

Northern's Kansas *ad valorem* tax reimbursement refund claim.

Burlington adds, however, that it is not claiming that the tax reimbursement refunds should not be made to the ultimate consumers, only that Southland entered into an arms-length contractual agreement with Northern, and that Northern, by agreeing to release Southland from any and all future liability with regard to the Kansas contracts, assumed the obligation to make such payments on behalf of Southland, as consideration for value received from Southland pursuant to the 1989 Settlement, including the mutual release and indemnification, and the termination of Northern's take-or-pay obligations under numerous contracts.

Burlington also contends that, to the extent its predecessor (Southland) received any value in excess of the applicable maximum lawful price for the gas Northern purchased under the Kansas contract, Southland has already reimbursed Northern for that value through the consideration provided to Northern pursuant to the release of Northern from its take-or-pay liability under the numerous contracts covered by the 1989 Settlement.

Burlington also asserts that the Natural Gas Policy Act of 1978 (NGPA) does not prohibit a pipeline from contractually assuming a producer's refund liability under the NGPA. Burlington contends that, since the Commission has found that the consumers are bound by their contractual agreements that relinquished their rights to Kansas *ad valorem* tax reimbursement refund from El Paso Natural Gas Company, Natural Gas Pipeline Company of America, and

ANR Pipeline Company,<sup>3</sup> there is no justification for not holding a pipeline to its contractual agreements to release and indemnify gas sellers from the obligation to refund tax reimbursements.

In the event that the Commission finds that Northern's indemnification of Southland is not applicable to the actual Kansas *ad valorem* tax reimbursement refund amounts (*i.e.*, the principal portion of Northern's refund claim), Burlington contends that the Commission should nevertheless find, at a minimum, that Northern has indemnified Burlington from paying the interest on the principal. In the event that the Commission finds that Northern has not assumed Burlington's refund liability, as a result of entering into the 1989 Settlement, Burlington requests relief from having to pay both the principal and interest to Northern, pursuant to section 502(c) of the NGPA, based on Burlington's contention that it would be inequitable to absolve Northern of its contractual commitment to release Burlington from all liabilities associated with the Kansas contracts. In this regard, Burlington claims that the release Northern obtained was for value in exchange for its indemnification, and that it would be inequitable to allow Northern to now be relieved of its *quid pro quo* under the 1989 Settlement, solely because the indemnification obligation would require Northern to assume Burlington's liability for Kansas *ad valorem* tax reimbursement refunds.

Any person desiring to comment on or make any protest with respect to the above-referenced petition should, on or before October 18, 1999, file with the Federal Energy Regulatory Commission,

888 First Street, NE, Washington, DC 20426, a motion to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). 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 proceedings. Any person wishing to become a party to the 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,**

Secretary.

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**DEPARTMENT OF ENERGY**

**Federal Energy Regulatory Commission**

[Project No. 2566-010]

**Consumers Energy Company; Notice Establishing Procedures for Relicensing and a Deadline for Submission of Final Amendments**

September 27, 1999.

The license for the Webber Hydroelectric Project No. 2566, located on the Grand River near the City of Portland, in Ionia County, Michigan, will expire on March 31, 2001. On March 30, 1999, an application for new major license was filed. The following is an approximate schedule and procedures that will be followed in processing the application:

Date	Action
August 16, 1999 .....	Commission issues notice of the accepted application establishing October 15, 1999, for filing motions to intervene and protests.
November 26, 1999 .....	Commission's deadline for applicant to file a final amendment, if any, to its application.
February 29, 2000 .....	Commission notifies all parties and agencies that the application is ready for environmental analysis.

Upon receipt of all additional information and the information filed in response to the public notice of the acceptance of the application, the Commission will evaluate the application in accordance with applicable statutory requirements and take appropriate action on the application.

Any questions concerning this notice should be directed to Tom Dean at (202) 219-2778.

**David P. Boergers,**

Secretary.

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**DEPARTMENT OF ENERGY**

**Federal Energy Regulatory Commission**

[Docket No. RP99-510-000]

**Koch Gateway Pipeline Company; Notice of Proposed Changes to FERC Gas Tariff**

September 27, 1999.

Take notice that on September 22, 1999, Koch Gateway Pipeline Company

<sup>3</sup> *El Paso Natural Gas Co.* 85 FERC ¶ 61,003 (1998); *Natural Gas Pipeline Company of America,*

85 FERC ¶ 61,004 (1998); and *ANR Pipeline Co.*, 85 FERC ¶ 61,005 (1998).