UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Shell Pipeline Company LP — Docket No. AC04-65-000

ORDER ON PROPER ACCOUNTING FOR DIVESTITURE OF PIPELINE ASSETS

(Issued December 23, 2004)

Summary

1. On June 29, 2004, Shell Pipeline Company LP (Shell) requested approval to record a $200,964,374 gain relating to a divestment of a significant portion of its pipeline assets in Account 645, Unusual or Infrequent Items. On August 6, 2004, Shell filed a supplement revising the amount of the gain to $205,293,092 and proposing to record the gain in either Account 645 or Account 676, Gain (Loss) on Disposal of Discontinued Segments. The Air Transport Association of America, Inc. (ATA) requested permission to intervene and protested Shell's proposed accounting for the divestiture of assets. For the reasons stated below, we approve Shell's proposed accounting provided the gain on the sale is recorded in Account 676 and grant the intervention of ATA. This order is in the public interest because it requires proper accounting recognition of the economic effects of a property sale consistent with the Commission's Uniform System of Accounts.

Background

A. The June 29, 2004 Filing

2. In its June 29, 2004 filing, Shell states that it has sold a significant portion of its pipeline assets with the result that, after the sale, its accounts show $139 million remaining in carrier property with related accrued depreciation of $110 million. Shell claims that if the gain on the sale of the property were booked to accrued depreciation it would result in inflation of its depreciation reserve. Thus, Shell requests that the gain be credited to Account 645.

B. Intervention and Protest

3. On July 28, 2004, the ATA filed a motion to intervene and protest. It claims it is entitled to intervene in this proceeding as it represents consumer and customer interests which may be affected by the outcome of the proceeding and its participation thus will serve the public interest. It states its members account for 90 percent of passenger and cargo traffic carried by scheduled airlines and are current and future shippers on Shell's system for interstate transportation of jet fuel. It argues its members will be directly affected by Shell's rates and the cost of service which underlies those rates, and the special accounting treatment requested could inflate Shell's regulatory cost of service and prejudice its members in future rate cases. ATA asserts the accounting treatment could also affect Page 700, Shell's annual Form No. 6 total cost of service filing used to compare rates and cost of service and to test the propriety of an oil pipeline's annual inflation adjustment.

4. In its protest, ATA asserts that the proposed accounting treatment is not justified under the Commission's accounting rules, particularly as it would allow Shell's investors to capture a gain on depreciated property which should properly inure to the benefit of Shell's ratepayers. Further, ATA claims that Shell has failed to show that its asset sale is unusual in nature or that normal accounting treatment would have an undue effect on depreciation reserves such as to justify special accounting treatment. ATA argues that the gain should be recorded to accumulated depreciation in the normal manner for the benefit of Shell's ratepayers and prevent Shell from using the gain as part of its asset base in its regulatory cost of service. ATA urges that the gain is not unusual, unique or extraordinary and not entitled to be credited to Account 645.

C. Shell's Supplement and Answer

5. Shell on August 6, 2004 revised its proposed gain to $205,293,092 and requested an alternative treatment of the gain by crediting Account 676. Shell also objects to ATA's motion for intervention and protest. Shell argues that ATA members have no standing as they will not be aggrieved by any order issued in this proceeding because the accounting treatment for the gain from the sale of the assets will not determine the disposition of these items for ratemaking purposes. Shell states that a similar divestiture of assets was recorded as a gain in Account 676 two years ago by the Chief Accountant and this proposal here should also be approved. Shell asserts that the assets sold to buyers remain in public service under new owners and the shippers will experience no rate increase impact as changes in the value of assets do not change the rates charged to shippers.

D. ATA's Answer

6. ATA filed an answer on August 19, 2004. ATA argues that it has a right to protest the application pursuant to Rule 211 of the Commission's regulations which permits any person to file a protest to any application. ATA also claims that the practices of common carriers are not limited to parties in privity. ATA asserts that the interests of its members are more than tenuous, as claimed by Shell, as they are current and future shippers on Shell's interstate pipeline system and consumers of jet fuel transported on Shell's interstate system. ATA is concerned with the impact of the proposed accounting treatment on carrier property and overall cost of service rather than Shell's selling pipeline assets. ATA asserts that it is concerned with the impact of the accounting treatment requested on the FERC Form No. 6 Page 700 regulatory cost of service reported on an annual basis, and the proposal could inflate the cost of service. ATA argues that the proposed accounting treatment is inconsistent with the Court of Appeal's holding[1] that changes in the value of the assets should be charged to the shareholders rather than the ratepayers, and thus Shell's application should be denied.

E. Shell's Response

7. On August 26, 2004, Shell filed a reply. Shell argues that an accounting treatment approved by the Commission is not determinative of the rate treatment that may be required for the same item and a protest to the rate impact can only be raised in a rate proceeding. As to the FERC Form No. 6 annual Page 700 report, Shell asserts that the accumulated depreciation will reflect the sale of these assets and an increase in carrier property would only be reported if there were plant additions, and thus the ability to use Page 700 to monitor pipeline cost of service would be unaffected by the proposed accounting treatment. Shell asserts that the court case cited by ATA regarding charging the value of assets has not been adopted by the Commission as the Commission has generally not included gains or losses from the sale of property in the ratemaking process, and thus the ratepayers are insulated from the gains or losses in the sale of property. Shell states that the proposal by ATA to deduct the gain from accumulated depreciation would materially distort the remaining facilities cost of service.

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[1] *Democratic Central Committee v. Washington Metropolitan Area Transit Comm.*, 485 F. 2d 786 (D.C. Cir. 1973).

Intervention

8. ATA's request for intervention is granted for good cause as it is an industry group representing shippers and customers whose interests could be affected by this proceeding.

Discussion

9. The Commission's accounting requirements generally provide for recording gains and losses from the sale of carrier property in Account 31, Accrued Depreciation-Carrier Property. However, where the sale of carrier property represents the disposal of a segment of business it must be accounted for in a particular manner.[2] Under the Uniform System of Accounts, the results of continuing operations are required to be reported separately from discontinued operations. Any gain or loss resulting from the disposal of a segment of a business must be reported in conjunction with the related results of discontinued operations and recorded in Account 676, rather than Account 31.[3] Reporting discontinued operations separately from continuing operations provides the Commission and others with decision-useful information that is relevant in assessing the effects of disposal transactions on the ongoing operations of an entity for ratemaking purposes, among other things.

10. The transaction at issue here represents a continuation of Shell's plan to divest all of its gathering operations as well as crude oil facilities in designated geographic markets. Implementation of this plan is occurring over a number of years and involves a number of separate asset sales. Taken as a whole, however, the asset sales made under this plan constitute the disposition of a segment of its business. Accordingly, the appropriate accounting for this asset disposition is to remove the historical cost and reserve for depreciation related to the property from the accounts and record the gain on the sale in Account 676 as required by our Uniform System of Accounts.

11. We disagree with ATA that this accounting will inflate Shell's regulatory cost of service and specifically the annual cost of service information reported on Page 700 of Shell's FERC Form No. 6. To the contrary, Shell's proposed accounting removes the cost of the assets and the related reserve for depreciation from its accounts. As a consequence, cost of service data compiled from its accounting records after the sale will be based only on the cost of the assets it continues to own and provide service from.

[2] *See* Definition 32(a) of 18 CFR Part 352 (2004).

[3] *See* General Instruction No. 1-6(c), Discontinued Operations, of 18 CFR Part 352 (2004).

12. We also disagree with ATA's assertion that the proposed accounting is not justified because it would allow Shell's investors to capture a gain on depreciated property which should properly inure to the benefit of its ratepayers. Our decision here determines the proper financial accounting for this transaction. That is, how it should be entered into Shell's accounts. It is a long-standing practice that the accounting treatment of an item does not determine the disposition of an item for ratemaking purposes.[4] The ratemaking treatment of the gain is a separate determination and not an issue here.

The Commission orders:

Shell's proposed accounting for the sale of its facilities as set forth in its filing dated June 24, 2004 as supplemented by its filing dated August 6, 2004 is approved provided that the gain on the sale is recorded in Account 676.

By the Commission.

(S E A L)

Linda Mitry,
Deputy Secretary.

[4] *See Ozark Gas Transmission LLC*, 101 FERC ¶ 61,205 (2002).