Copies of the filing were served on Torco Energy Marketing, Inc., the Illinois Commerce Commission, the Kentucky Public Service Commission, Public Utilities Commission of Ohio and the Indiana Utility Regulatory Commission.

Comment date: August 2, 1995, in accordance with Standard Paragraph E at the end of this notice.

28. CINergy Services, Inc.

[Docket No. ER95–1345–000]

Take notice that on July 7, 1995, CINergy Services, Inc. (CIN), tendered for filing on behalf of its operating companies, The Cincinnati Gas & Electric Company (CG&E) and PSI Energy, Inc. (PSI), an Interchange Agreement, dated June 1, 1995, between CIN, CG&E, PSI and Tennessee Power Company (TPCO).

The Interchanges Agreement provides for the following service between CIN and TPCO.

1. Exhibit A—Power Sales by TPCO
2. Exhibit B—Power Sales by CIN

CIN and TPCO have requested an effective date of August 1, 1995.

Copies of the filing were served on Tennessee Power Company, the Tennessee Public Service Commission, the Kentucky Public Service Commission, Public Utilities Commission of Ohio and the Indiana Utility Regulatory Commission.

Comment date: August 2, 1995, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph:

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–18329 Filed 7–25–95; 8:45 am]

BILLING CODE 6717–01–P

Notice of Application Filed With the Commission

July 20, 1995.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Amendment of License.

b. *Project No.:* 2586–018.

c. *Date filed:* July 3, 1995.

d. *Applicant:* Alabama Electric Cooperative, Inc.

e. *Name of Project:* Gantt Project.

f. *Location:* The project is located on the Conecuh River in Crenshaw and Covington Counties, Alabama.

g. *Filed pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* John Tisdale, Alabama Electric Cooperative, Inc., P.O. Box 550, Andalusia, AL 36420, Phone: (334) 222–2571.

i. *FERC Contact:* Jon E. Cofrancesco, (202) 219–0079.

j. *Comment Date:* August 18, 1995.

k. *Description of Amendment:* Alabama Electric Cooperative, Inc. (licensee), proposes to drawdown the project's Point A reservoir 6–10 feet for 90 days to allow the installation of a concrete basin for a cooling tower associated with the McWilliams Steam Plant 150 yards downstream from the Gantt Dam and the installation of a boat ramp adjacent to the Gantt Dam.

. This notice also consists of the following standard paragraphs: B, C1, and D2.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C1. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Lois D. Cashell,

Secretary.

[FR Doc. 95–18291 Filed 7–25–95; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 11419–001 Oregon]

Abert Rim Hydroelectric Associates; Notice of Surrender of Preliminary Permit

July 20, 1995.

Take notice that Abert Rim Hydroelectric Associates, Permittee for the Abert Rim Project No. 11419, has requested that its preliminary permit be terminated. The preliminary permit for Project No. 11419 was issued October 5, 1993, and would have expired September 30, 1996. The project would have been located on Lake Abert and Rabbit Creek, in Lake County, Oregon.

The Permittee filed the request on July 12, 1995, and the preliminary permit for Project No. 11419 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Lois D. Cashell,

Secretary.

[FR Doc. 95–18292 Filed 7–25–95; 8:45 am]

BILLING CODE 6717–01–M

Office of Hearings and Appeals

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals (OHA) of the Department of Energy announces the procedures for disbursement of $29,376,255.50 (plus accrued interest) in alleged or adjudicated crude oil overcharges obtained by the DOE from Western Asphalt Service, Inc. (Case No. LEF–0047), Gray Trucking Company (Case No. LEF–0120), William Valentine & Sons, Inc. (Case No. LEF–0123), Dorchester Master Limited Partnership (Case No. VEF–0005), Howell Corporation (Case No. VEF–0006), Placid Oil Company (Case No. VEF–0008), Eton Trading Corporation (Case No. VEF–0009) and Rodgers Hydrocarbon Corporation (Case No. VEF–0010). The OHA has determined that the funds obtained from these firms, plus accrued interest, will be distributed in accordance with the DOE's Modified Statement of Restitutionary Policy in Crude Oil Cases, 51 FR 27899 (August 4, 1986).

FOR FURTHER INFORMATION CONTACT: Richard W. Dugan, Associate Director, Office of Hearings and Appeals, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 586–2860.

SUPPLEMENTARY INFORMATION: In accordance with 10 CFR 205.282(c), notice is hereby given of the issuance of the Decision and Order set forth below. The Decision and Order sets forth the procedures that the DOE has tentatively formulated to distribute a total of $29,376,255.50, plus accrued interest, remitted to the DOE by Western Asphalt Service, Inc., Gray Trucking Company, William Valentine & Sons, Inc., Dorchester Master Limited Partnership, Howell Corporation, Placid Oil Company, Eton Trading Corporation and Rodgers Hydrocarbon Corporation. The DOE is currently holding these funds in interest bearing escrow accounts pending distribution.

The OHA will distribute these funds in accordance with the DOE's Modified Statement of Restitutionary Policy in Crude Oil Cases, 51 FR 27899 (August 4, 1986) (the MSRP). Under the MSRP, crude oil overcharge monies are divided among the federal government, the states, and injured purchasers of refined petroleum products. Refunds to the states will be distributed in proportion to each state's consumption of petroleum products during the price control period. Refunds to eligible purchasers will be based on the volume of petroleum products that they purchased and the extent to which they can demonstrate injury.

Because the June 30, 1995, deadline for the crude oil refund applications has passed, no new applications from purchasers of refined petroleum products will be accepted for the 20 percent of these funds allocated to individual claimants. Instead, that share of the funds will be added to the general crude oil overcharge pool used for direct restitution.

Date: July 17, 1995.

George B. Breznay,

Director, Office of Hearings and Appeals.

July 17, 1995.

Decision and Order of the Department of Energy; Implementation of Special Refund Procedures

Names of Firms: Western Asphalt Service, Inc. *et al.*

Dates of Filing: July 17, 1992 *et al.*

Case Numbers: LEF–0047 *et al.*

The Office of General Counsel, Regulatory Litigation (''OGC'') (formerly the Economic Regulatory Administration (ERA), Office of Enforcement Litigation), filed Petitions for the Implementation of Special Refund Procedures with the Office of Hearings and Appeals (OHA) to distribute funds which the eight firms listed in the Appendix to this Decision and Order remitted to the DOE pursuant to court-approved settlements between the parties and the DOE, DOE consent orders or remedial orders.

In accordance with procedural regulations codified at 10 C.F.R. Part 205, Subpart V (Subpart V), the OGC requested in its Petitions that the OHA establish special refund procedures to remedy the effects of the regulatory violations which were resolved by these proceedings. This Decision and Order sets forth the OHA's final plan to distribute these funds.

I. Background

As indicated by the following summaries of the relevant enforcement proceedings, all of the funds that are subject to this Decision were obtained by the DOE as a result of alleged or adjudicated crude oil overcharges.

A. Western Asphalt Service, Inc. (Western)

During the period of Federal petroleum price controls, Western was engaged in crude oil refining and reselling.[1] The firm was therefore subject to regulations governing the pricing of crude oil set forth at 10 CFR parts 205, 210, 211, and 212 of the Mandatory Petroleum Price and Allocation Regulations. As a result of an ERA audit of its operations, a Proposed Remedial Order (PRO) was issued to Western on April 4, 1984 pursuant to 10 CFR part 205, Subpart O (ERA Docket No. 940X00182). The PRO alleged violations of the pricing and certification rules that applied to crude oil resellers. Essentially, the firm was charged with selling price-controlled crude oil at unlawfully high prices in violation of the provisions of 10 CFR part 212, Subpart L and 10 CFR § 212.131. In another enforcement proceeding, on May 7, 1981, a Notice of Probable Violation (NOPV) was issued to Western which alleged that the firm unlawfully received Small Refiner Bias Entitlements (ERA Docket No. N00S90197) in April and May 1977. These alleged violations of DOE crude oil regulations by Western were settled by a Consent Order between the firm and DOE on May 30, 1984. The PRO was therefore withdrawn and the NOPV was rescinded. Western agreed to remit $300,000, plus interest, to the DOE for deposit in an interest-bearing escrow account. Western has complied with this obligation, remitting a total of $390,059.12 to the DOE. In return, the DOE has released Western from any liability regarding its failure to comply with the Federal petroleum price and allocation regulations during the period August 19, 1973 through January 27, 1981, with the sole exception of any potential violations of the Entitlements Program after September 30, 1980.

B. Gray Trucking Company (Gray)

Gray was also a crude oil reseller during the period of price controls. On March 29, 1982, Gray and the DOE entered into a Consent Order whereby Gray would remit $31,500, plus interest, to the DOE for deposit in an interest-bearing escrow account. The DOE agreed not to pursue its claim that, during the period March 1977 through January 1980, Gray overcharged its customers by charging unlawfully high prices for crude oil in violation of 10 CFR part 212, subparts F and L. Despite its agreement with the terms of the Consent Order, Gray failed to comply fully with its financial obligations to the DOE, and remitted only $4,738.86 to the DOE. On October 15, 1985, the U.S. District Court for the Northern District of Texas, Amarillo Division, granted the DOE an Amended Judgment against Gray for an additional $34,625. However, the Amended Judgment has not resulted in any additional payments to DOE by Gray. ERA has petitioned that the $4,738.86, plus accrued interest, obtained from Gray be distributed by OHA in accordance with the Subpart V regulations.

C. William Valentine & Sons, Inc. (Valentine)

Valentine was engaged in crude oil reclamation during the period May 1979 through December 1980.[2] Through an unincorporated subsidiary, Big Muddy Oil Processors Inc. (Big Muddy), Valentine obtained waste crude oil from oil spills, pipeline ruptures, waste oil pits and oil tank bottoms. After numerous separation and filtering processes, the waste oil was mixed with various blending agents (naphthas, natural gasoline, natural gas by-products, etc.) and the resulting product was sold as pipeline-quality crude oil. Big Muddy, and by extension Valentine, was therefore a reseller of crude oil, subject to the provisions

[1] Western Asphalt Service, Inc., W.F. Moore and Son, Inc., and Gibson Oil and Refining Company were all controlled by Wilfred Paige van Loben Sels during the price control period. Textual references to ''Western'' in this Decision include all parties to the Western Consent Order.

[2] William Valentine and Sons, Inc., Valentine Construction, Inc., Dale L. Valentine, Verna Valentine, and James L. Marchant are collectively referred to as ''Valentine'' in the text. All are parties to the Settlement Agreement which resolved DOE claims against them.

of 10 CFR part 212, subpart L, which governed the resales of crude oil.

An ERA audit uncovered evidence that Valentine sold crude oil at unlawfully high prices during the period May 1979 through December 1980. On December 2, l987, OHA issued a Remedial Order (RO) to Valentine directing the firm to refund $1,454,876 in overcharges, plus interest. See William Valentine and Sons, Inc., 16 DOE ¶ 83,025 (1987). Valentine appealed OHA's determination to the Federal Energy Regulatory Commission (FERC). On March 23, 1989, FERC rejected Valentine's Appeal of the RO and upheld OHA's findings. See William Valentine and Sons, Inc., 46 FERC ¶ 61,252 (1989). Valentine appealed that decision and, on January 24, 1990, the U.S. District Court for the District of Wyoming ruled that Valentine's challenge to the RO and to FERC's ruling was without merit. At the same time, the Court also approved a Settlement Agreement in which Valentine agreed to remit to DOE no less than $108,739 plus interest. In return, DOE agreed to deem Valentine in full compliance with the price control program and to release all administrative and civil claims against the firm. Valentine has paid $126,402.66 into an interest-bearing DOE escrow account in compliance with the Settlement Agreement.

D. Dorchester Master Limited Partnership (DMLP)

During the period of petroleum price controls, the firms which now comprise DMLP [3] were engaged in crude oil refining and reselling. The firms were therefore subject to regulations governing the pricing and allocation of crude oil set forth at 10 C.F.R. Parts 211 and 212. In an audit which covered the period from November 1, 1974 through August 1979 the ERA identified instances in which it believed that Dorchester's refinery subsidiary and reseller division engaged in the improper switching of crude oil certifications in violation of 10 C.F.R. 211.67 (the Crude Oil Entitlements Program) and 212.131(b). As a result of the ERA audit, a PRO was issued to Dorchester on March 19, 1982 (Case No. 6A0X00278). The OHA affirmed the findings of the PRO and issued an RO to Dorchester on March 11, 1985. *Dorchester Gas Corp.*, 12 DOE ¶ 83,034 (1985), appeal docketed, No. R085–12–000 (FERC April 22, 1985). As a result of another ERA audit, on March 9, 1983, a PRO was issued to Doram and Damson, the other firms now comprising DMLP, alleging that during the period March 1980 through December 1980, they received illegal revenue by reselling crude oil at prices in excess of those permitted by applicable crude oil reseller price regulations. An RO was issued to those two firms on March 12, 1987. *Doram Energy, Inc.*, 15 DOE ¶ 83,024 (1987), *modified*, 16 DOE ¶ 83,006 (1987), appeal docketed, No. R087–16–000 (FERC April 6, 1987).

On April 4, 1988, a Consent Order was executed between DMLP and the DOE which resolved a number of outstanding issues involving DMLP. Under the terms of the settlement, DMLP would pay the DOE a maximum of $65 million but no less than $11 million, plus installment interest, by July 1, 1997. The Consent Order states that the DOE has made no formal findings of violation by DMLP and that DMLP does not admit it has committed any regulatory violations. As of March 31, 1995, DMLP had paid the DOE the sum of $11,193,729.72,[4] and it is current in its payments to DOE. Although we anticipate that additional revenues will be collected from DMLP, no good reason exists to forestall implementing procedures for distributing the current balance of the fund.

E. Howell Corporation (Howell)

During the price control period, Howell was a crude oil producer, refiner, and reseller. Howell was therefore subject to the Federal petroleum price and allocation regulations. In 1981, the ERA audited Howell's compliance with the crude oil Entitlements Program during the period January 1, 1978 through January 27, 1981. As a result of that audit, on June 24, 1988, a PRO was issued to the firm, alleging violations of the crude oil price and allocation regulations.[5] On February 23, 1989, the DOE and Howell executed a Consent Order resolving the issues addressed in the PRO. Pursuant to the Consent Order, Howell agreed to pay the DOE $19,375,000 plus interest, with installment payments over seven years. As of June 30, 1995, Howell had paid the DOE $15,288,097.66, and it is current in its payments to the DOE. Although we anticipate that additional revenues will be collected from Howell, no good reason exists to forestall implementing procedures for distributing the current balance of the fund.

F. Placid Oil Company (Placid)

Placid was a producer of crude oil during the period of price controls. On March 30, 1981, the ERA issued a PRO in which it alleged that during the period from September 1973 through May 1977, Placid overcharged its customers in sales of crude oil from several properties it operated. In addition, the PRO also alleged that Placid improperly calculated the average daily production for a number of properties and as a result erroneously certified crude oil production from these properties as exempt from price controls pursuant to the stripper well exemption. On February 11, 1985, the OHA issued an RO to Placid, affirming the ERA allegations concerning Placid's overcharges. *Placid Oil Co.*, 12 DOE ¶ 83,030, *modified*, 13 DOE ¶ 83,007 (1985). Placid appealed the RO to the FERC. On February 26, 1987, the FERC reversed and vacated the RO (*Placid Oil Co.*, 38 FERC ¶ 61,199); however, on July 23, 1987, the FERC reversed itself in part, vacating portions of its previous Order (*Placid Oil Co.*, 40 FERC ¶ 61,112). On March 18, 1988, the FERC issued an Order affirming the RO but modifying the violation amount. *Placid Oil Co.*, 42 FERC ¶ 61,326 (1988). Subsequently, in a bankruptcy proceeding involving Placid, the U.S. Bankruptcy Court for the Northern District of Texas approved the DOE's claim of $1,196,728.09 against Placid. Placid has fulfilled its financial obligation to the DOE, with payments, including installment interest, totalling $1,272,963.81.

G. Eton Trading Corporation (Eton)

Eton and its affiliate, Eton Enterprises, Inc., were resellers of crude oil during the period June 1980 through December 1980, and were subject to the crude oil reseller regulations set forth at 10 CFR. Part 212, Subpart L. As the result of an ERA audit of Eton's operations, on January 14, 1986, the ERA issued a PRO to the firm alleging that it had engaged in layered crude oil transactions in violation of 10 CFR § 212.186. The PRO stated that those layered transactions resulted in overcharges amounting to $9,182,412.70. On March 17, 1986, Eton filed a Notice of Objection with this Office but waived its right to contest the determinations made in the PRO by failing to file a Statement of Objections in a timely manner. Accordingly, on December 5, 1986, the OHA issued the PRO as a final Remedial Order. *Eton Trading Corp.*, 15 DOE ¶ 83,011 (1986). In July 1986, Eton Trading Corporation and Eton Enterprises filed for bankruptcy. The DOE filed identical claims in the bankruptcy proceedings of the two firms. A distribution has been made in the Eton Trading bankruptcy proceeding, in which the DOE received $1,049,073.67. Although the possibility exists that additional revenues will be distributed to the DOE in the Eton Enterprise bankruptcy proceeding which has not yet been closed, no reason exists to delay in implementing distribution of the current balance of the fund.

H. Rodgers Hydrocarbon Corporation

Rodgers Hydrocarbon Corporation and Ray V. Rodgers, Jr. (referred to collectively as Rodgers) were crude oil resellers during the period of September 1977 through January 1980. On March 29, 1985, the ERA issued a PRO to Rodgers alleging that during that period, Rodgers failed to properly certify crude oil as required by 10 CFR. 212.131(b). In addition, the ERA alleged that Rodgers failed to submit reports and maintain books and records in accordance with 10 CFR

[3] DMLP, a limited partnership formed in 1984, is the successor to Dorchester Gas Corporation (Dorchester) and includes Damson Oil Corporation (Damson), the general partner of DMLP, and Doram Energy, Inc. (Doram), a subsidiary of Damson. Therefore, DMLP will be used to refer collectively to Dorchester, Damson, and Doram, and their subsidiaries and affiliates. We will refer to the individual firms in some instances, since the audits originated with those firms during the period of price controls.

[4] Of that amount $5,198.52 came from Damson pursuant to its own bankruptcy proceeding.

[5] The PRO alleged violations of 10 C.F.R. 211.66(b) and (h), 205.202, and 210.62(c), resulting from significant understatement of receipts of price-controlled crude oil. Specifically, ERA alleged that during the period April 1978 through December 1979, the Joint Venture consisting of Howell and Quintana Refinery Co, failed to correctly report the tier certifications associated with substantial volumes of its crude oil receipts at its Corpus Christi, Texas, refinery; and Howell Hydrocarbons engaged in similar conduct during the period April 1978 through November 1980 at its San Antonio, Texas, refinery. In addition, the ERA alleged that during the period April 1978 through December 1979, Howell Industries, an affiliate, improperly charged prices for crude oil in excess of its actual purchase prices, in violation of 10 C.F.R. 212.186, 210.62(c) and 205.202.

212.187 (a) and (b).[6] Rodgers filed a Statement of Objections to the PRO on August 26, 1985. After considering Rodgers' objections, certain provisions of the PRO were modified, and the PRO was issued as a final RO on July 20, 1989. *Rodgers Hydrocarbon Corp.*, 19 DOE ¶ 83,004 (1989). On December 4, 1989, Rodgers and the DOE executed a Consent Order resolving the issues addressed by the RO. Pursuant to the Consent Order, Rodgers agreed to pay the DOE $50,000, plus interest, in two equal payments. Rodgers paid to the DOE the sum of $51,190 and has fulfilled its financial obligation to the DOE.

II. Jurisdiction and Authority

The Subpart V regulations set forth general guidelines which may be used by the OHA in formulating and implementing a plan of distribution of funds received as a result of an enforcement proceeding. The DOE policy is to use the Subpart V process to distribute such funds. For a more detailed discussion of Subpart V and the authority of the OHA to fashion procedures to distribute refunds, see *Petroleum Overcharge Distribution and Restitution Act of 1986*, 15 U.S.C. 4501 et seq.; *see also Office of Enforcement*, 9 DOE ¶ 82,508 (1981), and *Office of Enforcement*, 8 DOE ¶ 82,597 (1981).

III. The Proposed Decisions and Orders

On July 1, 1994, and June 12, 1995, OHA issued Proposed Decisions and Orders (PDOs) setting forth the OHA's tentative plan to distribute these funds. See 59 FR 35329 (July 11, 1994) (the Western PDO) and 60 FR 32004 (June 19, 1995) (the DMLP PDO), respectively. OHA tentatively concluded that the funds should be distributed in accordance with the DOE's Modified Statement of Restitutionary Policy in Crude Oil Cases, (MSRP), *see* 51 FR 27899 (August 4, 1986). Pursuant to the MSRP, OHA proposed to reserve 20 percent of those funds for direct refunds to applicants who claim that they were injured by the crude oil violations. We stated that the remaining 80 percent of the funds would be distributed to the states and federal government for indirect restitution.

We provided a period of 30 days from the date of the PDOs' publication in the **Federal Register** in which the public could submit comments regarding the tentative refund procedures. More than 30 days have elapsed, and the OHA has received no comments concerning the proposed procedures.

IV. The Refund Procedures

A. Crude Oil Refund Policy

We adopt the tentative determination of the PDOs to distribute the funds obtained from the eight firms in accordance with the MSRP, which was issued as a result of the Settlement Agreement approved by the court in *The Department of Energy Stripper Well Exemption Litigation*, 653 F. Supp. 108 (D. Kan. 1986). Shortly after the issuance of the MSRP, the OHA issued an Order that announced that this policy would be applied in all Subpart V proceedings involving alleged crude oil violations. See Order Implementing the MSRP, 51 FR 29689 (August 20, 1986) (the August 1986 Order).

Under the MSRP, 40 percent of crude oil overcharge funds will be disbursed to the federal government, another 40 percent to the states, and up to 20 percent may initially be reserved for the payment of claims to injured parties. The MSRP also specified that any funds remaining after all valid claims by injured purchasers are paid will be disbursed to the federal government and the states in equal amounts.

In April 1987, the OHA issued a Notice analyzing the numerous comments received in response to the August 1986 Order. 52 FR 11737 (April 10, 1987) (April 10 Notice). This Notice provided guidance to claimants that anticipated filing refund applications for crude oil monies under the Subpart V regulations. In general, we stated that all claimants would be required to (1) Document their purchase volumes of petroleum products during the August 19, 1973 through January 27, 1981 crude oil price control period, and (2) prove that they were injured by the alleged crude oil overcharges. Applicants who were end-users or ultimate consumers of petroleum products, whose businesses are unrelated to the petroleum industry, and who were not subject to the DOE price regulations would be presumed to have been injured by any alleged crude oil overcharges. In order to receive a refund, end-users would not need to submit any further evidence of injury beyond the volume of petroleum products purchased during the period of price controls. See *City of Columbus, Georgia*, 16 DOE ¶ 85,550 (1987).

B. Refund Claims

The amount of money subject to this Decision is $29,376,255.50, plus accrued interest, which, as of May 31, 1995, totalled $6,312,426.32. In accordance with the MSRP, we shall initially reserve 20 percent of those funds ($5,875,251.10 plus accrued interest) for direct refunds to applicants who claim that they were injured by crude oil overcharges. We shall base refunds on a volumetric amount which has been calculated in accordance with the methodology described in the April 10 Notice. That volumetric refund amount is currently $0.0016 per gallon. See 57 FR 15562 (March 24, 1995).

In the Western PDO, we indicated that the filing deadline for refund applications in the crude oil refund proceeding was June 30, 1994. This was subsequently changed to June 30, 1995. See Filing Deadline Notice, 60 FR 19914 (April 20, 1995); see also DMLP PDO, 60 FR 32004, 32007 (June 19, 1995). Because the June 30, 1995, deadline for crude oil refund applications has passed, no new applications from purchasers of refined petroleum products will be accepted for these funds. Instead, these funds will be added to the general crude oil overcharge pool used for direct restitution.[7]

C. Payments to the States and Federal Government

Under the terms of the MSRP, the remaining 80 percent of the crude oil violation amounts subject to this Decision, or $23,501,004.40 plus accrued interest, should be disbursed in equal shares to the states and federal government, for indirect restitution. Refunds to the states will be in proportion to the consumption of petroleum products in each state during the period of price controls. The share or ratio of the funds which each state will receive is contained in Exhibit H of the Stripper Well Settlement Agreement. When disbursed, these funds will be subject to the same limitations and reporting requirements as all other crude oil monies received by the states under the Stripper Well Agreement.

Accordingly, we will direct the DOE's Office of the Controller to transfer one-half of that amount, or $11,750,502.20 plus interest, into an interest bearing subaccount for the states, and one-half or $11,750,502.20, plus interest, into an interest bearing subaccount for the federal government.

It Is Therefore Ordered That:

(1) The Director of Special Accounts and Payroll, Office of Departmental Accounting and Financial Systems Development, Office of the Controller of the Department of Energy shall take all steps necessary to transfer the consent order funds shown in the Appendix to this Decision and Order, plus all accrued interest from the escrow accounts of the firms listed in the Appendix pursuant to Paragraphs (2), (3), and (4) of this Decision.

(2) The Director of Special Accounts and Payroll shall transfer $11,750,502.20 plus any accrued interest, of the funds referenced in Paragraph (1) above, into the subaccount denominated ''Crude Tracking-States,'' Number 999DOE0003W.

(3) The Director of Special Acccounts and Payroll shall transfer $11,750,502.20, plus any accrued interest, of the funds referenced in Paragraph (1) above, into the subaccount denominated ''Crude Tracking-Federal,'' Number 999DOE002W.

(4) The Director of Special Accounts and Payroll shall transfer $5,875,251.10 plus any accrued interest, of the funds referenced in Paragraph (1) above, into the subaccount denominated ''Crude Tracking-Claimants 4,'' Number 999DOE0010Z.

(5) This is a final Order of the Department of Energy.

Dated: July 17, 1995.

George B. Breznay,

Director, Office of Hearings and Appeals.

[6] Crude oil resellers were required to file certain information on ERA–69 ''Crude Oil Reseller's Self-Reporting Forms.''

[7] A crude oil refund applicant is only required to submit one application for its share of all available crude oil overcharge funds. See, *e.g., Ernest A. Allerkamp*, 17 DOE ¶ 85,079 at 88,176 (1988).

APPENDIX

Case No.	Firm	ERA order numbers	Principal amount
LEF–0047	Western Asphalt Service, Inc.	940X00182Z	$390,059.12
LEF–0120	Gray Trucking Company	6A0X00305Z	4,738.86
LEF–0123	William Valentine & Sons, Inc.	N00X00683Z	126,402.66
VEF–0005	Dorchester Master Limited Partnership	6A0X00278W	11,193,729.72
VEF–0006	Howell Corporation	650X00367W	15,288,097.66
VEF–0008	Placid Oil Company	6D0C00048W	1,272,963.81
VEF–0009	Eton Trading Corporation	6C0X00301W	1,049,073.67
VEF–0010	Rodgers Hydrocarbon Corporation	6A0X00328W	51,190.00
Total			29,376,255.50

[FR Doc. 95–18390 Filed 7–25–95; 8:45 am]
BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5261–5]

Ambient Air Monitoring Reference and Equivalent Methods; Reference Method Designation

Notice is hereby given that EPA, in accordance with 40 CFR part 53, has designated another reference method for the measurement of ambient concentrations of nitrogen dioxide. The new reference method is an automated method (analyzer) which utilizes the measurement principle (gas phase chemiluminescence) and calibration procedure specified in appendix F of 40 CFR part 50. The new designated method is identified as follows:

RFNA–0795–104, ''Environment S. A. Model AC 31 M Chemiluminescent Nitrogen Oxide Analyzer,'' operated with a full scale range of 0–500 ppb, at any temperature in the range of 15°C to 35°C, with 5-micron PTFE sample particulate filter, with the following software settings: Automatic response time ON, Minimum response time set to 60 seconds (RT÷2), and with or without any of the following options:

Internal Permeation Oven
Connection for Silica Gel Dryer
RS232–422 interface
EV34 valve
Internal Printer

Note: In addition to the standard U.S. electrical power voltage and frequency (115 Vac, 60 Hz), this analyzer is approved for use, with proper factory configuration, on 50 Hertz line frequency and any of the following voltage ranges: 98–126 Vac (115 nominal) and 195–246 Vac (230 volts nominal).

This method is available from Environmental S.A., 111, Bd Robespierre, 78300 Poissy, France or from Environment U.S.A., 570 Higuera Street, Suite 25, San Luis Obispo, California 93401. A notice of receipt of application for this method appeared in the **Federal Register,** Volume 60, January 31, 1995, page 5919.

A test analyzer representative of this method has been tested by the applicant, in accordance with the test procedures specified in 40 CFR part 53. After reviewing the results of these tests and other information submitted by the applicant, EPA has determined, in accordance with part 53, that this method should be designated as a reference method. The information submitted by the applicant will be kept on file at EPA's National Exposure Research Laboratory, Research Triangle Park, North Carolina 27711, and will be available for inspection to the extent consistent with 40 CFR part 2 (EPA's regulations implementing the Freedom of Information Act).

As a designated reference method, this method is acceptable for use by States and other air monitoring agencies under requirements of 40 CFR part 58, Ambient Air Quality Surveillance. For such purposes, the method must be used in strict accordance with the operation or instruction manual associated with the method and subject to any limitations (e.g., operating range) specified in the applicable designation (see description of the method above). Vendor modifications of a designated method used for purposes of part 58 are permitted only with prior approval of EPA, as provided in part 53. Provisions concerning modification of such methods by users are specified under section 2.8 of appendix C to 40 part 58 (Modifications of Methods by Users).

In general, this designation applies to any analyzer which is identical to the analyzer described in the designation. In many cases, similar analyzers manufactured prior to the designation may be upgraded (e.g., by minor modification or by substitution of a new operation or instruction manual) so as to be identical to the designated method and thus achieve designation status at a modest cost. The manufacturer should be consulted to determine the feasibility of such upgrading.

Part 53 requires that sellers of designated methods comply with certain conditions. These conditions are given in 40 CFR 53.9 and are summarized below:

(1) A copy of the approved operation or instruction manual must accompany the analyzer when it is delivered to the ultimate purchaser.

(2) The analyzer must not generate any unreasonable hazard to operators or to the environment.

(3) The analyzer must function within the limits of the performance specifications given in table B–1 of part 53 for at least one year after delivery when maintained and operated in accordance with the operation manual.

(4) Any analyzer offered for sale as a reference or equivalent method must bear a label or sticker indicating that it has been designated as a reference or equivalent method in accordance with part 53.

(5) If such an analyzer has two or more selectable ranges, the label or sticker must be placed in close proximity to the range selector and indicate which range or ranges have been included in the reference or equivalent method designation.

(6) An applicant who offers analyzers for sale as reference or equivalent methods is required to maintain a list of ultimate purchasers of such analyzers and to notify them within 30 days if a reference or equivalent method designation applicable to the analyzers has been canceled or if adjustment of the analyzers is necessary under 40 CFR 53.11(b) to avoid a cancellation.

(7) An applicant who modifies an analyzer previously designated as a reference or equivalent method is not permitted to sell the analyzer (as modified) as a reference or equivalent method (although he may choose to sell it without such representation), nor to attach a label or sticker to the analyzer (as modified) under the provisions described above, until he has received