

decision in *Public Service Company of Colorado v. FERC.*,

Producers assert that the Commission has broad discretion in structuring remedies and in determining whether refunds and/or interest are appropriate where excess payments were made, and that the Commission has the authority to grant relief from refund principal and interest. Producers also assert, for various reasons, that the Commission should grant at least a limited waiver of refund principal, plus a total waiver of the interest otherwise due on refunds, for the 1983 to 1988 period. Producers further assert that the Commission should grant refund relief where the royalty portion of the refunds due is unrecoverable or de minimus, or where the original customers that paid the ad valorem tax reimbursements cannot be located.

Any person desiring to participate in this proceeding must file a motion to intervene in accordance with Sections 385.211 and 385.214 of the Commission's Rules of Practice and Procedures. All motions must be filed with the Secretary of the Commission by July 7, 1997.

Lois D. Cashell,

Secretary.

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GP97-5-000]

Mesa Operating Company; Notice of Petition for Adjustment

June 26, 1997.

Take notice that on June 24, 1997, Mesa Operating Company, 5205 N. O'Connor Blvd., Suite 1400, Irving, Texas 75039 (Mesa), filed a petition for adjustment under Section 502c of the Natural Gas Policy Act of 1978 (NGPA) and Rules 1101-1107 of the Commission's Rules of Practice and Procedure, requesting an adjustment to its potential liability to pay refunds and interest that Mesa may be directed to make with respect to gas production between October 4, 1983 and June 28, 1988, owing to Mesa's collection of Kansas ad valorem tax reimbursements from gas purchasers, reimbursements that have since been deemed to be in excess of the NGPA's applicable maximum lawful gas prices, all as more fully set forth in the subject petition,

which is on file with the Commission and available for public inspection.

This matter evolved out of the Commission's 1974 decision in Opinion No. 699-D, to permit gas producers to recover Kansas ad valorem tax reimbursements from their gas purchasers, the Commission's subsequent decision to allow gas producers to collect Kansas ad valorem tax reimbursements under Section 110 of the NGPA, and Northern Natural Gas Company's 1983 challenge to such collections,¹ culminating in the decision by the United States Court of Appeals for the District of Columbia Circuit, in *Public Service Company of Colorado v. FERC*, 91 F.3d 1478 (D.C. Cir. 1996), that refunds should be paid with respect to Kansas ad valorem tax reimbursements on production between October 4, 1983 and June 28, 1988, and the Supreme Court's denial of cross-petitions for certiorari, filed in connection with the D.C. Circuit's decision in *Public Service Company of Colorado v. FERC*.

Mesa requests a waiver of its obligation to repay: (1) Refunds on Kansas ad valorem taxes for the period from October 1983 to June 1988, that are (a) attributable to nonrecoverable royalties, (b) attributable to non-recoupable Kansas property taxes (based in part on the prior reimbursability of the Kansas ad valorem taxes, and (c) attributable to amounts for which the pipeline cannot locate the prior customer who paid the tax reimbursements; and (2) interest from 1983 to the present, for Kansas ad valorem taxes collected during the October 1983 to June 1988 period. Mesa asserts that the Commission has broad discretion in structuring remedies and in determining whether refunds and/or interest are appropriate where excess payments were made, and that the Commission has the authority to grant relief from refund principal and interest. Mesa also asserts for various reasons, that the Commission should grant at least a limited waiver of refund principal, plus a total waiver of the interest otherwise due on refunds, for the 1983 to 1988 period. Mesa further asserts that the Commission should grant refund relief where the royalty portion of the refunds due is unrecoverable or de minimus, or where the original customers that paid the ad valorem tax reimbursements cannot be located.

Any person desiring to participate in this proceeding must file a motion to

intervene in accordance with Sections 385.211 and 385.214 of the Commission's Rules of Practice and Procedures. All motions must be filed with the Secretary of the Commission by July 7, 1997.

Lois D. Cashell,

Secretary.

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT97-40-000]

Mojave Pipeline Company; Notice of Report of GRI Refunds

June 26, 1997.

Take notice that on June 23, 1997, Mojave Pipeline Company (Mojave) submitted its Report of Gas Research Institute (GRI) Refunds for 1996 pursuant to Subpart F of Part 154 of the Commission's Regulations and ordering paragraph C of the Commission's order issued on February 22, 1995 in Docket No. RP95-124-000.

On May 30, 1997, Mojave received a refund from GRI for overcollections for the calendar year 1996 in the amount of \$255,953.00. On June 6, 1997, Mojave states that it mailed checks to its eligible firm shippers as required by the February 22, 1995 order.

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, 888 First Street N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 351.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before July 3, 1997. 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.

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¹See 48 FR 45287 (October 4, 1983).