

100 FERC ¶ 61, 139  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;  
William L. Massey, Linda Breathitt,  
and Nora Mead Brownell.

Shell Pipeline Company LP

Docket No. IS02-390-000

ORDER ACCEPTING TARIFF SUPPLEMENT

(Issued August 1, 2002)

1. On July 2, 2002, Shell Pipeline Company LP (Shell) filed Supplement No. 1 to its FERC Tariff No. S-37. Shell states that the Supplement is issued to cancel movements of crude oil from origin points at Jal, New Mexico; and Hendrick/Wink, Midland, Colorado City and Wichita Falls, Texas, to Patoka and Wood River, Illinois. Shell states that it is filing the Supplement because it is selling certain assets that are essential to the through movement of crude oil between these points. Shell requests a shortened notice period and seeks an effective date of August 1, 2002, for the Supplement. The proposed cancellation is protested. However, as discussed below, the Commission accepts Supplement No. 1 to Shell's FERC Tariff No. S-37 to be effective August 1, 2002. The Commission's decision is in the public interest because it cancels movements that Shell states it will no longer be able to make, while allowing shippers to continue transporting crude oil to the same destination points under current local rates.

**PROTEST AND ANSWER**

2. On July 25, 2002, Phillips Petroleum Company, Tosco Corporation, and Toscopetro Corporation (collectively, Tosco) filed a motion to intervene eight days out of time, a joint protest, and a request for rejection of Supplement No. 1 to Shell's FERC Tariff No. S-37. Tosco states that it operates a refinery at Wood River, Illinois, and that it ships a substantial volume of crude oil under Shell's FERC Tariff No. S-37. Tosco asserts that, under Shell's proposal to cancel its through rate,<sup>1</sup> it will be required to ship to

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<sup>1</sup>Tosco mischaracterizes Shell's through rates as "joint" rates. A joint rate is one  
(continued...)

its refinery under higher combined local rates from the origin points described above to an intermediate point at Cushing, Oklahoma, and then onward to its refinery.<sup>2</sup> Tosco maintains that Shell's proposal would increase its effective transportation rate by 20.12 cents, or 32.2 percent, and that the increase would violate the applicable indexed ceiling level.

3. On July 29, 2002, Shell filed an answer asking the Commission to reject Tosco's late-filed motion to intervene and protest. In the alternative, Shell argues that Tosco's protest lacks merit. Shell maintains that no joint rate is at issue here<sup>3</sup> and that its filing will not cause an improper rate increase. Shell explains that it is cancelling discounted through rates from points of origin in Texas and New Mexico to destination points in Illinois, but that a combination of its local rates through Cushing, Oklahoma, to the Illinois destinations will remain in effect to provide service to the Illinois delivery points. Shell further contends that those local rates comply with the indexed ceiling levels.

4. Shell cites the Commission's recent order in Express Pipeline LLC,<sup>4</sup> in which the Commission permitted cancellation of joint rates where the shippers could continue to ship under local rates. Shell reasons that, if participants in joint rates can discontinue voluntary discounts, then it must follow that a single carrier also can discontinue voluntary discounts on its pipeline. Shell points out that, in the Express order, the Commission emphasized that "[o]nce the discount is ended, shippers might be charged more, ... in no instance can shippers be charged more than the rates set forth in the

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<sup>1</sup>(...continued)

that applies to service over the lines of two or more carriers made by agreement between the carriers. Here, Shell is the only carrier.

<sup>2</sup>The movements from Cushing to the Illinois destinations are made under Shell's FERC Tariff No. S-15.

<sup>3</sup>Shell points out that section 341.0(a)(5) of the Commission's regulations defines a joint rate as one that applies for service over the lines or routes of two or more carriers. 18 C.F.R. § 341.0(a)(5) (2002).

<sup>4</sup>99 FERC ¶ 61,229 (2002).

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individual carrier's tariffs, all of which are subject to the jurisdiction of this Commission under the ICA."<sup>5</sup>

### DISCUSSION

5. The Commission will accept Tosco's motion to intervene out-of-time. Permitting the intervention at this stage of the proceedings does not delay or disrupt the proceedings, nor does it create an undue burden for Shell.

6. The through rate that Shell proposes to cancel constitutes a discount from the sum of its local rates from the subject origin points to Cushing, Oklahoma, and thence from Cushing to the subject Illinois destinations. Shell had chosen to offer the discount for one reason or another, perhaps, *e.g.*, to encourage increased throughput, but Shell is under no obligation to continue offering that discount. It can, thus, choose to end the discount at any time, and that is what it has done here. Service will continue to be offered under local rates set forth in Shell's jurisdictional tariffs. Accordingly, the Commission accepts Supplement No. 1 to Shell's FERC Tariff No. S-37 to be effective August 1, 2002.

#### The Commission orders:

Shell's Supplement No. 1 to FERC Tariff No. S-37 is accepted to be effective August 1, 2002.

By the Commission.

( S E A L )

Magalie R. Salas,  
Secretary.

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<sup>5</sup>*Id.* at 61,951.

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