FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

March 31, 2004

OFFICE OF MARKETS, TARIFFS AND RATES

In Reply Refer to:
Letter Order Pursuant to ' 375.307(j)(2)
Mars Oil Pipeline Company
Docket No. IS04-214-000

Mars Oil Pipeline Company
Two Shell Plaza
P.O. Box 2648
Houston, Texas 77252-2648

Attention: Joan Weessies, Director
Economic Regulation and Tariff Services

Reference: Rejection of Cancellation Notices

Ladies and Gentlemen:

On March 1, 2004, Mars Oil Pipeline Company (Mars) filed Cancellation Notices[1] to cancel its FERC Tariffs to become effective April 1, 2004. Mars states that in accordance with the Commission's decision in Bonito Pipeline Co., 61 FERC ¶ 61,050 (1992) , Mars is not within the Commissions jurisdiction because it only transports crude oil from the Outer Continental Shelf (OCS) to points within Louisiana, without crossing into another state. The Commission rejects Mars proposed Cancellation Notices as inconsistent with the Commission's actions in Bonito. Mars must notify all subscribers of the Commission's action here.

Mars' transports crude oil from origin points at Mississippi Canyon Blocks 807 and 809, offshore Louisiana, and West Delta Block 117, offshore Louisiana to destination points at Clovelly and Fourchon, LaFourche Parish, onshore Louisiana. On March 17, 2004, the Commission sent a letter requesting Mars provide additional information to support its claim of non-jurisdictional status, and specifically, the ultimate destination of the crude oil delivered at Clovelly and Fourchon.

[1]Supplement No. 2 to FERC No. 16, Supplement No. 4 to FERC No. 17, Supplement No. 6 to FERC No. 19, Supplement No. 4 to FERC No. 22 and Supplement No. 1 to FERC No. 23.

On March 24, 2004, Mars filed its response. Mars states that it delivers all the barrels it transports to Clovelly into the Mars storage cavern system. Mars claims there are no direct through movements from Mars to destinations downstream of Clovelly and that shippers make nominations for further transportation to downstream carriers without the participation or knowledge of Mars. Mars states that four outbound pipelines directly interconnect at the Mars Clovelly storage cavern, however, Mars does not own or control any of them. Mars adds that it delivers the barrels its transports to Fourchon to Chevron's terminal which connects to Chevron Pipe Line Company.

In Bonito the Commission ruled that it did not have jurisdiction over pipelines located wholly on the OCS. The Bonito Pipe Line Company (Bonito) is located solely on the OCS, extending 71 miles from Eugene Island Block 330 to Ship Shoal Block 28, where crude oil is tendered to another pipeline for ultimate delivery to onshore points. In Bonito, the Commission stated that the Outer Continental Shelf Lands Act (OCSLA), at 43 U.S.C. §1333(a)(1), provides that the OCS is to be treated as "an area of exclusive federal jurisdiction located within a State" for the purposes of applying federal laws. The Interstate Commerce Act (ICA) would not apply to transportation within such a federal enclave unless the facilities exited the enclave and the oil moved in interstate commerce. Here, in contrast to Bonito pipeline's facilities, the Mars facilities exit the OCS and move onshore to Louisiana.

Staff's review of the oil pipelines' tariffs on file with the Commission that connect with Mars destination points at Clovelly and Fourchon, shows that the tariffs permit the movement of barrels originating from the aforementioned points to destinations outside of Louisiana, and thus constitute movements in interstate commerce.[2] The Commission previously addressed the proposition that pipeline transportation of crude oil from the OCS to onshore Louisiana for movement to a refinery in Mississippi, without any break in the transportation to Mississippi is a FERC jurisdictional movement.[3] Furthermore, in Bonito and Oxy Pipeline, Inc., et al. the Commission stated that "[a] pipeline that starts on the OCS and transports oil through the seaward boundaries of the State to shore for further movement in interstate commerce is jurisdictional under the ICA. 43 U.S.C.

[2] E.g., Shell Pipeline Company's FERC No. S-19 provides for shipment of crude petroleum originating at Clovelly in LaFourche Parish, Louisiana to destinations in Channelview, East Houston and Nederland, Texas; and Chevron Pipe Line Company's FERC Nos. 536, 709 and 819 provide for movements from Fourchon to Empire Terminal, Louisiana where crude oil can move from that point into Longview, Texas under ExxonMobil Pipeline Company's FERC No. 178.

[3] South Timbalier Pipeline System, 29 FERC ¶ 61,345 (1984).

§§1311-1315."[4] We believe Mars fails to demonstrate that all the volumes transported to Clovelly and Fourchon are destined for the intrastate market. Moreover, in a response to staff's data request, Mars states that volumes leaving Clovelly or Fourchon may enter interstate commerce, but that it is impossible to determine which barrels transported by Mars do so. Absent tangible evidence from Mars to the contrary, it is reasonable to assume that significant portion of the barrels delivered to Clovelly and Fourchon ultimately enter the interstate market. Accordingly, Mars' FERC tariffs must remain jurisdictional, and the Commission herein rejects Mars' proposed Cancellation Notices.

This order constitutes final agency action.

Sincerely,

Michael C. McLaughlin, Director
Division of Tariffs and Market
Development - Central

[4] Bonito at p. 61,221, footnote 22; see also, 61 FERC ¶ 61,051 (1992) at p. 61,228, footnote 14.