filing because of imprecise meter readings at its Dull Knife delivery point. WIC recently discovered the metering flaw during the developmental phase of WIC's anticipated October 31, 1995 FL&U filing.

WIC requests: (1) an extension of time for submission of its annual FL&U filing until WIC determines the accurate measured volumes for FL&U, but in no event later than February 29, 1996; and (2) continuation of a zero FL&U percent through February 29, 1996, if necessary, to correspond to the extension of time.

WIC states that copies of the filing have been served upon all parties on the service list in this proceeding.

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 NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before October 16, 1995. 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 in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–25379 Filed 10–12–95; 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 Proposed Implementation of Special Refund Procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy announces proposed procedures for the disbursement of $1,564,222.74 (plus accrued interest) collected pursuant to a consent order with Vessels Gas Processing Company. The funds will be distributed in accordance with the DOE's special refund procedures, 10 CFR Part 205, Subpart V.

DATES AND ADDRESSES: Comments must be filed in duplicate on or before November 13, 1995 and should be addressed to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. All comments should conspicuously display reference to Case Number VEF–0007.

FOR FURTHER INFORMATION CONTACT: Richard W. Dugan, Associate Director, Jessica Hately, Staff Analyst, 1000 Independence Avenue, SW., Washington, D.C. 20585 (202) 586–2860 (Dugan), (202) 586–4921 (Hately).

SUPPLEMENTARY INFORMATION: In accordance with Section 205.282(b) of the procedural regulations of the Department of Energy (DOE), 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision and Order sets forth the procedures that the DOE has tentatively formulated to distribute monies that have been collected by the DOE pursuant to a consent order with Vessels Gas Processing Company (Vessels). The consent order settled possible pricing violations with respect to Vessels' sales of natural gas liquids and natural gas liquid products. The DOE has collected $1,564,222.74 and is holding the money in an interest-bearing escrow account pending distribution.

Applications for Refund should not be filed at this time. Appropriate public notice will be given when the submission of claims is authorized. Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are requested to submit two copies of their comments. Comments should be submitted within 30 days of the publication of this notice in the Federal Register and should be sent to the address provided at the beginning of the notice. All comments received will be available for public inspection between the hours of 1:00 p.m. and 5:00 p.m., Monday through Friday, except federal holidays, in the Public Reference Room of the Office of Hearings and Appeals, located in Room 1E–234, 1000 Independence Avenue, SW., Washington, DC 20585.

Dated: September 28, 1995.

George B. Breznay,

Director, Office of Hearings and Appeals.

Proposed Decision and Order of the Department of Energy

Special Refund Procedures

Name of Firm: Vessels Gas Processing Company
Date of Filing: February 27, 1995
Case Number: VEF–0007
September 28, 1995.

In accordance with the procedural regulations of the Department of Energy (DOE), 10 CFR Part 205, Subpart V, the Regulatory Litigation branch of the Office of General Counsel (OGC) (formerly the Economic Regulatory Administration (ERA)) filed a Petition for the Implementation of Special Refund Procedures with the Office of Hearings and Appeals (OHA) on February 27, 1995. The petition requests that the OHA formulate and implement procedures for the distribution of funds received pursuant to a Consent Order entered into by the DOE and Vessels Gas Processing Company (Vessels) of Colorado.[1]

I. Background

Vessels was a ''refiner'' of natural gas liquids (NGLs) and natural gas liquid products (NGLPs), which were included within the definitions of ''covered products'' in 6 C.F.R. 150.352 and in the price regulations promulgated pursuant to the Emergency Petroleum Allocation Act of 1973, Pub. L. No. 93–159. Accordingly, during the period from August 19, 1973 through January 28, 1981, Vessels was subject to price rules set forth in 10 CFR Part 212, Subpart K, and antecedent regulations at 6 CFR 150.1 et seq. An ERA audit of Vessels' business records at the Irondale and Brighton locations revealed possible pricing violations with respect to the firm's sales of NGIs and NGLPs at the Irondale plant during the audit period from September 1, 1973 through December 31, 1977 and at the Brighton plant from April 1, 1975 through December 31, 1977.[2] Subsequently, on October 7, 1986, the DOE issued a Remedial Order to Vessels, finding that the firm had overcharged its customers and requiring it to remit to the DOE $1,571,671.40, plus interest. *Vessels Gas Processing Co.,* 15 DOE ¶83,002 (1986). Vessels appealed the Remedial Order to the Federal Energy Regulatory Commission (FERC) (Case No. R087–3–000). While the Appeal was pending, Vessels and the DOE entered into a Consent Order on December 17, 1987, in order to settle all claims and disputes between Vessels and the DOE regarding the firm's compliance with price regulations in sales of NGLs and NGLPs during the audit period. In that Order, Vessels agreed to remit a total of $1,500,000, plus installment interest, to the DOE for distribution to the firm's customers. The Consent Order became final on February 16, 1988. Vessels has made payments totalling

[1] For the sake of convenience and clarity, ''Vessels'' will refer to Vessels Gas Processing Company (VGPC) and Vessels Gas Process, Limited (VGPL) in this Decision and Order. In addition, ''Vessels'' will refer to the operations of Halliburton Resource Management (HRM) at the Irondale and Brighton plants on behalf of VGPC and VGPL. Vessels operated under a contract with HRM, a division of Halliburton Company (Halliburton). Under that agreement, the natural gas owned by Vessels was processed and sold at three plants owned and operated by HRM. HRM was paid or retained a service fee from the sales proceeds. On February 25, 1983, Vessels filed, in conjunction with a ''Preliminary Statement of Objections'' to the Proposed Remedial Order issued to it on November 5, 1982, a ''Motion to Join Hallliburton Company and Hold it Jointly Liable for Any Overcharges that are Proven.'' On May 25, 1983, the OHA gave leave to amend the PRO to join Halliburton. *Vessels Gas Processing Co.,* 11 DOE ¶82,509 (1983).

[2] The discrepancy in dates between the two plants is due to the fact that the Brighton plant was not fully operational until April 1975.

$1,564,222.74 to the DOE.[3] These funds, plus accrued interest, are presently in a DOE escrow account maintained by the Department of the Treasury.

II. Jurisdiction

The procedural regulations of the DOE set forth general guidelines by which the OHA may formulate and implement a plan of distribution for funds received as a result of an enforcement proceeding. 10 C.F.R. Part 205, Subpart V. It is DOE policy 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 obtained as a part of settlement agreements. *See Office of Enforcement,* 9 DOE ¶82,553 (1982); *Office of Enforcement,* 9 DOE ¶82,508 (1981). After reviewing the record in the present case, we have concluded that a Subpart V proceeding is an appropriate mechanism for distributing the Vessels consent order fund. We therefore propose to grant OGC's petition and assume jurisdiction over distribution of the fund.

III. Proposed Refund Procedures

A. Refund Claimants

Refund monies will be distributed to those parties which were injured in their transactions with Vessels during the audit period that were covered by the Consent Order.[4] We have limited information on Vessels' customers and the number of gallons purchased by each customer. From company records available to this Office, we have compiled a partial list of Vessels' customers. They are as follows:

Farmland Industries, Inc.
Littleton Gas Co.
California Liquid Gas Co.
Hytrans, Inc.
UPG, Inc.[5]

These customers, and any additional customers, will be required to submit a monthly schedule of the number of gallons of NGLs and NGLPs purchased from September 1, 1973 through December 31, 1977 and documentation that these products were purchased from either the Irondale or Brighton plants. Indirect purchasers of Vessels' products may be eligible for a refund if the reseller from whom they purchased the products passed through Vessels' alleged overcharges to its own customers. Indirect purchasers must identify the reseller from whom they made the purchases, and establish the basis for their belief the products originated from either the Irondale or Brighton plant. Affiliates of Vessels will be eligible to apply for a refund in this proceeding.[6]

B. Calculation of Refund Amounts

We propose to use a volumetric methodology to distribute the consent order funds to Vessels' customers. The volumetric refund presumption assumes that the alleged overcharges by a firm were dispersed equally over all gallons of product marketed by that firm. In the absence of better information, this assumption is sound because the DOE price regulations generally required a regulated firm to account for increased costs on a firm-wide basis in determining its prices.[7]

Under the volumetric approach we plan to adopt, a claimant's ''allocable share'' (or ''volumetric share'') of the Vessels fund is equal to the number of gallons of NGLs and NGLPs purchased from Vessels from September 1, 1973 through December 31, 1977, multiplied by a volumetric refund amount of $0.0185 per gallon.[8]

Each successful claimant will also receive a pro rata share of the interest accrued on the consent order funds between the date the funds were placed in the Vessels escrow account and the date the applicant's refund is disbursed.

C. Presumptions of Injury

In addition to the volumetric presumption, we propose to adopt a number of additional presumptions regarding injury for claimants in each category listed below. These presumptions will simplify the refund process and will help ensure that refund claims are evaluated in the most efficient and equitable manner possible.

A. End-Users

End-users of Vessels products, i.e., consumers, whose use of NGLs or NGLPs was unrelated to the petroleum business, are presumed injured and need only document their purchase volumes from Vessels during the consent order period to be eligible to receive their full allocable share.

b. Refiners, Resellers, and Retailers Seeking Refunds of $10,000 or Less

Reseller claimants (including refiners and retailers), whose allocable share is $10,000 or less, i.e., who purchased 540,540 gallons or less of Vessels's products during the consent order period, will be presumed injured and therefore need not provide a further demonstration of injury, besides documentation of their purchase volumes, to receive their full allocable share. *See, e.g., E.D.G., Inc.,* 17 DOE ¶ 85,679 (1988). We recognize that the cost to the applicant of gathering evidence of injury to support a small refund claim could exceed the expected refund. Consequently, without simplified procedures, some injured parties would be denied an opportunity to obtain a refund.

c. Medium-Range Refiner, Reseller, and Retailer Claimants

In lieu of making a detailed showing of injury (*see* part III D, below), a reseller claimant whose allocable share exceeds $10,000 may elect to receive a refund under the medium-range presumption of injury. Under this presumption, a claimant would receive as its refund the larger of $10,000 or 60 percent of its allocable share up to $50,000.[9] The use of this presumption reflects our conviction that these claimants were likely to have experienced some injury as a result of the alleged overcharges. In other proceedings involving NGLs and NGLPs, we have determined that a 60 percent presumption for the medium-range purchasers of NGLs and NGLPs accurately reflected the amount of their injury as a result of their purchases of those products. *See Sauvage Gas Co.,* 17 DOE ¶ 85,304 (1988); *Suburban Propane Gas Co.,* 16 DOE

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[3] Vessels' appeal to FERC was dismissed on February 26, 1988. *Vessels Gas Processing Co.,* 42 FERC ¶63,023 (1988). The firm's final payment under the Consent Order was received by the DOE on October 12, 1994.

[4] For the reason set forth in footnote 1 this includes firms that purchased NGLs and NGLPs from HRM that originated with Vessels. Since ethane, an NGLP, was decontrolled effective April 1, 1974, Vessels' customers would not have been injured by purchases of ethane on or after that date. They are thus not eligible for refunds for ethane purchases made after March 31, 1974.

[5] In comments submitted in response to the Notice of the Proposed Consent Order in the December 28, 1987 Federal Register, Enron Corp. requested that it be specifically named as a payee in the Consent Order. Enron contended that UPG, Inc. was the principal customer of NGLs of Vessels, and that Enron, as UPG's successor in interest, is therefore eligible for a refund in this proceeding. ERA determined in its response to Enron's comments that it was OHA's prerogative to name Enron as a payee in its Implementation Order. The review and analysis of the written comments did not provide any information that would support the modification or rejection of the proposed Consent Order with Vessels and Halliburton. Therefore, the Consent Order was issued without modification. While this Office is aware that UPG is affiliated with Enron, we have no detailed correct information regarding the exact nature of their corporate relationship. Accordingly, we will not name Enron as a payee in this Decision. However Enron is invited to submit to this Office an Application for Refund, in which it provides substantial documentation to support its contention that it is entitled to a refund for UPG's purchases.

[6] As in other refund proceedings involving alleged refined products violations, we will presume that affiliates of the Consent Order firm were not injured by the firm's overcharges. *See, e.g., Marathon Petroleum Co./EMRO Propane Co.,* 15 DOE ¶ 85,288 (1987). This is because the Remedial Order firm presumably would not have sold petroleum products to an affiliate if such a sale would have placed the purchaser at a competitive disadvantage. *See Marathon Petroleum Co./Pilot Oil Corp.,* 16 DOE ¶ 85,611 (1987), *amended claim denied,* 17 DOE ¶ 85,291 (1988), *reconsideration denied,* 20 DOE ¶ 85,236 (1990). Furthermore, if an affiliate of the Consent Order firm were granted a refund, that Consent Order firm would be indirectly compensated from a Consent Order fund remitted to settle its own alleged violations. *See, Propane Industrial, Inc.* v. *DOE,* 985 F.2d 586 (Temp. Emer. Ct. App. 1993) (Refund to affiliate would be ''unjust enrichment'').

[7] However this presumption is rebuttable. A claimant which believes that it suffered a disproportionate share of the alleged overcharges may submit evidence proving this claim in order to receive a larger refund. *See Sid Richardson Carbon and Gasoline Co./Siouxland Propane Co.,* 12 DOE ¶ 85,054 (1984); *see also Amtel, Inc./Whitco, Inc.,* 19 DOE ¶ 85,319 (1989) (*Amtel.*) In computing the appropriate refund in such a case, we will prorate the alleged overcharge amount by the ratio of the Vessels settlement amount to the aggregate overcharge amount determined by the Vessels Remedial Order. *See Amtel.*

[8] The volumetric factor was computed by dividing $1,564,222.74 by 84,689,877 (the approximate number of gallons of NGLPs Vessels sold to its customers during the audit period). The latter figure was obtained from records submitted to this Office by Vessels.

[9] That is, reseller claimants who purchased in excess of 540,540 gallons of Vessels product during the consent order period may elect to utilize this presumption.

¶ 85,382 (1987). Such an applicant will be required only to provide documentation of its purchase volumes of Vessels' products during the consent order period in order to be eligible to receive a medium-range refund.

d. Regulated Firms and Cooperatives

We have determined that, in order to receive a full volumetric refund, a claimant whose prices for goods and services are regulated by a governmental agency, e.g., a public utility, or by the terms of a cooperative agreement, needs only to submit documentation of its purchases of products used by itself or, in the case of a cooperative, sold to its members. However, a regulated firm or cooperative whose allocable share is greater than $10,000 will also be required to certify that it will pass any refund through to its customers or member-customers, provide us with a full explanation of how it plans to accomplish the restitution, and certify that it will notify the appropriate regulatory body or membership group of the receipt of the refund.[10]

e. Spot Purchasers.

As in prior Subpart V proceedings, we propose to adopt a rebuttable presumption that a reseller that made only irregular or sporadic, i.e., spot purchases from Vessels did not suffer injury as a result of those purchases. Accordingly, a spot purchaser claimant must submit specific and detailed evidence to rebut the spot purchaser presumption and to establish the extent to which it was injured as a result of its spot purchases from Vessels. In prior proceedings we have stated that refunds will be approved for spot purchasers who demonstrate that (i) they made the spot purchases for the purpose of ensuring a supply for their base period customers rather than in anticipation of financial advantage as a result of those purchases, and (ii) they were forced by market conditions to resell the product at a loss that was not subsequently recouped through the draw down of banks. *See Quaker State Oil Refining Corp./Certified Gasoline Co.,* 14 DOE ¶ 85,465 (1986).

D. Showings of Injury

As in prior refund proceedings, claimants who are medium-range resellers (including retailers and refiners) will be afforded the opportunity to prove injury in order to receive a refund equal to their full allocable share. These claimants will be required to demonstrate that during the audit period they would have maintained their prices for the NGLs and NGLPs purchased from Vessels at the same level had the alleged overcharges not occurred. While there are a variety of ways to make this showing, a reseller would generally demonstrate that, at the time it purchased the product from Vessels, market conditions would not permit it to pass through to its customers the additional costs associated with the alleged overcharges. *See Atlantic Richfield Co./Odessa L.P.G. Transport,* 21 DOE ¶ 85,384 (1991); *Guld Oil Corp./Anderson & Watkins, Inc.,* 21 DOE ¶ 85,380 (1991). In addition, the reseller will be required to show that it had a ''bank'' of unrecovered costs in order to demonstrate that it did not recover the increased costs associated with the alleged overcharges by increasing its own prices. The maintenance of a bank does not, however, automatically establish injury. *See Tenneco Oil Co./Chevron U.S.A., Inc.,* 10 DOE ¶ 85,014 (1982).

IV. Conclusion

Refund applications in this proceeding should not be filed until the issuance of a final Decision and Order. Detailed procedures for filing applications will be provided in the final Decision and Order. Before disposing of any of the funds received, we intend to publicize the distribution process and to provide an opportunity for any affected party to file a claim. In addition to publishing copies of the proposed and final Decisions in the Federal Register, copies will be provided to the Vessels' customers for whom we have addresses.

Any funds that remain after all first-stage claims have been decided will be distributed in accordance with the provisions of the Petroleum Overcharge Distribution and Restitution Act of 1986 (PODRA), 15 U.S.C. 4501–07. PODRA requires that the Secretary of Energy determine annually the amount of oil overcharge funds that will not be required to refund monies to injured parties in subpart V proceedings and make those funds available to state governments for use in four energy conservation programs. The Secretary has delegated these responsibilities to OHA. Any funds in the Vessels escrow account the OHA determines will not be needed to effect direct restitution to injured Vessels customers will be distributed in accordance with the provisions of PODRA.

It Is Therefore Ordered That:

The refund amount remitted to the Department of Energy by Vessels Gas Processing Company pursuant to the Consent Order executed on December 17, 1987 will be distributed in accordance with the forgoing Decision.

[FR Doc. 95–25324 Filed 10–12–95; 8:45 am]

BILLING CODE 6450–01–M

[10] A cooperative's sales to non-members will be treated in the same manner as sales by other resellers. *See Total Petroleum/Farmers Petroleum Cooperative,* 19 DOE ¶ 85,215 (1989).

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5314–1]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces the Office of Management and Budget's (OMB) responses to Agency PRA clearance requests.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer (202) 260–2740, Please refer to the EPA ICR No.

SUPPLEMENTARY INFORMATION:

OMB Responses to Agency PRA Clearance Requests

OMB Approvals

EPA ICR No. 0783.28; The California Pilot Test Program and Clean-Fuel Vehicle Standards for Light-Duty Vehicles and Light-Duty Trucks; was approved 09/29/95; OMB No. 2060–0104; expires 08/31/98.

EPA ICR No. 1331.06; Accidental Release Information Program (ARIP); was approved 09/29/95; OMB No. 2050–0065; expires 09/30/97.

EPA ICR No. 1395.02; Emergency Planning and Release Notification Requirements (EPCRA Section 302, 303, and 304); was approved 09/28/95; OMB No. 2050–0092; expires 01/31/97 approved 09/28/95; OMB No. 2050–0092; expires 01/31/97.

EPA ICR No. 1292.04; Aftermarket Catalytic Converter Policy; was approved 09/28/95; OMB No. 2060–0135; expires 09/30/98.

EPA ICR No. 1687.02; National Hazardous Air Pollutant Emission Standards for Aerospace Manufacturing and Rework Operations; was approved 09/28/95; OMB No. 2060–0314; expires 09/30/98.

EPA ICR No. 1446.05; PCBs Notification and Manifesting of PCB Waste Activities and Records of PCB Storage and Disposal; was approved 09/28/95; OMB No. 2070–0112; expires 09/30/98.

EPA ICR No. 1587.03; Operating Permits Regulations—Information Requests CAA Title V; was approved 09/28/95; OMB No. 2060–0234; expires 09/30/96.

EPA ICR No. 0370.13; Underground Infection Control Program Information; was approved 06/30/95; OMB No. 2040–0042; expires 06/30/98.

EPA ICR No. 0270.34; Public Water System Supervision Program, Public Notification and Education Requirements; was approved 09/27/95; OMB No. 2040–0090; expires 03/31/97.

EPA ICR No. 0783.29; Application for Motor Vehicle Emission Certification and Fuel Economy labeling (Alternative Fueled Vehicles, FRM); was approved 09/28/95; OMB No. 2060–0104; expires 08/31/98.

EPA ICR No. 1757.01; Protection of Stratospheric Ozone Labeling; was approved 09/25/95; OMB No. 2060–0342; expires 09/30/97.

EPA ICR No. 1734.02; Use and Exposure Information voluntary Project; was approved 09/29/95; OMB No. 2070–0147; expires 09/30/97.

EPA ICR No. 1626.04; National Emissions Reduction Program,