Federal Trade Commission
Protecting America's Consumers

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Shell, Texaco To Divest Assets To Settle FTC Charges

Shell Oil Company and Texaco, Inc., have agreed to divest a package of assets, including Shell's Anacortes, Washington, refinery; a Hawaiian terminal; and retail gasoline stations in Hawaii and in California, to settle Federal Trade Commission charges that their proposed joint venture could raise gasoline prices by tens of millions of dollars and would violate federal antitrust laws. The assets would be divested to Commission-approved buyers and the sales would be consummated within six months of final approval of the settlement.

"This settlement is a victory for motorists," said William J. Baer, Director of the FTC's Bureau of Competition. "It preserves competition and assures that consumers will not pay more for gasoline and other petroleum products, especially on the West Coast."

In investigating this joint venture, the Commission worked closely with the staffs of the Attorneys General of California, Washington, Oregon and Hawaii, and those Attorneys General also are commencing actions and entering into consent decrees with Shell and Texaco, seeking similar relief.

According to the complaint detailing the charges, the proposed joint venture would violate federal antitrust laws by lessening competition in:

- the market for gasoline and jet fuel in the states of Washington and Oregon, west of the Cascade mountains, including the Washington cities of Seattle, Tacoma, Olympia, and Bremerton, and the Oregon cities of Portland, Salem, and Eugene;
- the market for the specially formulated, cleaner burning gasoline (CARB) required in the state of California, and the wholesale and retail markets for CARB in San Diego County;
- the markets for gasoline and diesel fuel on the island of Oahu, Hawaii;
- the transportation of refined light petroleum products to portions of the states of Mississippi, Alabama, Georgia, South Carolina, North Carolina, Virginia and Tennessee; and
- the market for asphalt in the northern portion of the state of California.

Texaco and Shell would be required to divest assets or make other commitments in each of the affected geographic areas to restore competition as part of the settlement.

Both Shell and Texaco own refineries in Puget Sound. Between them, they make about 50 percent of the gasoline refined in the Puget Sound area. The FTC complaint alleges that eliminating that direct competition could raise prices for gasoline and jet fuel in the Pacific Northwest and CARB in California by more than $150 million a year. To settle the FTC charges Shell would divest its Anacortes, Washington, refinery and would allow its dealers and jobbers in Washington and Oregon to affiliate with the new owner if they choose to do so.

Shell and Texaco are two of the six oil companies that control approximately 90 percent of the wholesale and retail gasoline market in San Diego County. According to the FTC complaint, the proposed joint venture would enhance prospects of collusion by the existing competitors and could increase prices for San Diego consumers by more than $10 million a year. To settle the FTC charges, Shell and Texaco would be required to divest a sufficient number of gasoline stations to a single new entrant to create a viable new competitor.

Both companies also own oil terminals and retail operations on Oahu. According to the FTC complaint, the competition lost through the proposed joint venture could increase costs of petroleum products for Hawaiian consumers by more than $2 million a year. To settle charges that the joint venture could increase prices of gasoline and diesel fuel on the island, the agreement would require divestiture of Shell's or Texaco's Oahu terminal and retail assets.

Shell and Huntway Refining Company make about 85 percent of the asphalt used in northern California and both buy the undiluted heavy crude used to make it from Texaco, which transports it through its heated pipeline. As a result of the joint venture, Texaco could raise Huntway's cost for the undiluted heavy crude, raising its prices for asphalt and allowing Shell to increase its asphalt prices as well. The joint venture could result in an increase in asphalt prices for northern California consumers of nearly $1 million a year, the FTC alleges. Under the terms of the settlement, the joint venture would enter into a Commission-approved, 10-year supply agreement with Huntway to prevent price increases and assure adequate supply.

Two pipelines -- Colonial and Plantation -- compete in transporting light petroleum products (including gasoline, diesel fuel and jet fuel) from Gulf Coast refineries to the Southeast and Northeast, and provide virtually all light petroleum products, including gasoline, diesel fuel and jet fuel, used in inland portions of seven southeastern states. Shell owns approximately 24 percent of the Plantation pipeline and Texaco owns approximately 14 percent of Colonial. The joint venture would give both companies access to sensitive competitive information about the other pipeline and would put them in a position to influence the decisions of both pipelines, thereby threatening to reduce competition and raise prices. To prevent those threats to the competition between the pipelines, the settlement would require divestiture of either Texaco's interest in the Colonial pipeline or Shell's interest in the Plantation pipeline.

The agreement would require prior Commission notification, for ten years, of the acquisition of any petroleum refining assets in Alaska, California, Oregon or Washington valued at $100 million or more.

Divestiture of all assets would have to take place within six months of the date of final approval of the agreement.

Shell and Texaco are among the world's largest integrated oil companies, with refinery, distribution and retail operations nationwide. Shell operates 3,400 retail outlets across the country and Texaco and its affiliates operate approximately 14,000 retail outlets that sell Texaco-brand gasoline. The companies have proposed a $17 billion joint venture to combine their U.S. refining, transportation and marketing operations. The venture would

create the single largest refiner and marketer of petroleum products in the United States. Shell is based in Houston, Texas. Texaco is headquartered in White Plains, New York.

The Commission vote to approve the proposed consent agreement was 4-0 with Commissioner Mary L. Azcuenaga concurring in part and dissenting in part and Commissioner Mozelle W. Thompson not participating. In her statement, Commissioner Azcuenaga said, "I find reason to believe that the joint venture, if consummated, would affect competition adversely in the refining of asphalt in Northern California and, therefore, support Paragraph VII of the order, which provides relief in that market. I do not find reason to believe the other violations of law alleged in the complaint and, therefore, dissent from Paragraphs II, III, IV and V of the order, which require divestitures in other markets. Although the allegation relating to refineries in the northwestern United States is arguably valid, on balance, I cannot support it and, therefore, cannot support Paragraph II of the order. The complaint allegations that support Paragraphs III, IV and V of the order seem to me far removed from our usual analysis under the merger guidelines. " I understand that the parties have negotiated identical relief with various state attorneys general and that the divestitures in the proposed Commission order will be required in any event. My obligation, however, is to apply federal law as I see it."

A summary of the proposed consent agreement will be published in the Federal Register shortly and will be subject to public comment for 60 days, after which the Commission will decide whether to make it final. Comments should be addressed to the FTC, Office of the Secretary, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580.

NOTE: A consent agreement is for settlement purposes only and does not constitute an admission of a law violation. When the Commission issues a consent order on a final basis, it carries the force of law with respect to future actions. Each violation of such an order may result in a civil penalty of $11,000.

Copies of the **complaint, proposed consent agreement, and an analysis** to aid public comment are available on the Internet at the FTC's World Wide Web site at: http://www.ftc.gov and also from the FTC's Consumer Response Center, Room 130, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580; 202-326-3128; TTY for the hearing impaired 1-866-653-4261. To find out the latest news as it is announced, call the FTC NewsPhone recording at 202-326-2710.

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