available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–256 Filed 1–8–96; 8:45 am]

BILLING CODE 6717–01–M

Office of Hearings and Appeals

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of Implementation of Special Refund Procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy announces procedures for the disbursement of $1,564,222.74 (plus accrued interest) collected pursuant to a consent order with Vessels Gas Processing Company. The funds will be distributed in accordance with the DOE's special refund procedures, 10 CFR Part 205, Subpart V.

DATES AND ADDRESSES: Applications for Refund of a portion of the consent order must be filed in duplicate on or before April 8, 1996, and should be addressed to: Vessels Gas Processing Company Proceeding, Department of Energy, Office of Hearings and Appeals, 1000 Independence Ave., S.W., Washington, D.C. 20585–0107. All Applications should conspicuously display reference to Case Number VEF–0007.

FOR FURTHER INFORMATION CONTACT: Richard W. Dugan, Associate Director, 1000 Independence Ave. S.W., Washington D.C. 20585–0107, (202) 586–2860.

SUPPLEMENTARY INFORMATION: In accordance with the procedural regulations of the Department of Energy, 10 CFR 205.282 (c), notice is hereby given of the issuance of the Decision and Order set out below. The Decision and Order relates to a consent Order entered into by the DOE and Vessels Gas Processing Company (Vessels). The consent order settled possible pricing violations with respect to Vessels' sales of natural gas liquids (NGLs) and natural gas liquid products (NGLPs). The DOE has collected $1,564,222.74 and is holding the money in an interest-bearing escrow account pending distribution. On September 28, 1995, the Office of Hearings and Appeals issued a Proposed Decision and Order which tentatively established refund procedures and solicited comments from interested parties concerning the proper distribution of the consent order fund. No comments were received.

As the Decision and Order indicates, Applications for Refund from the Vessels' consent order fund may now be filed. Applications must be filed no later than 90 days from the date of publication of this Decision and Order. Applications will be accepted from customers who purchased NGLs and NGLPs from Vessels during the period September 1, 1973 through December 31, 1977. The specific information required in and Application for Refund is set forth in the Decision and Order.

Dated: December 21, 1995.

George B. Breznay,

Director, Office of Hearings and Appeals.

Special Refund Procedures

Name of Firm: Vessels Gas Processing Company
Date of Filing: February 27, 1995
Case Number: VEF–0007

In accordance with the procedural regulations of the Department of Energy (DOE), 10 CFR Part 205, Subpart V, the Regulatory Litigation branch of the Office of General Counsel (OGC) (formerly the Economic Regulatory Administration (ERA)) filed a Petition for the Implementation of Special Refund Procedures with the Office of Hearings and Appeals (OHA) on February 27, 1995. The petition requests that the OHA formulate and implement procedures for the distribution of funds received pursuant to a Consent Order entered into by the DOE and Vessels Gas Processing Company (Vessels) of Colorado.[1]

I. Background

Vessels was a ''refiner'' of natural gas liquids (NGLs) and natural gas liquid products (NGLPs), which were included within the definitions of ''covered products'' in 6 CFR 150.352 and in the price regulations promulgated pursuant to the Emergency Petroleum Allocation Act of 1973, Public Law 93–159. Accordingly, during the period from August 19, 1973 through January 28, 1981, Vessels was subject to price rules set forth in 10 CFR Part 212, Subpart K, and antecedent regulations at 6 CFR 150.1 et seq. An ERA audit of Vessels' business records at the Irondale and Brighton locations revealed possible pricing violations with respect to the firm's sales of NGLs and NGLPs at the Irondale plant during the audit period from September 1, 1973 through December 31, 1977 and at the Brighton plant from April 1, 1975 through December 31, 1977.[2] Subsequently, on October 7, 1986, the DOE issued a Remedial Order to Vessels, finding that the firm had overcharged its customers and requiring it to remit to the DOE $1,571,671.40, plus interest. *Vessels Gas Processing Co.*, 15 DOE ¶ 83,002 (1986). Vessels appealed the Remedial Order to the Federal Energy Regulatory Commission (FERC) (Case No. R087–3–000). While the Appeal was pending, Vessels and the DOE entered into a Consent Order on December 17, 1987, in order to settle all claims and disputes between Vessels and the DOE regarding the firm's compliance with price regulations in sales of NGLs and NGLPs during the audit period. In that Order, Vessels agreed to remit a total of $1,500,000, plus installment interest, to the DOE for distribution to the firm's customers. The Consent Order became final on February 16, 1988. Vessels has made payments totalling $1,564,222.74 to the DOE.[3] These funds, plus accrued interest, are presently in a DOE escrow account maintained by the Department of the Treasury.

II. Jurisdiction

The procedural regulations of the DOE set forth general guidelines by which the OHA may formulate and implement a plan of distribution for funds received as a result of an enforcement proceeding. 10 CFR Part 205, Subpart V. It is DOE policy to use the Subpart V process to distribute such funds. For a more detailed discussion of Subpart V and the authority of the OHA to fashion procedures to distribute refunds obtained as a part of settlement agreements, see *Office of Enforcement*, 9 DOE ¶ 82,553 (1982); *Office of Enforcement*, 9 DOE ¶ 82,508 (1981). After reviewing the record in the present case, we have concluded that a Subpart V proceeding is an appropriate

[1] For the sake of convenience and clarity, ''Vessels'' will refer to Vessels Gas Processing Company (VGPC) and Vessels Gas Process, Limited (VGPL) in this Decision and Order. In addition, ''Vessels'' will refer to the operations of Halliburton Resource Management (HRM) at the Irondale and Brighton plants on behalf of VGPC and VGPL. Vessels operated under a contract with HRM, a division of Halliburton Company (Halliburton). Under that agreement, the natural gas owned by Vessels was processed and sold at three plants owned and operated by HRM. HRM was paid or retained a service fee from the sales proceeds. On February 25, 1983, Vessels filed, in conjunction with a ''Preliminary Statement of Objections'' to the Proposed Remedial Order issued to it on November 5, 1982, a ''Motion to Join Halliburton Company and Hold it Jointly Liable for Any Overcharges that are Proven.'' On May 25, 1983, the OHA gave leave to amend the PRO to join Halliburton. *Vessels Gas Processing Co.*, 11 DOE ¶ 82,509 (1983).

[2] The discrepancy in dates between the two plants is due to the fact that the Brighton plant was not fully operational until April 1975.

[3] Vessels' appeal to FERC was dismissed on February 26, 1988. *Vessels Gas Processing Co.*, 42 FERC ¶ 63,023 (1988). The firm's final payment under the Consent Order was received by the DOE on October 12, 1994.

mechanism for distributing the Vessels consent order fund. We therefore shall grant OGC's petition and assume jurisdiction over distribution of the fund.

III. Refund Procedures

On September 28, 1995, OHA issued a Proposed Decision and Order (PDO) establishing tentative procedures to distribute the Vessels settlement fund. That PDO was published in the Federal Register and a 30-day period was provided for the submission of comments regarding our proposed refund plan. See 60 Fed. Reg. 53369 (October 13, 1995). More than 30 days have elapsed and the OHA has received no comments concerning the proposed procedures for the distribution of the Vessels settlement fund. Consequently, the procedures will be adopted as proposed.

A. Refund Claimants

Refund monies will be distributed to those parties which were injured in their transactions with Vessels during the audit period that were covered by the Consent Order.[4] We have limited information on Vessels' customers and the number of gallons purchased by each customer. From company records available to this Office, we have compiled a partial list of Vessels' customers. They are as follows: Farmland Industries, Inc., Littleton Gas Co., California Liquid Gas Co., Hytrans, Inc., UPG, Inc.[5]

These customers, and any additional customers, will be required to submit a monthly schedule of the number of gallons of NGLs and NGLPs purchased from September 1, 1973 through December 31, 1977 and documentation that these products were purchased from either the Irondale or Brighton plants. Indirect purchasers of Vessels' products may be eligible for a refund if the reseller from whom they purchased the products passed through Vessels' alleged overcharges to its own customers. Indirect purchasers must identify the reseller from whom they made the purchases, and establish the basis for their belief the products originated from either the Irondale or Brighton plant. Affiliates of Vessels will be ineligible to apply for a refund in this proceeding.[6]

B. Calculation of Refund Amounts

We shall use a volumetric methodology to distribute the consent order funds to Vessels' customers. The volumetric refund presumption assumes that the alleged overcharges by a firm were dispersed equally over all gallons of product marketed by that firm. In the absence of better information, this assumption is sound because the DOE price regulations generally required a regulated firm to account for increased costs on a firm-wide basis in determining its prices.[7]

Under the volumetric approach we are adopting in this proceeding, a claimant's ''allocable share'' (or ''volumetric share'') of the Vessels fund is equal to the number of gallons of NGLs and NGLPs purchased from Vessels from September 1, 1973 through December 31, 1977, multiplied by a volumetric refund amount of $0.0185 per gallon.[8]

Each successful claimant will also receive a pro rata share of the interest accrued on the consent order funds between the date the funds were placed in the Vessels escrow account and the date the applicant's refund is disbursed.

C. Presumptions of Injury

In addition to the volumetric presumption, we are adopting a number of presumptions regarding injury for claimants in each category listed below. These presumptions will simplify the refund process and will help ensure that refund claims are evaluated in the most efficient and equitable manner possible.

a. End-Users

End-users of Vessels products, i.e., consumers, whose use of NGLs or NGLPs was unrelated to the petroleum business, are presumed injured and need only document their purchase volumes from Vessels during the consent order period to be eligible to receive their full allocable share.

b. Refiners, Resellers, and Retailers Seeking Refunds of $10,000 or Less

Reseller claimants (including refiners and retailers), whose allocable share is $10,000 or less, i.e., who purchased 540,540 gallons or less of Vessels' products during the consent order period, will be presumed injured and therefore need not provide a further demonstration of injury, besides documentation of their purchase volumes, to receive their full allocable share. See, *e.g., E.D.G., Inc.*, 17 DOE ¶ 85,679 (1988). We recognize that the cost to the applicant of gathering evidence of injury to support a small refund claim could exceed the expected refund. Consequently, without simplified procedures, some injured parties would be denied an opportunity to obtain a refund.

c. Medium-Range Refiner, Reseller, and Retailer Claimants

In lieu of making a detailed showing of injury (see part III D, below), a reseller claimant whose allocable share exceeds $10,000 may elect to receive a refund under the medium-range presumption of injury. Under this presumption, a claimant will receive as its refund the larger of $10,000 or 60 percent of its allocable share up to

[4] For the reason set forth in footnote 1 this includes firms that purchased NGLs and NGLPs from HRM that originated with Vessels. Since ethane, an NGLP, was decontrolled effective April 1, 1974, Vessels' customers would not have been injured by purchases of ethane on or after that date. They are thus not eligible for refunds for ethane purchases made after March 31, 1974.

[5] In comments submitted in response to the Notice of the Proposed Consent Order in the December 28, 1987 Federal Register, Enron Corp. requested that it be specifically named as a payee in the Consent Order. Enron contended that UPG, Inc. was the principal customer of Vessels' NGLs, and that Enron, as UPG's successor in interest, is therefore eligible for a refund in this proceeding. ERA determined in its response to Enron's comments that it was OHA's prerogative to name Enron as a payee in its Implementation Order. The review and analysis of the written comments did not provide any information that would support the modification or rejection of the proposed Consent Order with Vessels and Halliburton. Therefore, the Consent Order was issued without modification. While this Office is aware that UPG is affiliated with Enron, we have no detailed information regarding the exact nature of their corporate relationship. Accordingly, we will not name Enron as a payee in this Decision. However Enron is invited to submit to this Office an Application for Refund, in which it provides documentation to support its contention that it is entitled to a refund for UPG's purchases.

[6] As in other refund proceedings involving alleged refined products violations, we will presume that affiliates of the Consent Order firm were not injured by the firm's overcharges. See, *e.g., Marathon Petroleum Co./EMRO Propane Co.*, 15 DOE ¶ 85,288 (1987). This is because the Consent Order firm presumably would not have sold petroleum products to an affiliate if such a sale would have placed the purchaser at a competitive disadvantage. See *Marathon Petroleum Co./Pilot Oil Corp.*, 16 DOE ¶ 85,611 (1987), *amended claim denied*, 17 DOE ¶ 85,291 (1988), *reconsideration denied*, 20 DOE ¶ 85,236 (1990). Furthermore, if an affiliate of the Consent Order firm were granted a refund, that Consent Order firm would be indirectly compensated from the Consent Order fund remitted to settle its own alleged violations. See *Propane Industrial, Inc.* v. *DOE*, 985 F.2d 586 (Temp. Emer. Ct. App. 1993) (refund to affiliate would be ''unjust enrichment'').

[7] However this presumption is rebuttable. A claimant which believes that it suffered a disproportionate share of the alleged overcharges may submit evidence proving this claim in order to receive a larger refund. See *Sid Richardson Carbon and Gasoline Co./Siouxland Propane Co.*, 12 DOE ¶ 85,054 (1984); see *also Amtel, Inc./Whitco, Inc.*, 19 DOE ¶ 85,319 (1989) (*Amtel*). In computing the appropriate refund in such a case, we will prorate the alleged overcharge amount by the ratio of the Vessels settlement amount to the aggregate overcharge amount determined by the Vessels Remedial Order. See *Amtel.*

[8] The volumetric factor was computed by dividing $1,564,222.74 by 84,689,877 (the approximate number of gallons of NGLs and NGLPs Vessels sold to its customers during the audit period). The latter figure was obtained from records submitted to this Office by Vessels.

$50,000.[9] The use of this presumption reflects our conviction that these claimants were likely to have experienced some injury as a result of the alleged overcharges. In other proceedings involving NGLs and NGLPs, we have determined that a 60 percent presumption for the medium-range purchasers of NGLs and NGLPs accurately reflected the amount of their injury as a result of their purchases of those products. See *Sauvage Gas Co.*, 17 DOE ¶ 85,304 (1988); *Suburban Propane Gas Co.*, 16 DOE ¶ 85,382 (1987). Such an applicant will be required only to provide documentation of its purchase volumes of Vessels' products during the consent order period in order to be eligible to receive a medium-range refund.

d. Regulated Firms and Cooperatives

We have determined that, in order to receive a full volumetric refund, a claimant whose prices for goods and services are regulated by a governmental agency, e.g., a public utility, or by the terms of a cooperative agreement, needs only to submit documentation of its purchases of products used by itself or, in the case of a cooperative, sold to its members. However, a regulated firm or cooperative whose allocable share is greater than $10,000 will also be required to certify that it will pass any refund through to its customers or member-customers, provide us with a full explanation of how it plans to accomplish the restitution, and certify that it will notify the appropriate regulatory body or membership group of the receipt of the refund.[10]

e. Spot Purchasers

As in prior Subpart V proceedings, we are adopting a rebuttable presumption that a reseller that made only irregular or sporadic, i.e., spot, purchases from Vessels did not suffer injury as a result of those purchases. Accordingly, a spot purchaser claimant must submit specific and detailed evidence to rebut the spot purchaser presumption and to establish the extent to which it was injured as a result of its spot purchases from Vessels. In prior proceedings we have stated that refunds will be approved for spot purchasers who demonstrate that (i) they made the spot purchases for the purpose of ensuring a supply for their base period customers rather than in anticipation of financial advantage as a result of those purchases, and (ii) they were forced by market conditions to resell the product at a loss that was not subsequently recouped through the draw down of banks. See *Quaker State Oil Refining Corp./Certified Gasoline Co.*, 14 DOE ¶ 85,465 (1986).

D. Showing of Injury

As in prior refund proceedings, claimants who are medium-range resellers (including retailers and refiners) will be afforded the opportunity to prove injury in order to receive a refund equal to their full allocable share. These claimants will be required to demonstrate that during the audit period they would have maintained their prices for the NGLs and NGLPs purchased from Vessels at the same level had the alleged overcharges not occurred. While there are a variety of ways to make this showing, a reseller generally must demonstrate that, at the time it purchased the product from Vessels, market conditions would not permit it to pass through to its customers the additional costs associated with the alleged overcharges. See *Atlantic Richfield Co./Odessa L.P.G. Transport*, 21 DOE ¶ 85,384 (1991); *Gulf Oil Corp./ Anderson & Watkins, Inc.*, 21 DOE ¶ 85,380 (1991). In addition, the reseller will be required to show that it had a ''bank'' of unrecovered costs in order to demonstrate that it did not recover the increased costs associated with the alleged overcharges by increasing its own prices. The maintenance of a bank does not, however, automatically establish injury. See *Tenneco Oil Co./ Chevron U.S.A., Inc.*, 10 DOE ¶ 85,014 (1982).

E. Refund Application Requirements

To apply for a refund from the Vessels Consent Order fund, a claimant should submit an Application for Refund containing all of the following information:

(1) Identifying information including the claimant's name, current business address, business address during the refund period, taxpayer identification number, a statement indicating whether the claimant is an individual, corporation, partnership, sole proprietorship, or other business entity, the name, title, and telephone number of the person to contact for any additional information, and the name and address of the person who should receive any refund check.[11] If the applicant operated under more than one name or under a different name during the price control period, the applicant should specify these names;

(2) The applicant's use of NGLs and NGLPs from Vessels: e.g., consumer (end-user), cooperative, or public utility;

(3) A monthly purchase schedule covering the period from September 1, 1973 through December 31, 1977. The applicant should specify the source of this gallonage information. In calculating its purchase volumes, an applicant should use actual records from the refund period, if available. If these records are not available, the applicant may submit estimates of its purchases, but the estimation method must be reasonable, explained in detail, and supported by some documentation;

(4) If the applicant is a regulated utility or cooperative, a certification that it will pass on the entirety of any refund received to its customers or customer-members, will notify its state utility commission, other regulatory agency, or membership body of the receipt of any refund, and a brief description as to how the refund will be passed along;

(5) A statement as to whether the applicant or a related firm has filed, or has authorized any individual to file on its behalf, any other application in the Vessels refund proceeding. If so, an explanation of the circumstances of the other filing or authorization should be submitted;

(6) If the applicant is or was in any way affiliated with Vessels, it should explain this affiliation, including the time period in which it was affiliated;

(7) A statement as to whether the ownership of the applicant's firm changed during or since the refund period. If an ownership change occurred, the applicant should list the names, addresses, and telephone numbers of any prior or subsequent owners. The applicant should also provide copies of any relevant Purchase and Sale Agreements, if available. If such written documents are not available, the applicant should submit a description of the ownership change, including the year of the sale and the

[9] That is, reseller claimants who purchased in excess of 540,540 gallons of Vessels product during the consent order period may elect to utilize this presumption.

[10] A cooperative's sales to non-members will be treated in the same manner as sales by other resellers. See *Total Petroleum/Farmers Petroleum Cooperative*, 19 DOE ¶ 85,215 (1989).

[11] Under the Privacy Act of 1974, the submission of a social security number by an individual applicant is voluntary. An applicant that does not wish to submit a social security number must submit an employer identification number if one exists. This information will be used in processing refund applications, and is requested pursuant to our authority under the Petroleum Overcharge Distribution and Restitution Act of 1986 and the regulations codified at 10 C.F.R. Part 205, Subpart V. The information may be shared with other Federal agencies for statistical, auditing or archiving purposes, and with law enforcement agencies when they are investigating a potential violation of civil or criminal law. Unless an applicant claims confidentiality, this information will be available to the public in the Public Reference Room of the Office of Hearings and Appeals.

type of sale (e.g., sale of corporate stock, sale of company assets);

(8) A statement as to whether the applicant has ever been a party in a DOE enforcement action or a private Section 210 action. If so, an explanation of the case and copies of the relevant documents should also be provided;

(9) The following statement signed by the individual applicant or a responsible official of the firm filing the refund application: [12]

I swear (or affirm) that the information contained in this application and its attachments is true and correct to the best of my knowledge and belief. I understand that anyone who is convicted of providing false information to the federal government may be subject to a fine, a jail sentence, or both, pursuant to 18 U.S.C. 1001. I understand that the information contained in this application is subject to public disclosure. I have enclosed a duplicate of this entire application which will be placed in the OHA Public Reference Room.

All applications should be either typed or printed and clearly labeled ''Vessels Special Refund Proceeding, Case No. VEF–0007.'' Each applicant must submit an original and one copy of the application. If the applicant believes that any of the information in its application is confidential and does not wish for this information to be publicly disclosed, it must submit an original application, clearly designated ''confidential,'' containing the confidential information, and two copies of the application with the confidential information deleted. All refund applications should be postmarked no later than 90 days from the publication of this Decision and Order in the Federal Register, and sent to: Vessels Special Refund Proceeding, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585–0107.

In those cases where applications are filed by representatives, e.g., filing services or attorneys, we may request information from the representative regarding its solicitation practices and materials and the procedures it uses. Furthermore, each representative that requests that it be a payee of a refund check must file with the OHA if it has not already done so a statement certifying that it maintains a separate escrow account at a bank or other financial institution for the deposit of all refunds received on behalf of applicants, and that its normal business practice is to deposit all Subpart V refund checks in that account within two business days of receipt and to disburse refunds to applicants within 30 calendar days thereafter. Unless such certification is received by the OHA, all refund checks approved will be made payable solely to the applicants. Representatives who have not previously submitted an escrow account certification form to the OHA may obtain a copy of the appropriate form by contacting: Marcia B. Carlson, HG–13, Chief, Docket & Publications Division, Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20585–0107.

F. Distribution of Funds Remaining After First Stage

Any funds that remain after all first-stage claims have been decided will be distributed in accordance with the provisions of the Petroleum Overcharge Distribution and Restitution Act of 1986 (PODRA), 15 U.S.C. 4501–07. PODRA requires that the Secretary of Energy determine annually the amount of oil overcharge funds that will not be required to refund monies to injured parties in Subpart V proceedings and make those funds available to state governments for use in four energy conservation programs. The Secretary has delegated these responsibilities to OHA. Any funds in the Vessels escrow account the OHA determines will not be needed to effect direct restitution to injured Vessels customers will be distributed in accordance with the provisions of PODRA.

It is therefore ordered That:

(1) Applications for Refund from the funds remitted to the Department of Energy by Vessels Gas Processing Company pursuant to the Consent Order that became final on February 16, 1988 may now be filed.

(2) All Applications for Refund must be postmarked no later than 90 days after publication of this Decision and Order in the Federal Register.

Date: December 21, 1995.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 96–290 Filed 1–8–96; 8:45 am]

BILLING CODE 6450–01–P

[12] We will not process applications signed by filing services or other representatives. In addition, the statement must be dated on or after the date of this Decision and Order. Any application signed and dated before the date of this Decision will be summarily dismissed.

Western Area Power Administration

Pacific Northwest-Pacific Southwest Intertie Project

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice and Request for Applications of Additional Capacity.

SUMMARY: The Western Area Power Administration (Western) is requesting applications on the Pacific Northwest-Pacific Southwest Intertie Project, responding to comments received on the Federal Register notice (FRN) dated September 19, 1995, and issuing its final marketing plan for firm transmission service available as a result of the completion of construction of the Mead-Phoenix (MPP) and Mead-Adelanto (MAP) 500–kV transmission projects.

DATES: Applications from all interested parties will be accepted until February 8, 1996.

FOR FURTHER INFORMATION CONTACT:

Mr. J. Tyler Carlson, Regional Manager, Desert Southwest Customer Service Region, Western Area Power Administration, P.O. Box 6457, Phoenix, AZ 85005–6457, Telephone: (602) 352–2521, Facsimile: (602) 352–2630

Mr. Anthony Montoya, Acting, Power Marketing Manager, Desert Southwest Customer Service Region, Western Area Power Administration, P.O. Box 6457, Phoenix, AZ 85005–6457, Telephone: (602) 352–2789, Facsimile: (602) 352–2630

SUPPLEMENTARY INFORMATION: In the FRN dated September 19, 1995 (60 FR 48513), Western announced its intention to market the additional capacity available as a result of the completion of the construction on the MPP and MAP which are a part of the Pacific Northwest-Pacific Southwest Intertie Project (AC Intertie). Comments were requested and received from customers and interested parties by the deadline of October 19, 1995. As a result of comments received, Western is issuing its marketing plan for MPP and MAP.

Customer Comments

Comment: The MPP has been identified by Western in the past as the Westwing-Marketplace Transmission Project. Many customers anticipated, and responded particularly to earlier interest requests by Western, based on the premise of interconnection and access to the Westwing bus. Western's marketing plan should include access between Westwing and Perkins to ensure that allocations of project capability are usable and to ensure the highest practical subscription level.

Response: Western has access to the Westwing 500–kV bus in an amount up to its equivalent ownership share in MPP. Western believes that the Perkins and Westwing 500–kV buses are equivalent and that access to Westwing 500–kV bus is ensured for allocations of project capability.