Issued in Washington, DC on June 29, 2005.

R. Samuel,

Deputy Advisory Committee Management Officer.

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DEPARTMENT OF ENERGY

Office of Hearings and Appeals; Proposed 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 (OHA) of the Department of Energy (DOE) announces the proposed procedures for the disbursement of $1,585,576.76, plus accrued interest, in crude oil overcharges obtained by the DOE concerning BPM Ltd., Case No. TEF–0001, Honeymon Drilling Co., Case No. TEF–0002, Intercontinental Oil, Case No. TEF–0003, Knox Oil, Case No. TEF–0004, Pescar Trading, Case No. TEF–0005, Shepherd Oil, Inc., Case No. TEF–0006, Sierra Petroleum Co., Case No. TEF–0007, Thriftway Co., Case No. TEF–0008, and Western Refining Co. (Robert J. Martin), Case No. TEF–0011.

DATES: Comments must be filed in duplicate within 30 days of publication of this notice in the **Federal Register**

ADDRESSES: Comments should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Ave., SW., Washington, DC 20585–1615. All comments should display a reference to Case No. TEF–0001.

FOR FURTHER INFORMATION CONTACT: Richard A. Cronin, Jr., Assistant Director, Office of Hearings and Appeals, 1000 Independence Ave., SW., Washington, DC 20585–1615 (202) 287–1589, *richard.cronin@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: In accordance with 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision sets forth the procedures that the DOE has tentatively formulated to distribute to eligible claimants $1,585,576.76, plus accrued interest, obtained by the DOE from BPM Ltd., Honeymon Drilling Co., Intercontinental Oil, Knox Oil, Pescar Trading, Shepherd Oil, Inc., Sierra Petroleum Co., Thriftway Co., and Western Refining Co. (Robert J. Martin).

The OHA has proposed to distribute these funds in the currently-existing crude oil refund proceeding described in the Proposed Decision and Order. Because the deadline for filing crude oil refund applications has passed, no new applications for refund for the alleged (or established) crude oil pricing violations of the listed firms will be accepted for these funds.

Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are requested to forward two copies of their submission, within 30 days of the publication of this notice in the **Federal Register**, to the address set forth at the beginning of this notice. Comments so received will be made available for public inspection between the hours of 1:30 p.m. and 4 p.m., Monday through Friday, except Federal Holidays, in Room 7132 (the public reference room), 950 L'Enfant Plaza, Washington, DC.

Dated: June 29, 2005.

Fred L. Brown,

Acting Deputy Director, Office of Hearings and Appeals.

Proposed Decision and Order

Names of Firms: BPM Ltd., Honeymon Drilling Co., Intercontinental Oil, Knox Oil, Pescar Trading, Shepherd Oil, Inc., Sierra Petroleum Co., Thriftway Co., and Western Refining Co. (Robert J. Martin).

Date of Filing: June 21, 2005.

Case Numbers: TEF–0001, TEF–0002, TEF–0003, TEF–0004, TEF–0005, TEF–0006, TEF–0007, TEF–0008, and TEF–0009.

I. Background

The Office of General Counsel (OGC) of the Department of Energy (DOE) filed a Petition requesting that the Office of Hearings and Appeals (OHA) formulate and implement subpart V special refund proceedings. Under the procedural regulations of the DOE, special refund proceedings may be implemented to refund monies to persons injured by violations of the DOE petroleum price regulations, provided DOE is unable to readily identify such persons or to ascertain the amount of any refund. 10 CFR 205.280. We have considered OGC's request to formulate refund procedures for the disbursement of monies remitted by the following firms pursuant to administrative or judicial decisions or in settlement of the DOE allegations that the firms had violated the DOE petroleum price control and allocation regulations:

BPM Ltd., Honeymon Drilling Co., Intercontinental Oil, Knox Oil, Pescar Trading, Shepherd Oil, Inc., Sierra Petroleum Co., Thriftway Co., and Western Refining Co. (Robert J. Martin).

We have determined that the refund procedures requested by OGC are appropriate.

A total of $1,585,576.76 has been remitted to DOE by these firms to remedy violations that occurred during the relevant audit periods. These funds are being held in an escrow account established with the United States Treasury pending a determination of their proper distribution. This Decision sets forth OHA's proposed plan to distribute those funds.

II. Jurisdiction and Authority

The general guidelines that govern OHA's ability to formulate and implement a plan to distribute refunds are set forth at 10 CFR Part 205, subpart V. These procedures apply in situations where the DOE cannot readily identify the persons who were injured as a result of actual or alleged violations of the regulations or ascertain the amount of the refund each person should receive. For a more detailed discussion of subpart V and the authority of the OHA to fashion procedures to distribute refunds, *see* Office of Enforcement, 9 DOE ¶ 82,508 (1981) and Office of Enforcement, 8 DOE ¶ 82,597 (1981).

III. Refund Procedures

A. Allocation of Remitted Funds

The alleged violations by the above-named firms all concerned the sale of crude oil. Under these circumstances, we propose that all of the funds remitted be allocated for restitution for parties injured by the firms' alleged violations of the crude oil regulations.

B. Refund Procedures for Crude Oil Violations

We propose that the funds should be distributed in accordance with the DOE's Modified Statement of Restitutionary Policy in Crude Oil Cases, (MSRP), *see* 51 FR 27899 (August 4, 1986). Pursuant to the MSRP, OHA may reserve up to 20 percent of those funds for direct refunds to applicants who claim that they were injured by the crude oil violations. The remaining funds would be distributed to the states and federal government for indirect restitution. We propose to distribute the funds obtained from the two firms in accordance with the MSRP, which was issued as a result of the Settlement Agreement approved by the court in The Department of Energy Stripper Well Exemption Litigation, 653 F. Supp. 108 (D. Kan. 1986). Shortly after the issuance of the MSRP, the OHA issued an Order that announced that this policy would be applied in all subpart V proceedings involving alleged crude

oil violations. *See* Order Implementing the MSRP, 51 FR 29,689 (August 20, 1986) (the August 1986 Order).

Under the MSRP, 40 percent of crude oil overcharge funds will be disbursed to the federal government, another 40 percent to the states, and up to 20 percent may initially be reserved for the payment of claims to injured parties. The MSRP also specified that any funds remaining after all valid claims by injured purchasers are paid will be disbursed to the federal government and the states in equal amounts.

In April 1987, the OHA issued a Notice analyzing the numerous comments received in response to the August 1986 Order. 52 FR 11737 (April 10, 1987) (April 10 Notice). This Notice provided guidance to claimants that anticipated filing refund applications for crude oil monies under the Subpart V regulations. In general, we stated that all claimants would be required to (1) document their purchase volumes of petroleum products during the August 19, 1973 through January 27, 1981 crude oil price control period, and (2) prove that they were injured by the alleged crude oil overcharges. Applicants who were end-users or ultimate consumers of petroleum products, whose businesses are unrelated to the petroleum industry, and who were not subject to the DOE price regulations would be presumed to have been injured by any alleged crude oil overcharges. In order to receive a refund, end-users would not need to submit any further evidence of injury beyond the volume of petroleum products purchased during the period of price controls. See City of Columbus Georgia, 16 DOE ¶ 85,550 (1987).

1. Individual Refund Claims

The amount of money obtained from the listed firms intended for restitution of crude oil violations is $1,585,576.76 plus accrued interest. In accordance with the MSRP, we shall initially reserve 20 percent of those funds ($317,115 plus accrued interest) for direct refunds to applicants who claim that they were injured by crude oil overcharges. We shall base refunds on a volumetric amount which has been calculated in accordance with the methodology described in the April 10 Notice. That volumetric refund amount is currently $0.0016 per gallon. *See* 57 FR 15562 (March 24, 1995). On May 13, 2004, we announced final procedures for the distribution of the remaining crude oil overcharge funds held by DOE, and estimated that the remaining funds would result in an additional volumetric refund amount of $0.00072 per gallon. *See* 69 FR 29300 (May 21, 2004).

The filing deadline for refund applications in the crude oil refund proceeding was June 30, 1994. This was subsequently changed to June 30, 1995. *See* Filing Deadline Notice, 60 FR 19914 (April 20, 1995); see also DMLP PDO, 60 FR 32004, 32007 (June 19, 1995). Because the June 30, 1995, deadline for crude oil refund applications has passed, no new applications for restitution from purchasers of refined petroleum products based on the alleged (or established) crude oil pricing violations will be accepted for these funds. Instead, these funds will be added to the general crude oil overcharge pool used for direct restitution.

2. Payments to the States and Federal Government

Under the terms of the MSRP, the remaining 80 percent of the crude oil violation amounts subject to this Decision, or $1,268,461 plus accrued interest, should be disbursed in equal shares to the states and federal government, for indirect restitution. Refunds to the states will be in proportion to the consumption of petroleum products in each state during the period of price controls. The share or ratio of the funds which each state will receive is contained in Exhibit H of the Stripper Well Settlement Agreement. When disbursed, these funds will be subject to the same limitations and reporting requirements as all other crude oil monies received by the states under the Stripper Well Agreement.

Accordingly, we will direct the DOE's Office of the Controller to transfer one-half of that amount, or $634,230 plus interest, into an interest bearing subaccount for the states, and one-half or $634,230 plus interest, into an interest bearing subaccount for the federal government.

It is therefore ordered that: The payments remitted to the Department of Energy by BPM Ltd., Honeymon Drilling Co., Intercontinental Oil, Knox Oil, Pescar Trading, Shepherd Oil, Inc., Sierra Petroleum Co., Thriftway Co., and Western Refining Co. (Robert J. Martin) will be distributed in accordance with the forgoing Decision.

[FR Doc. 05–13231 Filed 7–5–05; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER05–905–000, ER01–1064–000, ER01–1064–001]

Celerity Energy Partners San Diego LLC; Celerity Energy of New Mexico LLC; Notice of Issuance of Order

June 27, 2005.

Celerity Energy Partners San Diego LLC (Celerity-SD) filed an application for market-based rate authority, with an accompanying rate tariff. The proposed rate tariff provides for the sales of capacity, energy, and ancillary services at market-based rates. Celerity-SD also requested waiver of various Commission regulations. In particular, Celerity-SD requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by Celerity-SD.

On June 23, 2005, pursuant to delegated authority, the Director, Division of Tariffs and Market Development—South, granted the request for blanket approval under part 34. The Director's order also stated that the Commission would publish a separate notice in the **Federal Register** establishing a period of time for the filing of protests. Accordingly, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Celerity-SD should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. 18 CFR 385.211, 385.214 (2004).

Notice is hereby given that the deadline for filing motions to intervene or protest is July 27, 2005.

Absent a request to be heard in opposition by the deadline above, Celerity-SD is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of Celerity-SD, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Celerity-SD issuances of securities or assumptions of liability.