



**BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Docket No. AD22-7-000

Notice of Inquiry

OIL PIPELINE CAPACITY ALLOCATION ISSUES AND ANOMALOUS CONDITIONS

AMERICAN FUEL & PETROCHEMICAL MANUFACTURERS COMMENTS

I. INTRODUCTION

The American Fuel & Petrochemical Manufacturers (“AFPM”) welcomes the opportunity to comment on the Federal Energy Regulatory Commission’s (the “Commission”) notice of inquiry on oil pipeline capacity allocation issues that can arise when anomalous conditions affect the demand for oil pipeline capacity (the “Notice”).¹ AFPM believes that current prorationing policies sufficiently address the allocation of capacity during and after anomalous conditions, and as a result the Commission does not need to take further actions to mitigate potential effects of anomalous conditions on pipeline allocations.

II. AFPM’S INTEREST IN THE COMMISSION’S NOTICE

AFPM is the leading trade association representing the makers of the fuels that keep us moving, the petrochemicals that are the essential building blocks for modern life, and the midstream companies that get our feedstocks and products where they need to go. We make the products that make life better, safer and more sustainable. AFPM members strengthen economic and national security while supporting more than 3 million jobs nationwide.

¹ See 87 Fed. Reg. 10355 “Oil Pipeline Capacity Allocation Issues and Anomalous Conditions”, Docket No. AD22-7-000, published February 24, 2022 <https://www.federalregister.gov/documents/2022/02/24/2022-03912/oil-pipeline-capacity-allocation-issues-and-anomalous-conditions>.



To produce these essential goods, AFPM members depend on all modes of transportation to move their products to and from refineries and petrochemical facilities. Pipelines are the primary mode for transporting feedstocks to refiners and petrochemical facilities and refined products from those same facilities to market. AFPM members depend on ratable and consistent supply of crude oil and other feedstocks for the transportation fuels and petrochemicals they manufacture. AFPM members require that same ratability and consistency in the transportation of refined products from their facilities to distribution terminals and other outlets serving consumers.

AFPM includes member companies that own and operate their own pipelines as well as member companies that rely on pipelines to ship feedstocks and their products. As both shippers and pipeline operators, AFPM's members bring a unique perspective on the issue of pipeline allocation and whether any changes are needed to address potential future anomalous conditions.

III. THE CURRENT OIL PIPELINE ALLOCATION SYSTEM IS EFFECTIVE AND CHANGES WILL ADVERSELY IMPACT OPERATIONS

The Commission is seeking comment on whether there are any actions the Commission should consider that would mitigate the effects of anomalous conditions on oil pipeline capacity allocations. AFPM believes that the existing allocation framework enables successful responses to disruptions in supply or demand. History-based prorationing and pro rata allocations are proven and effective mechanisms for dealing with fluctuations in supply and demand for pipeline space.

Our members that ship on pipelines make operational and financial decisions to build and preserve their shipper histories over the course of months and years. In reliance on these established allocation procedures, during the COVID-19 pandemic some of our members elected to maintain history on pipeline systems by making the commitment and investment to continue to ship in the face of decreased demand. Although some of these decisions may have been uneconomic in the short-term, maintaining sufficient capacity to meet customer demand as the pandemic eased provided long-term value. Suggestions that the Commission eliminate history-based prorationing and pro rata allocation is inappropriate and would penalize shippers who prioritized and invested in preservation of their histories during such events and would reward shippers who did not make such investments.

Many AFPM member companies meet their performance obligations by making long-term investments that ensure their ability to access pipeline capacity under the established allocation procedures. Some of the pipelines AFPM member companies rely upon have used history-based proration policies for decades. Given this precedent, shippers have made significant investment decisions based on location of their facilities to those pipelines. Furthermore, shippers have entered into long-term supply contracts. These business decisions were premised on the expectation that their shipper histories would allow for ratable and consistent utilization of pipeline capacity. Any change to the existing and established allocation systems currently in use throughout our industry would be unfair and could have adverse



economic impacts on these facilities, investments made in these facilities, performance under long-term supply contracts and upend a business model that market participants have relied on in making critical, long-term decisions for their businesses.

There is no need to modify existing capacity allocation methodologies. AFPM members will suffer negative economic impacts if the Commission implements new allocation procedures. New procedures may also create additional unintended consequences. For instance, if pipelines can no longer be relied upon to ratably provide the transportation that AFPM members depend upon, transportation modes and logistics operations upstream and downstream of the pipelines could suffer increased volatility and other potentially significant impacts to supplies.

The Commission should preserve the status quo and not create an amorphous “anomalous conditions” exception to the established allocation rules on which shippers and operators rely and significant investments have been made. Identifying specific shipper types or commodities as worthy of special treatment in the face of a disruption to supply or demand is contrary to common carrier obligations and would give rise to unnecessary discrimination. AFPM members have for years made strategic business decisions and investment to build and preserve their shipper histories, through typical and anomalous conditions, and it is not appropriate to penalize those shippers who prioritized and invested in preservation of their shipment histories during such events in order to reward those who did not.

IV. CONCLUSION

AFPM thanks the Commission for its time and consideration of our comments. AFPM shares the Commission’s goal of assisting consumers in obtaining reliable, safe, secure, and economically efficient energy services at a reasonable cost through appropriate regulatory and market means, and collaborative efforts. With pipeline allocation, we respectfully believe that market means, and the existing capacity allocation system developed through the collaborative efforts of multiple stakeholders are sufficient to address any anomalous conditions that may arise in the future, and that regulatory action is not necessary. Please contact me at (202) 457-0480 or rbenedict@afpm.org if you wish to discuss these issues further

Sincerely,

Rob Benedict,
Vice President, Petrochemicals & Midstream