require the results of such tests to be provided to shippers or interested parties. However, the TAPS Carriers will not address here the issue of whether the QBA has tested the Resid since the adoption of the 2001 Caleb Brett assay because the Protest warrants rejection on clear procedural grounds.

[35] Protest at 5–8.

Tariffs, as well as the predecessor tariffs.[36] Using the 2001 Caleb Brett assay to determine the value of the Resid cut was implemented by the QBA in accordance with the 2004 Initial Decision, Opinion No. 481, and Opinion 481-B, and was applied back to 2000.[37] Thus, as of the date of the Protest—and as Petro Star acknowledges—the 2001 Caleb Brett assay has been used by the QBA to determine the API gravity, sulfur content, and MCR content of Resid for two decades. Indeed, the QBA's reliance on the 2001 Caleb Brett assay to value Resid has continued, uninterrupted and unchanged, since it was instituted pursuant to the Commission's instructions in Opinion No. 481 and Opinion 481-B and was not changed in any way by the January 27 Tariff Filings.

The QBA's use of the 2001 Caleb Brett assay was not newly implemented or changed by the January 27 Tariff Filings as is evident from a cursory review of the filings, as well as a comparison of the TAPS Carriers' baseline tariffs filed in 2010 with the January 27 Tariffs.[38] The majority of the changes implemented by the January 27 Tariff Filings were ministerial edits and clarifications. The only substantive changes implemented by the January 27 Tariff Filings were the annual adjustments to the reference prices and coker costs set forth in Attachment 2 and required by Item III.G.6 of the tariffs (as discussed in more detail below), none of which in any way relate to or impact the use of the 2001 Caleb Brett assay to determine the API gravity, sulfur content, and MCR content of Resid. Notably, Petro Star does not even allege in its Protest that the January 27 Tariff Filings proposed any change to the use of the 2001 Caleb Brett assay to value

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36 *Compare* Exhibit 3, which contains copies of the TAPS Carriers' 2010 Quality Bank baseline tariff filings, with Exhibit 1, which contains copies of the TAPS Carriers' Quality Bank tariffs effective February 1, 2019, and with the January 27 Tariffs submitted in the subject dockets.

37 *Trans Alaska Pipeline System*, 108 FERC ¶ 63,030 at P 1147 (2004) (the "2004 Initial Decision"); Opinion No. 481 at PP 15–20 (affirming *Trans Alaska Pipeline System*, 108 FERC ¶ 63,030 at P 1147 (2004)); Opinion 481-B at P 21.

38 *Compare* Exhibit 3, which contains copies of the TAPS Carriers' 2010 Quality Bank baseline tariff filings, with the January 27 Tariffs submitted in the subject dockets.

Resid; indeed, the very foundation of Petro Star's challenge is that there has been no change in the QBA's use of the 2001 Caleb Brett assay in many years.

As demonstrated above, there can be no doubt that the January 27 Tariff Filings do not implement any changes to the use of the 2001 Caleb Brett assay to value Resid, and thus Petro Star's challenges to the use of such assay in its Protest are procedurally improper and should be rejected. Indeed, as recognized by the Commission in *Texaco,* allowing Petro Star to maintain its Protest on the use of the 2001 Caleb Brett assay would effectively permit Petro Star to inappropriately shift the burden of proof on this issue to the TAPS Carriers, in contravention of the ICA and longstanding Commission precedent. If Petro Star wishes to challenge the QBA's continued use of the 2001 Caleb Brett assay to value Resid, it must do so by filing a complaint under Section 13(1) of the ICA.

2. *The January 27 Tariff Filings did not change the QBA's use of the NFI to calculate the coker cost adjustments mandated by Item III.G.6.*

Petro Star alleges the TAPS Carriers failed to justify the QBA's use of ten months of data from the NFI to adjust coker costs in accordance with Item III.G.6 of the tariffs, and requests that the Commission reject or suspend this portion of the January 27 Tariffs for the statutory maximum of seven months.[39] Like the QBA's use of the 2001 Caleb Brett assay, the January 27 Tariff Filings did not change the use of the NFI to make the coker cost adjustments required by Item III.G.6 of the tariffs. Therefore, the TAPS Carriers had no burden with respect to this issue, and the Protest fails on procedural grounds with respect to this challenge.

Section III.G.6 of the January 27 Tariffs, as well as predecessor tariffs, provides that the prices used to value Light Distillate and Heavy Distillate, as well as the Gulf Coast and West Coast coker costs (used to value Resid), will be adjusted in January of each calendar year in accordance

[39] Protest at 14-15.

with the changes in the NFI. In the Transmittal Letters, the TAPS Carriers explained that because the NFI had been discontinued, the QBA would use the ten months of available data to calculate the price and cost adjustments required by Item III.G.6.[40] The Transmittal Letters also indicated that the QBA was in the process of identifying an alternative index to use in calculating future cost and price adjustments, and would make a tariff filing in the future when a replacement index had been identified.[41] Despite the fact that the January 27 Tariff Filings made no change to the use of the NFI to calculate the requisite cost adjustments, Petro Star relies on the explanatory statements in the Transmittal Letters to argue that the use of ten months of data, rather than 12 months of data, is a change to an existing practice that the TAPS Carriers failed to justify in the January 27 Tariff Filings.[42] This argument is contradicted by the plain language of the tariffs.

The use of ten months of NFI data is consistent with and required by the existing provisions in the January 27 Tariffs and the predecessor tariffs. Item III.G.6 requires the QBA to adjust the relevant prices and costs "in accordance with the changes in the Nelson-Farrar Cost Index (Operating Indexes Refinery) by multiplying the adjustments or costs for the previous year by the ratio of (a) *the average of the monthly indexes that are* ***then available*** *for the most recent 12 consecutive months to* (b) the average of the monthly indexes for the previous (i.e., one year earlier) 12 consecutive months."[43] This provision, which is unchanged by the January 27 Tariff Filings, requires the QBA to use the NFI data "then available" at the time of the adjustment calculation. Because of the death of Mr. Farrar and the resulting discontinuation of the NFI, the data "then

[40] Transmittal Letters at 2.

[41] *Id.*

[42] Protest at 10.

[43] January 27 Tariffs at Item III.G.6 (emphasis added).

available" to calculate the January cost adjustments was the ten months of data for the period September 2018 through June 2019.

In its discussion of the use of ten months of NFI data, Petro Star excludes the key phrase "then available" from its recitation of the relevant language of Item III.G.6.[44] Petro Star's omission of the critical phrase does not change its impact or meaning. The language in Item III.G.6 requiring the use of "then available" index data was not changed by the January 27 Tariff Filings, as is readily apparent from a comparison of the TAPS Carriers' baseline tariffs filed in 2010 with the January 27 Tariffs.[45] Thus, if the January 27 Tariffs were rejected or suspended by the Commission, and the previously-effective tariffs were thereby reinstated, Item III.G.6 would still require the QBA to adjust the price and cost data in Attachment 2, by using the "then available" NFI data which, for the relevant period, consists of only ten months of data.

In addition to Item III.G.6 requiring the use of the ten months of available NFI data, the use of ten months of available data is clearly permissible under Item III.J, which is also unchanged by the January 27 Tariffs and not mentioned in the Protest. Item III.J (Unanticipated Implementation Issues) gives the QBA the discretion to resolve any "unanticipated issues concerning implementation of this Methodology." Specifically, Item III.J provides that:

> This Methodology is intended to contain a comprehensive treatment of the subject matter. However, unanticipated issues concerning implementation of this Methodology may arise. If so, the Quality Bank Administrator is authorized to resolve such issues in accordance with the best understanding of the intent of the FERC and RCA that the Quality Bank Administrator can derive from their orders regarding the Quality Bank methodology. The Quality Bank Administrator's resolution of any such issue shall be final unless and until changed prospectively by orders of the FERC and RCA.[46]

44 *See* Protest at 9–10.

45 Compare Exhibit 1 at pp. 13, 38, and 61 with Exhibit 3 at pp. 15–16, 39, and 70–71.

46 *Id.* at 16, 40, 72..

The discontinuation of the NFI and the resulting unavailability of the final two months of index data is clearly an "unanticipated implementation issue" that falls within the QBA's authority and the provisions of Item III.J.[47] The tariffs are silent as to the procedure that must be employed in the event that the specified index ceases to be available during a measurement period. Opinion No. 481, the 2004 Initial Decision, and the relevant RCA orders are similarly silent, as is the October 2002 Stipulation.[48] The QBA's decision to use the "then available" NFI data instead of declining to make the required cost and price adjustments at all—as Petro Star suggests is the appropriate course of action—is clearly within the discretion afforded to the QBA under Item III.J.

Furthermore, the method employed by the QBA to address the unanticipated discontinuation of the NFI is the approach that is most consistent with the tariffs themselves, and the directives of Opinion No. 481. As explained above, Item III.G.6—which implemented the provisions of the October 2002 Stipulation, to which Petro Star was a party—plainly requires that prices and coker costs be adjusted in January of each calendar year using the NFI. Opinion No. 481 adopted the findings of the 2004 Initial Decision and the agreement of the parties set forth in the October 2002 Stipulation.[49] These facts (and the mandate of Item III.G.6 to use "then available" data, as discussed above) demonstrate that the QBA's determination to use ten months of available data to adjust the reference prices and coker costs was reasonable, and was the approach most consistent with the plain language of the tariffs and with the directives of the Commission.

In contrast to the QBA's reasoned approach, Petro Star argues that because the TAPS Carriers "have long been on notice that Petro Star opposes any further escalation [of the coker

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[47] *See* Exhibit 2 at 3.

[48] Joint Stipulation of the Parties, filed October 3, 2002, FERC Docket No. OR89-2-007, RCA Docket No. P-89-2 ("October 2002 Stipulation").

[49] Opinion No. 481 at PP 18-20.

costs],” the QBA should have declined to adjust the coker costs, and asks the Commission to suspend this portion of the January 27 Tariffs for seven months in order to prevent any adjustment of the coker costs for 2020.[50] There is no support for this position, as failing to make any adjustment to the reference prices and coker costs would not only violate the existing, unchanged provisions of Item III.G.6, but would also violate the agreement of the parties (including Petro Star) set forth in the October 2002 Stipulation and the guidance provided by the Commission in Opinion No. 481.[51] However, Petro Star’s statements in this regard are telling. While styled as a challenge to the use of ten months rather than 12 months of NFI data, Petro Star’s true opposition is to the escalation of the coker costs using any methodology whatsoever. Petro Star’s intent is laid bare by the following statement: “[t]here is simply no basis to use a ten-month NFI, or any escalation factor whatsoever, to escalate a capital recovery factor that is already grossly excessive.”[52] This statement reveals the fact that Petro Star’s real objective is to impede the QBA’s use of the hypothetical coker in the calculation of Resid values, and the escalation of those coker costs on any basis.

Regardless of Petro Star’s underlying motive, its Protest to the QBA’s use of ten months of NFI data is not viable. The relevant portions of Item III.G.6 and Item III.J—which are the basis for the use of the ten months of available data—are unchanged by the January 27 Tariff Filings, and thus not subject to challenge in a protest. If Petro Star seeks to challenge the Quality Bank’s use and escalation of coker costs in the valuation of Resid, it may do so by filing a new complaint, or by pursuing the complaint that is already pending before the Commission in OR14-6. However,

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50 *See* Protest at 10-11. Petro Star further argues that the October 2002 Stipulation underlying Opinion No. 481 only applied to Docket No. OR89-2 and thus has no relevance to subsequent tariff filings. Protest at 11. This argument misses the point. The fact that Petro Star now objects to the October 2002 Stipulation does not invalidate Section III.G.6 of the tariffs or change the procedural mechanism by which it may be challenged.

51 October 2002 Stipulation at P 3; Opinion No. 481 at PP 18–20.

52 Protest at 11.

it may not use the January 27 Tariff Filings as a pretext on which to mount a challenge to the TAPS Carriers' existing and unchanged practices. The Commission should reject the Protest to the extent it challenges the QBA's use of ten months of NFI data.

C. The Protest is an attempt to make an end-run around the Commission's complaint procedures in OR14-6.

In the pending complaint proceeding in OR14-6 on voluntary remand to the Commission, Petro Star seeks to challenge the same components of the Quality Bank methodology that are implicated by the tariff provisions that Petro Star challenges in its Protest. In OR14-6, Petro Star seeks a full investigation into whether the existing Quality Bank formula for valuing Resid—including the use of the 2001 Caleb Brett assay, the use of the hypothetical coker, and the annual escalation of the coker costs—is just and reasonable, and if not, what adjustments should be made to the Quality Bank methodology.[53] In that docket, Petro Star has also requested that the Commission order the TAPS Carriers and the QBA to provide discovery on, *inter alia*, coker costs, the escalation of coker costs, and the continued use of the 2001 Caleb Brett assay.[54] The remand in OR14-6 is pending before the Commission, and the Commission has not ordered the requested discovery. Petro Star acknowledges that the arguments it attempts to raise in the instant dockets are identical to those it is attempting to pursue in OR14-6, and in fact includes in the Protest a lengthy argument—irrelevant to the issues presented—regarding the action it believes the Commission should take in OR14-6.[55]

Despite the fact that Petro Star is currently attempting to challenge the entirety of the Quality Bank methodology for valuing Resid in a complaint docket that is already pending before the Commission, Petro Star nonetheless attempts to raise the same issues and claims in the instant

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[53] *See, e.g., Initial Comments of Petro Star Inc.* at 1, Docket No. OR14-6-002, filed May 6, 2019.

[54] *Id*. at 33-35.

[55] Protest at 13.

dockets under the guise of a protest that is curiously focused solely on the TAPS Carriers' existing practices, and on which the Commission must issue an order in 15 days.[56] The TAPS Carriers submit that Petro Star's Protest of the January 27 Tariff Filings is nothing more than a backdoor attempt to obtain the discovery requested in OR14-6 and to require the Commission to rule on some portion of Petro Star's claims regarding the valuation of Resid that are pending in OR14-6. Petro Star's Protest also represents an improper attempt to shift the burden of proof from Petro Star to the TAPS Carriers. The TAPS Carriers submit that the Commission should not permit Petro Star to rely on the January 27 Tariff Filings—which did not change any of the tariff provisions or practices challenged in the Protest—to make an end-run around the Commission's complaint procedures and the pending complaint in OR14-6. The Protest should be rejected.

D. Petro Star's request for a seven-month suspension is inconsistent with Commission precedent and practice.

Petro Star requests the January 27 Tariffs be suspended for the maximum allowable period of seven months so the Commission may investigate if the NFI (or any index) should be used to adjust the coker costs used to value Resid.[57] However, a lengthy suspension of the January 27 Tariffs would be inconsistent with Commission policy and precedent, which declines to apply more than a nominal tariff suspension except in very limited circumstances. For example, in *Buckeye*, the Commission stated that, as a rule, oil pipeline tariff filings should be suspended for not more than one day.[58] The Commission has made clear that it will only make exceptions to the one-day rule where the Commission has found (1) that the rates or practices at issue present significant anticompetitive effects or impose undue hardship on a shipper or group of shippers;

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[56] 18 C.F.R. § 343.3(c) (2019).

[57] Protest at 14–15.

[58] *Buckeye Pipe Line Co.*, 13 FERC ¶ 61,267 at 61,596 (1980) ("*Buckeye*").

and (2) a suspension for the maximum period permitted by the ICA might well have sufficient mitigative effect to render such suspension worthy of consideration.[59]

Neither of the relevant factors is presented here. Because the January 27 Tariff Filings made no changes to the use of the 2001 Caleb Brett assay or the NFI to determine the value of Resid, suspension of the January 27 Tariffs for any period of time would have no impact on the QBA's obligation to continue these existing practices. Indeed, the fact that suspension of the tariffs would provide no relief to Petro Star from the QBA's practices demonstrates why protests are limited to challenging newly-tariffed rates or practices—*i.e.*, so that suspension of the tariffs and return to the *status quo ante*, if appropriate, will allay any potential harm to shippers that might result from implementation of the new or changed practice. Because Petro Star has challenged only the TAPS Carriers' existing practices, suspension of the January 27 Tariffs for any period of time would have no impact on those practices. Petro Star's request for a seven-month suspension should be rejected.

IV. CONSOLIDATION

In the event that the Commission does not reject the Protest outright, the TAPS Carriers do not oppose consolidation of the above-captioned dockets into a single proceeding.

[59] *Williams Pipe Line Company,* 50 FERC ¶ 61,179 at 61,522 (1990).

V. CONCLUSION

For the reasons set forth above, the TAPS Carriers respectfully submit that the Commission should reject the Protest as procedurally improper and permit the January 27 Tariffs to remain in effect from February 1, 2020 forward, not subject to investigation or suspension.

Respectfully submitted,

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