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Dated: June 13, 2003.

**Robert H. Pasternack,**

*Assistant Secretary for Special Education and Rehabilitative Services.*

[FR Doc. 03-15415 Filed 6-18-03; 8:45 am]

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## DEPARTMENT OF EDUCATION

### Arbitration Panel Decision Under the Randolph-Sheppard Act

**AGENCY:** Department of Education.

**ACTION:** Notice of arbitration panel decision under the Randolph-Sheppard Act.

**SUMMARY:** The Department gives notice that on July 11, 2001, an arbitration panel rendered a decision in the matter of *David Ramsey, et al. v. New Hampshire Department of Education, Division of Vocational Rehabilitation, Bureau of Service for the Blind and Visually Impaired (Docket No. R-S/99-4)*. This panel was convened by the U.S. Department of Education, under 20 U.S.C. 107d-1(a), after the Department received a complaint filed by the petitioner, David Ramsey, *et al.*

**SUPPLEMENTARY INFORMATION:** Under section 6(c) of the Randolph-Sheppard Act (the Act), 20 U.S.C. 107d-2(c), the Secretary publishes in the **Federal Register** a synopsis of each arbitration panel decision affecting the administration of vending facilities on Federal and other property.

#### Background

This dispute concerns a competitive bidding process for the operation of vending machines at the roadside rest areas located on the interstate highway system used by the State of New Hampshire. The State's use of this competitive bidding process allegedly prevented blind vendors from operating these vending machines in violation of the priority provisions of the Randolph-Sheppard Act (20 U.S.C. 107 *et seq.*) and the implementing regulations in 34 CFR part 395. The State was represented in this arbitration proceeding by the New Hampshire Department of Education, Division of Vocational Rehabilitation, Bureau of Services for the Blind and Visually Impaired, which is the State licensing agency (SLA).

A summary of the facts is as follows: In July 1985, the New Hampshire legislature enacted State legislation, RSA 230:30-a, which instituted a

competitive bidding process for anyone seeking to install and maintain vending machines at rest area locations along New Hampshire's interstate highway system.

The complainants, David Ramsey, *et al.*, claimed that blind vendors had a "right of first refusal" before any other entity was approached to operate vending facilities at rest area locations on the interstate highway system. The complainants maintained that the right of first refusal resulted from the Transportation Equity Act of the 21st Century (TEA-21), in 23 U.S.C. 111(b), which authorizes placement of vending machines at rest areas located on the interstate highway system. This authority also provides that the State shall give priority to vending machines operated by the SLA under the Act. The complainants further alleged that the State law, RSA 230:30-a, which authorized the bidding process for the placement of vending machines on the interstate highway system, was preempted by the TEA-21, which is a Federal law.

The SLA denied that there was a preemption issue and alleged that a conflict did not exist between State and Federal law in this case. The SLA further alleged that the Federal arbitration panel did not have jurisdiction concerning the issues raised by complainants. The SLA also maintained that the State implemented the priority provision under the TEA-21 by giving priority to blind vendors and awarding a vending contract to the SLA if it submitted the high bid or if the SLA tied for the high bid.

#### Arbitration Panel Decision

A majority of the arbitration panel concluded that RSA 230:30-a resulted in the awarding of contracts to private vendors, thus preventing blind vendors from competing since they lacked comparable resources. According to the panel, although RSA 230:30-a is silent regarding the priority or preference to blind vendors in the installation and maintenance of vending machines at interstate rest areas, no real priority was given to blind vendors on the basis of breaking a tie bid in favor of blind vendors. Thus, the panel rejected the SLA's interpretation of the meaning of priority under the TEA-21.

Accordingly, the panel agreed with the complainants that the purpose and fair interpretation of priority within section 111(b) of the TEA-21 required that the complainants receive an opportunity to operate vending machines before any private vendor was even invited to bid. Otherwise, RSA

230:30-a rendered the TEA-21 meaningless.

The panel further determined that, contrary to the SLA's position, the panel did have the authority to rule on these issues. The panel stated that the grievance procedure in 20 U.S.C. 107d-1(a) does not contain any limitation on the authority of an arbitration panel in deciding disputes between blind vendors and SLAs.

Concerning the issue of preemption of State law, the panel ruled that this case was not one in which State law simply supplemented Federal law as argued by the SLA. The panel determined that RSA 230:30-a clearly interfered with section 111(b) of the TEA-21, because it frustrated the purpose of Congress, which was to provide blind people with realistic economic and employment opportunities.

Finally, the panel ruled that the complainants were entitled to damages in the amount of full commissions payable from the time the complaint was filed on October 28, 1998. The panel instructed that the State pay to the SLA the commissions to be used to benefit the blind vendors. Legal fees were not awarded to either party.

One panel member dissented.

The views and opinions expressed by the panel do not necessarily represent the views and opinions of the U.S. Department of Education.

**FOR FURTHER INFORMATION CONTACT:** You may obtain a copy of the full text of the arbitration panel decision from Suzette E. Haynes, U.S. Department of Education, 400 Maryland Avenue, SW., room 3232, Mary E. Switzer Building, Washington, DC 20202-2738. Telephone: (202) 205-8536. If you use a telecommunications device for the deaf (TDD), you may call the TDD number at (202) 205-8298.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotope, or computer diskette) on request to the contact person listed in the preceding paragraph.

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**Loretta Petty Chittum,**

*Acting Assistant Secretary for Special Education and Rehabilitative Services.*

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. GP94-2-012]

#### Columbia Gas Transmission Corporation; Notice of Refund Report

June 12, 2003.

Take notice that on June 10, 2003, Columbia Gas Transmission Corporation (Columbia) tendered for filing its Refund Report made to comply with the April 17, 1995 Settlement (Settlement) in Docket No. GP94-02, *et al.*, as approved by the Commission on June 15, 1995 (Columbia Gas Transmission Corp., (71 FERC § 61,337 (1995))).

Columbia states that on January 20, 2003, it made refunds, as billing credits and with checks, in the amount of \$307,253.93.

Columbia further states that the refunds represent deferred tax refunds received from Trailblazer Pipeline Company and Overthrust Pipeline Company. Columbia asserts that these refunds were made pursuant to Article VIII, Section E of the Settlement using the allocation percentages shown on Appendix G, Schedule 5 of the Settlement. Columbia explains that the refunds include interest at the Commission rate, in accordance with the Code of Federal Regulations, Subpart F, Section 154.501 (d).

Columbia states that copies of its filing have been mailed to all affected customers and state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before the protest date as shown below. 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 proceedings. This filing is available for review at the

Commission in the Public Reference Room or may be viewed on the Commission's Web site at <http://www.ferc.gov> using the "FERRIS" link. Enter the docket number excluding the last three digits in the docket number field to access the document.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. For assistance, please contact FERC Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or toll-free at (866) 208-3676, or TTY, contact (202) 502-8659. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

*Protest Date:* June 23, 2003.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. 03-15424 Filed 6-18-03; 8:45 am]

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. RP03-515-000]

#### Dominion Transmission, Inc.; Notice of Report of Overrun/Penalty Revenue Distribution

June 12, 2003.

Take notice that on June 6, 2003, Dominion Transmission, Inc. (DTI) tendered for filing its report of overrun/penalty revenue distribution. Section 41 of the General Terms and Conditions of DTI's FERC Gas Tariff, Crediting of Unauthorized Overrun Charge and Penalty Revenues, requires distribution of such charges and revenues to non-offending customers on June 30 of each year, and filing of the related report within 30 days of the distribution.

DTI states that it distributed the penalty revenues to customers one month early, on May 30, 2003, due to a physical move of the Regulatory & Pricing Department that will be occurring in mid to late June.

DTI states that copies of the transmittal letter and summary workpapers are being mailed to DTI's customers and to all interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before the

intervention and protest date as indicated below. 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 proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at <http://www.ferc.gov> using the "FERRIS" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or toll-free at (866) 208-3676, or TTY, contact (202) 502-8659. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

*Comment Date:* June 19, 2003.

**Magalie R. Salas,**

*Secretary.*

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. RP96-383-052]

#### Dominion Transmission, Inc.; Notice of Compliance Filing

June 12, 2003.

Take notice that on June 6, 2003, Dominion Transmission, Inc. (DTI) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, with an effective date of July 1, 2003.

Second Revised Sheet No. 1407  
First Revised Sheet No. 1408  
Second Revised Sheet No. 1409  
First Revised Sheet No. 1410  
First Revised Sheet No. 1411  
First Revised Sheet No. 1412

DTI states that copies of its letter of transmittal and enclosures have been served upon DTI's customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with § 154.210 of the Commission's Regulations. Protests will be considered by the Commission in