

157 FERC ¶ 61,158  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Norman C. Bay, Chairman;  
Cheryl A. LaFleur, and Colette D. Honorable.

Shell Pipeline Company LP

Docket No. IS17-35-000

ORDER ACCEPTING TARIFF CANCELLATION FILING

(Issued November 30, 2016)

1. On October 31, 2016, Shell Pipeline Company LP (Shell) filed a cancellation notice, FERC Tariff No. S-128.13.0 (Cancellation Filing), cancelling its local tariff for movements on the Boxer Pipeline.<sup>1</sup> For the reasons discussed below, Shell's Cancellation Filing is accepted, effective December 1, 2016.

**Background**

2. Shell seeks to cancel its local tariff for the Boxer Pipeline, which involves movements from Block 19, Green Canyon and Ship Shoal Block 300 Injection, Offshore Louisiana to Ship Shoal Block 203, Offshore Louisiana.

3. At its destination point, the Boxer Pipeline interconnects with Shell's Eugene Island Pipeline System, which provides transportation from the South Marsh Island Area, the Eugene Island Area, and the Ship Shoal Area to Caillou Island Station in Terrebonne Parish, Louisiana.<sup>2</sup> In a separate docket, Shell concurrently filed to cancel a joint tariff between Shell and Zydeco Pipeline Company LLC ("Zydeco Pipeline") that covers movements on the Boxer Pipeline, the Eugene Island Pipeline, and the Zydeco Pipeline, for movements from Block 19, Green Canyon to Houma and St. James, Louisiana.<sup>3</sup>

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<sup>1</sup> The effective local tariff for the Boxer Pipeline as of the date of the Cancellation Filing is FERC Tariff No. S-128.12.0, Docket No. IS16-345-000.

<sup>2</sup> See Shell Pipeline Co. LP, Local Tariff, FERC Tariff No. S-131.8.0, Docket No. IS17-32-000.

<sup>3</sup> See Shell Pipeline Co. LP, Cancellation Notice, FERC Tariff No. S-149.14.0, Docket No. IS17-34-000.

Shell states that the cancellation of the joint tariff eliminates the need for the Boxer Pipeline to have a local tariff on file with the Commission.

4. Shell states that the local tariff for movements on the Boxer Pipeline is not subject to the Commission's jurisdiction under the Interstate Commerce Act (ICA)<sup>4</sup> because the pipeline is located entirely on the Outer Continental Shelf (OCS) and all oil movements on the pipeline take place entirely on the OCS. Shell states that it will continue to provide these transportation services under the terms of the Outer Continental Shelf Lands Act.<sup>5</sup>

### **Interventions and Protests**

5. On November 15, 2016, Fieldwood Energy LLC (Fieldwood) filed a motion to intervene and a protest. Fieldwood states that it has a substantial economic interest sufficient to afford it standing to protest the tariff filing because it is subject to the rate that Shell charges for transportation services on the Boxer Pipeline from Green Canyon Block 19 to the interconnect with the Eugene Island facilities via a netback arrangement with one of Shell's shippers.<sup>6</sup>

6. Fieldwood contends that the Cancellation Filing should be rejected because Shell failed to demonstrate that the pipeline segment from Green Canyon Block 19 to the interconnection with the Eugene Island Facilities is not subject to the Commission's jurisdiction.<sup>7</sup> Fieldwood argues that Shell's system exits the OCS to delivery points onshore, and that the oil shipped on its system ultimately moves in interstate commerce.<sup>8</sup> Fieldwood states that the Commission has found that pipelines that transport crude oil from the OCS to onshore points, for further delivery to interstate markets are subject to the ICA.<sup>9</sup>

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<sup>4</sup> 49 U.S.C. app. § 1 *et seq.* (1988).

<sup>5</sup> 43 U.S.C. § 1331 *et seq.*

<sup>6</sup> Protest at 2-3.

<sup>7</sup> *Id.* at 3.

<sup>8</sup> *Id.* at 4-5.

<sup>9</sup> *Id.* at 4 (citing *Mars Oil Pipeline Co.*, Letter Order, Docket No. IS04-214-000 (March 31, 2004)).

7. Fieldwood contends that Shell is attempting to arbitrarily bisect its system for the purpose of avoiding rate regulation.<sup>10</sup> Fieldwood further asserts that Shell cited no changed circumstances that justify a change in the jurisdictional status of the segment.<sup>11</sup> Fieldwood claims that if the Commission accepts the Cancellation Filing, there would be no check on Shell's ability to charge unreasonably high rates, which could result in shut-in production and the loss of valuable resources to market.<sup>12</sup>

### **Answer**

8. Shell filed an answer on November 21, 2016. Shell argues that Fieldwood's protest fails to provide any basis for investigation or suspension of the Cancellation Filing and should be rejected.<sup>13</sup> Shell asserts that the Boxer Pipeline is located entirely on the OCS and all movements take place wholly offshore.<sup>14</sup>

9. Shell argues that the Boxer Pipeline and Eugene Island Pipeline are separate and distinct pipeline systems. Shell states that the Boxer Pipeline consists of a 16-inch pipeline beginning at the Green Canyon Block 19 and terminating at a subsea tie-in with the Eugene Island Pipeline. The Boxer Pipeline includes a platform and pump station on Ship Shoal 241, which serves as an outlet for the Amberjack Pipeline. According to Shell, the Eugene Island Pipeline is a 20-inch pipeline that gathers crude oil from a number of offshore Louisiana platforms, Poseidon Pipeline, and the Boxer Pipeline for delivery to Zydeco Pipeline at Caillou Island, Louisiana. In addition, Shell argues that the pipelines each have their own separate ownership agreements with their respective joint owners. Shell states that the Boxer Pipeline is owned as an undivided interest by Shell, ExxonMobil Pipeline Company (EMP), Shell Oil Products US, BHP Billiton Limited, W&T Offshore Inc., and Samedan Pipe Line Corp. According to Shell, the Eugene Island Pipeline is owned as an undivided interest by Shell, EMP, Genesis Energy LP, Chevron Pipe Line Company, and Conoco Offshore Pipe Line Company.<sup>15</sup>

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<sup>10</sup> *Id.* at 3.

<sup>11</sup> *Id.* at 3-4.

<sup>12</sup> *Id.* at 2.

<sup>13</sup> Response of Shell Pipeline Company LP to Protest at 1.

<sup>14</sup> *Id.* at 2-3, 6-8. Shell's answer includes a map of the Boxer Pipeline as Appendix A.

<sup>15</sup> *Id.*

10. Shell argues that Fieldwood has provided no evidence to support the claim that Shell would be engaging in evasion of federal regulation. Shell asserts that the movement is being offered at the same rate as before under the joint tariff and federal law makes the movement fully subject to open access under the Outer Continental Shelf Lands Act.<sup>16</sup> Shell argues that the claim that Shell could raise rates and reduce production following the cancellation is gross speculation, Congress intended that intra-OCS transportation is not subject to rate regulation, and purchasers such as Fieldwood have optionality to move to shore on multiple carriers.<sup>17</sup>

11. Shell argues that Fieldwood lacks standing to protest because it failed to plead its substantial economic interest with specificity.<sup>18</sup> Shell states that while Fieldwood-produced crude is able to reach the Boxer Pipeline from Amberjack Pipeline, Shell's records indicate that Fieldwood is not a shipper on Shell's space on the Boxer Pipeline, and no purchaser of Fieldwood's crude is currently shipping on Shell's space on the Boxer Pipeline, but rather on another owner's space on the system.<sup>19</sup>

### **Discussion**

12. Pursuant to Rule 214 of the Commission's Rules and Regulations,<sup>20</sup> all timely filed motions to intervene and any unopposed motion to intervene out of time filed before this order issues are granted.

13. The Commission finds that Fieldwood has standing to protest the Cancellation Filing. Fieldwood-produced crude is able to reach the Boxer Pipeline from Amberjack Pipeline and Fieldwood is transporting its crude on the Boxer Pipeline through a netback arrangement with a shipper. Although it is unclear whether the arrangement is with a shipper on Shell's space or another owner's space on the Boxer Pipeline, Fieldwood has a substantial economic interest in the Cancellation Filing sufficient to afford standing.

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<sup>16</sup> *Id.* at 8.

<sup>17</sup> *Id.* at 8-9.

<sup>18</sup> *Id.* at 4 (citing 18 C.F.R. § 343.3(a); *Shell Pipeline Co. LP*, 104 FERC ¶ 61,021, at P 6 (2003); *Equilon Pipeline Co. LLC*, 91 FERC ¶ 61,210, at 61,021 (2000)).

<sup>19</sup> *Id.* at 5.

<sup>20</sup> 18 C.F.R. § 385.214 (2016).

14. The Commission accepts the Cancellation Filing, finding that the Boxer Pipeline is not subject to the Commission's jurisdiction under the ICA. The Boxer Pipeline extends from offshore origins in Green Canyon and Ship Shoal to an offshore destination point at Ship Shoal Block 203, where an interconnection with the Eugene Island Pipeline allows for ultimate delivery to onshore points. As the Commission has stated, "[i]t is clear that the ICA does not expressly cover pipelines transporting oil solely on or across the OCS."<sup>21</sup>

15. Section 1(1) of the ICA provides:

The provisions of this chapter shall apply to common carriers engaged in . . . [t]he transportation of oil . . . by pipe line . . . from one State or Territory of the United States, or the District of Columbia, to any other State or Territory of the United States, or the District of Columbia, or from one place in a Territory to another place in the same Territory, or from any place in the United States through a foreign country to any other place in the United States, or from or to any place in the United States to or from a foreign country, but only insofar as such transportation takes place within the United States.<sup>22</sup>

16. The Commission has found that inasmuch as the OCS is not a State or Territory of the United States, the OCS does not come within the ICA's jurisdictional language and, thus, the ICA does not apply to pipelines engaged in the transportation of oil on or across the OCS.<sup>23</sup> As the Commission stated in *Bonito Pipe Line*, "[t]he ICA would not apply to transportation within such a federal enclave unless the facilities exited the enclave and the oil moved in interstate commerce."<sup>24</sup> Here, as in that case, "the involved facilities do not leave the OCS, and, therefore do not give rise to jurisdiction."<sup>25</sup>

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<sup>21</sup> *Re Bonito Pipe Line Co.*, 61 FERC ¶ 61,050, at 61,221 (1992) (*Bonito Pipe Line*), *aff'd sub. nom. Shell Oil Co. v. FERC*, 47 F.3d 1186 (D.C. Cir. 1995); *Proteus Oil Pipeline Co., LLC*, 102 FERC ¶ 61,333, at P 29 (2003).

<sup>22</sup> 49 U.S.C. app. § 1(1) (1988).

<sup>23</sup> *See Bonito Pipe Line*, 61 FERC ¶ 61,050; *Oxy Pipeline, Inc.*, 61 FERC ¶ 61,051 (1992) (*Oxy Pipeline*); *Ultramar, Inc. v. Gaviota Terminal Co.*, 80 FERC ¶ 61,201 (1997) (*Ultramar v. Gaviota*).

<sup>24</sup> *Bonito Pipe Line*, 61 FERC at 61,221.

<sup>25</sup> *Id.*

17. Fieldwood's protest fails to clearly identify why the Cancellation Filing is not justified. The Commission finds that contrary to Fieldwood's argument, the pipeline at issue starts and ends on the OCS. While Fieldwood is correct that movements of crude oil from the OCS through the seaward boundary between the OCS and a state onshore for further movement in interstate commerce are jurisdictional under the ICA from the point at which they cross the seaward boundary,<sup>26</sup> the facilities here do not exit the OCS. As in *Ultramar v. Gaviota*, ICA jurisdiction attaches, if at all, only at that point where the oil crosses the seaward boundary.<sup>27</sup> Fieldwood's reliance on *Mars Oil Pipeline Co.* is therefore misplaced, because in that case, the Commission found that the "facilities exit the OCS and move onshore to Louisiana" from which point it could reasonably be assumed that the volumes ultimately entered the interstate market.<sup>28</sup> That is not the situation at hand, as the Boxer Pipeline is located entirely on the OCS.

18. The Commission finds there is nothing in Fieldwood's protest that demonstrates that Shell is attempting to improperly bisect its system. As Shell states, the Boxer Pipeline and Eugene Island Pipeline are separate and distinct pipeline systems, each with their own ownership agreement and different joint owners. The Boxer Pipeline is a 16-inch pipeline that transports crude oil from Green Canyon Block 19 to an interconnection with the Eugene Island Pipeline via a subsea tie-in, whereas the Eugene Island Pipeline is a 20-inch pipeline that gathers crude oil from offshore platforms, the Poseidon Pipeline, and the Boxer Pipeline for delivery to Zydeco Pipeline at Caillou Island.<sup>29</sup> The Commission finds no evidence that Shell is attempting to evade federal regulation. To the extent Shell continues to provide transportation services, the pipeline is subject to the provisions of the Outer Continental Shelf Lands Act, including the duty to provide open and non-discriminatory access.<sup>30</sup> The Commission also finds that Shell is not required to cite changed circumstances in order to cancel a tariff for movements that are not subject to the Commission's jurisdiction under the ICA.

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<sup>26</sup> *Ultramar v. Gaviota*, 80 FERC at 61,810; *Bonito Pipe Line*, 61 FERC at 61,221 n.22; *Oxy Pipeline*, 61 FERC at 61,228 n.14.

<sup>27</sup> *Ultramar v. Gaviota*, 80 FERC at 61,810.

<sup>28</sup> *Mars Oil Pipeline Co.*, Docket No. IS04-214-000, at 2-3 (March 31, 2014) (delegated letter order).

<sup>29</sup> See Shell Response at Appendix A.

<sup>30</sup> See 43 U.S.C. § 1334.

19. The Commission concludes that the Boxer Pipeline is not subject to the Commission's jurisdiction under the ICA as it is engaged in the transportation of oil entirely on the OCS. Accordingly, Fieldwood's arguments are rejected, and Shell's Cancellation Filing is accepted, to be effective December 1, 2016.

The Commission orders:

Shell's FERC Tariff No. S-128.13.0 is accepted, effective December 1, 2016, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,  
Deputy Secretary.