

under section 502(c) of the Natural Gas Policy Act of 1978 (NGPA),<sup>1</sup> and a dispute resolution request, with respect to its Kansas ad valorem tax refund liability under the Commission's September 10, 1997 order in Docket Nos. RP97-369-000, GP97-3-000, GP97-4-000, and GP97-5-000.<sup>2</sup>

The Commission's September 10 order on remand from the D.C. Circuit Court of Appeals<sup>3</sup> directed first sellers under the NGPA to make Kansas ad valorem tax refunds, with interest, for the period from 1983 to 1988. The Commission issued a January 28, 1998 order in Docket No. RP98-39-001, *et al.* (January 28 Order),<sup>4</sup> clarifying the refund procedures, stating that producers could request additional time to establish the uncollectability of royalty refunds, and that first seller may file requests for NGPA section 502(c) adjustment relief from the refund requirement and the timing and procedures for implementing the refunds, based on the individual circumstances applicable to each first seller.

The Lowry's requests that the Commission resolve any potential dispute between The Lowry's and Anadarko Gathering Company (Anadarko), finding that The Lowry's have no liability for reimbursement of Kansas ad valorem taxes. The Lowry's state that they are only royalty owners, and that those tax reimbursements were made on their royalty interest in lands in the City of Liberal, which were leased to Kennedy & Mitchell. The Lowry's aver that they were never lessee or working interest owners and further state that they made no sales of the gas. The Lowry's state they do not believe the refund orders apply to them, because they are not First Sellers.

The Lowry's indicate that they have advised Anadarko of the information stated above, but that Anadarko has not responded.

Any person desiring to be heard or to make any protest with reference to said petition should on or before 15 days after the date of publication in the **Federal Register** of this notice, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the

Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211, 385.1105, and 385.1106). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

**David P. Boergers,**

*Acting Secretary.*

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. SA98-63-000]

#### Mull Drilling Company, Inc.; Notice of Petition for Adjustment

March 24, 1998.

Take notice that on March 10, 1998, Mull Drilling Company, Inc. (MDC), filed a petition for adjustment under section 502(c) of the Natural Gas Policy Act of 1978 (NGPA) [15 U.S.C. § 3142(c) (1982)], requesting an order from the Commission determining: (1) that MDC is only responsible for Kansas ad valorem tax refund amounts attributable to its working interest; (2) that the payment of Kansas ad valorem tax refunds will create a financial hardship for MDC and, therefore, that MDC should be permitted to amortize its refunds over a reasonable period of time; and (3) that MDC's liability for Kansas ad valorem tax refunds attributable to the Doggett oil and gas lease (Doggett) should be waived, on the basis that MDC has no ability to recoup any refunds from that lease. Absent adjustment relief, the Kansas ad valorem tax refunds are required by the Commission's September 10, 1997 order in Docket No. RP97-369-000 *et al.*<sup>1</sup> MDC's petition is on file with the Commission and open to public inspection.

The Commission's September 10 order on remand from the D.C. Circuit Court of Appeals<sup>2</sup> directed first sellers to make Kansas ad valorem tax refunds, with interest, for the period from 1983

to 1988. That order also provided that first sellers could, with the Commission's prior approval, amortize their Kansas ad valorem tax refunds over a 5-year period, although interest would continue to accrue on any outstanding balance.

MDC states that it was a party to certain gas purchase contracts entered into with Panhandle Eastern Pipe Line Company (Panhandle). MDC explains that, as the operator, of the leases dedicated under those contracts, MDC acted on behalf of itself and, in some cases, third-party working interest owners. MDC adds that it passed along the funds, including the Kansas ad valorem tax reimbursement funds, to the other working interest owners, and only retained those funds attributable to its own working interest.

MDC indicates its intent to tender the undisputed principal amount to Panhandle and to place the remaining funds in an escrow account. MDC states that it was established as an operating company, and that it has limited liquid assets to satisfy these claimed amounts. MDC avers that the payment of amount in dispute to Panhandle, and deposit of the remaining amount into escrow as related to MDC's working interest ownership, creates a profound hardship for MDC. Additionally, MDC request that the refund attributable to the Doggett lease be waived, since MDC states that it has no ability to recoup any of the amounts claimed as refunds from future production for the Doggett lease, because that lease has been abandoned and is no longer operated by MDC.

Any person desiring to be heard or to make any protest with reference to said petition should on or before 15 days after the date of publication in the **Federal Register** of this notice, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211, 385.1105, and 385.1106). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to be proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

**David P. Boergers,**

*Acting Secretary.*

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<sup>1</sup> 15 U.S.C. 3142(c) (1982).

<sup>2</sup> See 80 FERC ¶ 61,264 (1997); order denying reh'g issued January 28, 1998, 82 FERC ¶ 61,058 (1998).

<sup>3</sup> *Public Service Company of Colorado v. FERC*, 91 F.3d 1478 (D.C. 1996), cert. denied, Nos. 96-954 and 96-1230 (65 U.S.L.W. 3751 and 3754, May 12, 1997).

<sup>4</sup> 82 FERC ¶ 61,059 (1998).

<sup>1</sup> See 80 FERC ¶ 61,264 (1997); order denying reh'g issued January 28, 1998, 82 FERC ¶ 61,058 (1998).

<sup>2</sup> *Public Service Company of Colorado v. FERC*, 91 F.3d 1478 (D.C. 1996), cert. denied, Nos. 96-954 and 96-1230 (65 U.S.L.W. 3751 and 3754, May 12, 1997) (Public Service).