

UNITED STATES OF AMERICA 97 FERC ¶ 61,381  
FEDERAL ENERGY REGULATORY COMMISSION

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

Amberjack Pipeline Company

Docket No. IS02-42-000

ORDER ACCEPTING FILING FOR INFORMATIONAL PURPOSES

(Issued December 27, 2001)

On November 15, 2001, Amberjack Pipeline Company (Amberjack), a partnership of Equilon Pipeline Co. and Chevron Pipe Line Co., filed Supplement No. 1 to its FERC Tariff Nos. 2 and 3, to be effective December 28, 2001. Amberjack is seeking to cancel those tariffs that cover the transportation of crude oil from offshore Louisiana Green Canyon Block 65 to Green Canyon Block 19. The public interest is served by clarifying the question of jurisdiction over the movements at issue.

Description of Filing

Amberjack asserts that the movement of crude oil from Green Canyon Block 65 to Green Canyon Block 19 over its pipeline is not subject to the Commission's jurisdiction under the Interstate Commerce Act (ICA), and therefore, its tariffs for that movement on file with the Commission should be canceled. Amberjack asserts its operations will continue to be subject to the Outer Continental Shelf Lands Act (OCSLA) and it will continue to provide non-discriminatory open access transportation of crude oil under rules promulgated and published by Equilon.

Interventions and Protests

On December 3, 2001, BP Exploration and Production, Inc. (BP) filed a motion to intervene and protest. BP states that it and its affiliates ship crude petroleum from offshore Louisiana fields on Amberjack. BP states that Amberjack proposes to impose

certain rules that, if permitted to become effective on December 28, 2001, would be unjust and unreasonable.<sup>1</sup>

On December 6, 2001, ExxonMobil Oil Corporation (ExxonMobil) filed a petition to intervene and protest.<sup>2</sup> ExxonMobil states that it is a shipper on Amberjack and thus would be injured by unregulated rate increases if Amberjack is permitted to cancel its FERC tariffs.

### Amberjack's Answers

On December 10, 2001, Amberjack filed a response to the protest of BP<sup>3</sup> urging that the protest be rejected. Amberjack argues that it should not be subject to the Commission's jurisdiction because its pipeline transports oil solely on or across the OCS, citing Bonito Pipe Line Co., 61 FERC ¶ 61,050 (1992) for the principle that the OCS does not come within the ICA's jurisdictional language, and transportation wholly within the OCS is excluded from the coverage of the ICA.

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<sup>1</sup>BP asserts that while Amberjack claims that the cancellation of the FERC tariffs would result in no change in the rates paid by shippers, Amberjack in fact proposes to increase costs to shippers by requiring nominations to be fulfilled or be subject to a penalty payment. Additionally, BP claims that Amberjack proposes to impose an interest charge for late payments under rules it intends to place in effect upon cancellation of its FERC tariffs. In Amberjack's response of December 10, 2001, it states that BP's objections to the proposed new rules are moot because the initial issuances were incorrect and Amberjack intends, with one minor addition, to maintain its existing rules.

<sup>2</sup>ExxonMobil states its petition to intervene and protest should be accepted as a late-filed protest, as it views Amberjack's tariff filing as a petition for declaratory order of nonjurisdiction as opposed to a change in jurisdictional rates. At this early stage in the proceeding, ExxonMobil's late filing will not disrupt the proceeding and is accepted.

<sup>3</sup>Amberjack asserts that BP Exploration and Production, Inc. is not and has not been a shipper on Amberjack and therefore is not entitled to protest this filing. On the other hand, Amberjack admits that other BP affiliates may be shippers on Amberjack. In view of the possible confusion of affiliate titles, the Commission will admit BP as an intervenor.

On December 13, 2001, Amberjack filed an answer to the intervention and protest of ExxonMobil, asserting that it was not a valid protest as it was filed late and did not contain a verified statement of ExxonMobil's economic interest in the filing.<sup>4</sup> Amberjack states that merits of ExxonMobil's protest have been fully answered in its response to BP.

### Discussion

The only question is whether Amberjack's transportation at issue here is wholly on the OCS and, thus, not within the Commission's jurisdiction under the ICA. Amberjack's Tariff Nos. 2 and 3 cover the transportation of crude oil from offshore Louisiana Green Canyon Block 65 to Green Canyon Block 19, both points in the OCS. The transportation thus is wholly on the OCS. The Commission has previously concluded that the ICA does not cover the transportation of crude oil on the OCS and hence the OCS does not come within the ICA's jurisdictional language.<sup>5</sup> Therefore, Amberjack's FERC tariffs for this movement, in effect, could not be tariffs under the ICA, and thus, were no more than an informational posting. Since Amberjack's filing characterized as Tariff Nos. 2 and 3 are of no force and effect as tariffs under the ICA, it is unnecessary for Amberjack to file to cancel them. Accordingly, the Commission will accept Amberjack's Supplement No. 1 to Tariff Nos. 2 and 3 for informational purposes only. Other issues raised by the parties are not relevant to the issue of jurisdiction and need not be addressed under the circumstances outlined above. The protests therefore are rejected.

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<sup>4</sup>Amberjack has not contested ExxonMobil's status as a shipper, and its late-filed petition to intervene and protest have not delayed the proceeding. Amberjack's objections on ExxonMobil's right to intervene in the proceeding and protest the filing are therefore rejected.

<sup>5</sup>See, e.g., Bonito Pipe Line Co., 61 FERC ¶ 61,050 at 61,221 (1992).

The Commission orders:

Amberjack's Supplement No. 1 to its FERC Tariff Nos. 2 and 3 are accepted for informational purposes.

By the Commission.

( S E A L )

Linwood A. Watson, Jr.,  
Acting Secretary.