the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

C1. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D10. Filing and Service of Responsive Documents—The application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

The Commission directs, pursuant to Section 4.34(b) of the Regulations (see Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission within 60 days from the issuance date of this notice (May 13, 1996 for Project No. 2616–004). All reply comments must be filed with the Commission within 105 days from the date of this notice (June 26, 1996 for Project No. 2616–004).

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

All filings must (1) bear in all capital letters the title ''COMMENTS'', ''REPLY COMMENTS'', ''RECOMMENDATIONS,'' ''TERMS AND CONDITIONS,'' or ''PRESCRIPTIONS;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, at the above address. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b), and 385.2010.

Dated: March 18, 1996, Washington, D.C.

Lois D. Cashell,

Secretary.

[FR Doc. 96–6966 Filed 3–21–96; 8:45 am]

BILLING CODE 6717–01–P

Office of Hearings and Appeals

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of Implementation of Special Refund Procedures.

SUMMARY: The Office of Hearings and Appeals (OHA) of the Department of Energy announces the procedures for disbursement of $721,973.05 (plus accrued interest) in alleged or adjudicated crude oil overcharges obtained by the DOE from Brio Petroleum, Inc. (Case No. VEF–0017), Merit Petroleum Company (Case No. VEF–0018), Transcontinental Energy Corp. (VEF–0020) and Utex Oil Co. (Case No. VEF–0021). The OHA has determined that the funds obtained from these firms, plus accrued interest, will be distributed in accordance with the DOE's Modified Statement of Restitutionary Policy in Crude Oil Cases, 51 FR 27899 (August 4, 1986).

FOR FURTHER INFORMATION CONTACT: Richard W. Dugan, Associate Director, Office of Hearings and Appeals, 1000 Independence Avenue, S.W., Washington, D.C. 20585–0107, (202) 586–2860.

SUPPLEMENTARY INFORMATION: In accordance with 10 CFR 205.282(c), notice is hereby given of the issuance of the Decision and Order set forth below. The Decision and Order sets forth the procedures that the DOE has tentatively formulated to distribute a total of $721,973.05, plus accrued interest, remitted to the DOE by Brio Petroleum, Inc., Merit Petroleum, Inc., Transcontinental Energy Corp., and Utex Oil Co. The DOE is currently holding these funds in interest bearing escrow accounts pending distribution.

The OHA will distribute these funds in accordance with the DOE's Modified Statement of Restitutionary Policy in Crude Oil Cases, 51 FR 27899 (August 4, 1986) (the MSRP). Under the MSRP, crude oil overcharge monies are divided among the federal government, the states, and injured purchasers of refined petroleum products. Refunds to the states will be distributed in proportion to each state's consumption of petroleum products during the price control period. Refunds to eligible purchasers will be based on the volume of petroleum products that they purchased and the extent to which they can demonstrate injury.

Because the June 30, 1995, deadline for crude oil refund applications has passed, no new applications from purchasers of refined petroleum products will be accepted for the 20 percent of these funds allocated to individual claimants.

Dated: March 14, 1996.

Thomas O. Mann,

Acting Director, Office of Hearings and Appeals.

Implementation of Special Refund Procedures

Names of Firms:
Brio Petroleum, Inc.
Merit Petroleum Company
Transcontinental Energy Corporation
Utex Oil Company

Date of Filings:
September 1, 1995

Case Numbers:
VEF–0017
VEF–0018
VEF–0020
VEF–0021

In accordance with the procedural regulations of the Department of Energy (DOE), 10 CFR Part 205, Subpart V, the Office of General Counsel, Regulatory Litigation (OGC) (formerly the Economic Regulatory Administration (ERA), Office of Enforcement Litigation), filed four Petitions for the Implementation of Special Refund Procedures with the Office of Hearings and Appeals (OHA) on September 1, 1995. The Petitions request that OHA formulate and implement procedures to distribute funds received by the DOE from Brio Petroleum, Inc. (Brio), Merit Petroleum Company (Merit), Transcontinental Energy Corp. (Transcontinental), and Utex Oil Company (Utex), as a result of enforcement proceedings against the firms.

On January 16, 1996, we issued a Proposed Decision and Order (PDO) that tentatively established refund procedures for the distribution of crude oil overcharge funds obtained from these four firms.[1] *Brio Petroleum, Inc.,* Case Nos. VEF–0017 *et al.,* 61 FR 1919 (January 24, 1996). We provided a period of 30 days from the date of the PDO's publication in the Federal Register in which the public could comment on the tentative refund procedures. More than 30 days have elapsed, and the OHA has received no comments concerning the proposed procedures. Accordingly, this Decision and Order sets forth the OHA's plan to distribute these funds received from the four firms.

I. Background

As indicated by the following summaries of the relevant enforcement proceedings, all of the funds that are subject to this Decision were obtained through enforcement actions involving alleged or adjudicated crude oil overcharges.

A. Brio

Brio [2] was a reseller of crude oil during the period May 1, 1978 through December 31, 1979 (the audit period), and was subject to the crude oil reseller regulations set forth at 10 CFR Part 212, Subpart L. As the result of an ERA audit of Brio's operations, on November 20, 1984, the ERA issued a Proposed Remedial Order (PRO) to the firm alleging that it had engaged in layered crude oil transactions in violation of 10 C.F.R. 212.186, by charging prices for crude oil in excess of actual purchase prices without providing any service or other function traditionally and historically associated with the resale of crude oil during the audit period. After denying a Statement of Objections filed by White, Brio was issued a Remedial Order (RO) by the OHA on April 16, 1987. *Brio Petroleum, Inc.,* 15 DOE ¶ 83,033 (1987).[3]

Subsequently, the matter was referred to the U.S. Department of Justice (DOJ) for enforcement of the RO. Although judgment was entered against Brio, the firm had previously filed for bankruptcy. The firm possessed assets insufficient to satisfy claims of general unsecured creditors, including the DOE. On July 14, 1993, the DOJ compromised the claim against White for $5,000. As of February 29, 1996, the Brio Consent Order fund contained $5,000 in principal plus $613.86 in accrued interest.

B. Merit

Merit [4] was a reseller of crude oil, and was subject to the crude oil reseller regulations set forth at 10 CFR Part 212, Subpart L. As the result of an ERA audit of Merit's operations, on October 20, 1986, the ERA issued a PRO to the firm alleging that during the period November 1978 through December 1980, the firm engaged in layered crude oil transactions in violation of 10 CFR Part 212.186, by charging prices for crude oil in excess of actual purchase prices without providing any service or other function traditionally and historically associated with the resale of crude oil. Merit submitted a Statement of Objections to the PRO. After considering and rejecting Merit's objections, the OHA issued an RO to Merit on January 31, 1990. *Merit Petroleum, Inc.,* 20 DOE ¶ 83,002 (1990). The RO found that Merit's layered transactions resulted in overcharges amounting to $48,290,793.17. The RO was affirmed by the Federal Energy Regulatory Commission (FERC). *Merit Petroleum, Inc.,* 65 FERC ¶ 61,175. During the course of a subsequent federal district court proceeding, Merit and the DOE stipulated to an Agreed Judgment, which resolved the Merit enforcement proceeding. Pursuant to the Agreed Judgment, Merit agreed to pay to the DOE the sum of $64,715. Merit has fulfilled its financial obligation to the DOE. As of February 29, 1996, the Merit Consent Order fund contained $64,715 in principal plus $3,766.80 in accrued interest.

C. Transcontinental

Transcontinental was a producer of crude oil during the period of January 1975 through December 1980, and was subject to the Federal petroleum price and allocation regulations. On March 30, 1979, the ERA issued a Notice of Probable Violation to Transcontinental alleging $372,151.67 in crude oil overcharge violations from several properties it operated. Transcontinental had filed a petition in bankruptcy on October 14, 1977, and had been adjudicated bankrupt on October 5, 1978. The trustee appointed by the Bankruptcy Court opposed DOE's claim, but the United States District Court in Nevada on appeal ruled in favor of the DOE. *In re Transcontinental Energy Corp.* v. *United States Department of Energy,* 3 Fed. Energy Guidelines ¶ 26,638 (D. Nev. 1990), *aff'd,* 950 F.2d 733 (Temp. Emer. Ct. App. 1991). Transcontinental's estate was insufficient to satisfy completely the claims of unsecured creditors, including the DOE. As a result, DOE received $231,335.32. As of February 29, 1996, the Transcontinental settlement fund contained $231,335.32 in principal plus $18,696.40 in accrued interest.

D. Utex

During the period of Federal petroleum price controls, Utex was engaged in producing and selling crude oil. Utex was therefore subject to the regulations governing the pricing of crude oil set forth at 10 C.F.R. Parts 205, 210, 211, and 212 of the Mandatory Petroleum Price and Allocation Regulations. On June 16, 1982, the ERA issued a PRO to the firm in which it alleged that during the period from July 1, 1975 through April 30, 1980, Utex improperly classified and priced crude oil produced from several properties it operated. In addition, the PRO also alleged that Utex disregarded the current cumulative deficiency rule, erroneously computed the base production control level, and erroneously applied the stripper well lease exemption to certain properties. As a result of these violations, the PRO alleged that Utex overcharged its customers by $502,833.21. Utex filed a Statement of Objections to the PRO on

[1] One other firm, Texas American Oil Corporation (Texas American), was included in the PDO. However, because of additional information that we have received concerning the Texas American proceeding, that firm has been omitted from the present Decision and instead will be the subject of a new Proposed Decision.

[2] References to Brio in this Decision include L.B. White, President, Treasurer, and a Director (White), who maintained a controlling interest in the firm during the price control period.

[3] The RO found that the firm alone was liable for refunding $1,093,548, plus accrued interest, for the layering violations that occurred from May through July 1978. White and the firm were jointly liable for the layering violations which occurred after August 1, 1978, that resulted in overcharges amounting to $849,570.

[4] References to Merit in this Decision include Thomas H. Battle, President and a Director of Merit, and Anton E. Meduna, Vice President, a Director, General Manager and Secretary of Merit.

September 29, 1982. On February 19, 1985, the OHA issued the PRO as a RO. *Utex Oil Co.,* 12 DOE ¶ 83,031 (1985). The RO was affirmed by the FERC. *Utex Oil Co.,* 36 FERC ¶ 61,099 (1986). In the course of an appeal to the United States District Court in Utah, Utex and the DOE entered into a Stipulation for Withdrawal of Appeal and Judgment on Counterclaim and Order (Stipulation). Accepting the Stipulation, the Court granted DOE a judgment against Utex of $884,794.01. The judgment provided the basis for DOE's claim in the bankruptcy proceeding initiated by Utex on August 1, 1986. Utex's estate was insufficient to satisfy completely the claims of general unsecured creditors, including the DOE. As a result, DOE received distributions totalling $420,922.73. As of February 29, 1996, the Utex settlement fund contained $420,922.73 in principal plus $117,473.37 in accrued interest.

II. Jurisdiction and Authority

The Subpart V regulations set forth general guidelines which may be used by the OHA in formulating and implementing a plan of distribution of funds received as a result of an enforcement proceeding. The DOE policy is 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, *see Petroleum Overcharge Distribution and Restitution Act of 1986,* 15 U.S.C. §§ 4501 *et seq.; see also Office of Enforcement,* 9 DOE ¶ 82,508 (1981), and *Office of Enforcement,* 8 DOE ¶ 82,597 (1981).

III. The Refund Procedures

A. Crude Oil Refund Policy

We adopt the tentative determination of the PDO to distribute the funds obtained from the four enforcement proceedings in accordance with DOE's Modified Statement of Restitutionary Policy in Crude Oil Cases (MSRP), 51 Fed. Reg. 27899 (August 4, 1986), which was issued as a result of the Settlement Agreement approved by the court in *In re 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. Order Implementing the MSRP, 51 Fed. Reg. 29689 (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 Fed. Reg. 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).

B. Refund Claims

The amount of money subject to this Decision is $721,973.05 plus accrued interest. In accordance with the MSRP, we shall initially reserve 20 percent of those funds ($144,394.61 plus accrued interest) for direct refunds to applicants who claim that they were injured by crude oil overcharges. We shall base refunds to claimants on a volumetric amount which has been calculated in accordance with the description in the April 10 Notice. That volumetric refund amount is currently $0.0016 per gallon. See 60 FR 15562 (March 24, 1995).

Applicants who have executed and submitted a valid waiver pursuant to one of the escrows established by the Stripper Well Settlement Agreement have waived their rights to apply for a crude oil refund under Subpart V. See *Mid-America Dairyman Inc.* v. *Herrington,* 878 F.2d 1448, 3 Fed. Energy Guidelines ¶ 26,617 (Temp. Emer. Ct. App. 1989); *In re Department of Energy Stripper Well Exemption Litigation,* 707 F. Supp. 1267, 3 Fed. Energy Guidelines ¶ 26,613 (D. Kan 1987). Because the June 30, 1995, deadline for crude oil refund applications has passed, we shall not accept any new applications for these funds. See *Western Asphalt Service, Inc.,* 25 DOE ¶ 85,047 (1995). Instead, these funds will be added to the general crude oil overcharge pool used for direct restitution.[5]

C. Payments to the States and Federal Government

Under the terms of the MSRP, the remaining 80 percent of the alleged crude oil violation amounts subject to this Decision, or $577,578.44 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 $288,789.22, plus interest, into an interest bearing subaccount for the states, and one-half or $288,789.22, plus interest, into an interest bearing subaccount for the federal government. In accordance with previous practice, when the amount available for distribution to the states reaches $10 million, we will direct the DOE's Office of the Controller to make the appropriate disbursement to the individual states.

It is therefore ordered That:

(1) The Director of Special Accounts and Payroll, Office of Departmental Accounting and Financial Systems Development, Office of the Controller of the Department of Energy shall take all steps necessary to transfer the consent order funds shown in the Appendix to this Decision and Order, plus all accrued interest from the escrow accounts of the firms listed in the Appendix, pursuant to Paragraphs (2), (3), and (4) of this Decision.

(2) The Director of Special Accounts and Payroll shall transfer $288,789.22 plus accrued interest, of the funds referenced in Paragraph (1) above, into the subaccount denominated ''Crude Tracking-States,'' Number 999DOE0003W.

(3) The Director of Special Accounts Payroll shall transfer $288,789.22, plus

[5] A crude oil refund applicant is only required to submit one application for its share of all available crude oil overcharge funds. See, *e.g., Ernest A. Allerkamp,* 17 DOE ¶ 85,079 at 88,176 (1988).

accrued interest, of the funds referenced in Paragraph (1) above, into the subaccount denominated ''Crude Tracking-Federal,'' Number 999DOE002W.

(4) The Director of Special Accounts and Payroll shall transfer $144,394.16, plus accrued interest, of the funds referenced in Paragraph (1) above, into the subaccount denominated Crude Tracking-Claimants 4,'' Number 999DOE0010Z.

(5) This is a final Order of the Department of Energy.

Dated: March 14, 1996.

Thomas O. Mann for George B. Breznay,

Director, Office of Hearings and Appeals.

APPENDIX

Case No.	Firm and consent order No.	Principal
VEF–0017	Brio Petroleum, Inc., 6A0X00283W	$5,000.00
VEF–0018	Merit Petroleum Company, 650X00288W	64,715.00
VEF–0020	Transcontinental Energy Corp., 940C00224W	231,335.32
VEF–0021	Utex Oil Company, 810C00336W	420,922.73
Total		721,973.05

[FR Doc. 96–7022 Filed 3–21–96; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

Sunshine Act Meeting

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C. 552b:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

DATE AND TIME: March 27, 1996—10:00 a.m.

PLACE: 888 First Street, N.E., Room 2C, Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Lois D. Cashell, Secretary, Telephone (202) 208–0400. For a recording listing items stricken from or added to the meeting, call (202) 208–1627.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the reference and information center.

Consent Agenda—Hydro, 649th Meeting—March 27, 1996, Regular Meeting (10:00 a.m.)

CAH–1.
Docket# P–9974, 023, Rough and Ready Hydro Company
CAH–2.
Docket# P–2343, 033, The Potomac Edison Company
CAH–3.
Docket# P–2445, 004, OMYA, Inc.
Other#S P–2445, 005, OMYA, Inc.
CAH–4.
Docket# P–2486, 005, Wisconsin Electric Power Company
CAH–5.
Docket# P–5276, 034, Niagara Mohawk Power Corporation and Northern Electric Power Company, L P
CAH–6.
Docket# P–6032, 028, Niagara Mohawk Power Corporation
Other#S EL95–49, 000, Fourth Branch Associates v. Niagara Mohawk Power Corporation

Consent Agenda—Electric

CAE–1.
Docket# ER96–640, 000, PECO Energy Company
Other#S ER96–641, 000, PECO Energy Company
CAE–2.
Omitted
CAE–3.
Docket# ER96–930, 000, Pennsylvania Power & Light Company
Other#S ER96–931, 000, Pennsylvania Power & Light Company
ER96–932, 000, Pennsylvania Power & Light Company
ER96–933, 000, Pennsylvania Power & Light Company
CAE–4.
Docket# ER95–1269, 000, E Prime Inc.
Other#S ER96–939, 000, Public Service Company of Colorado and Cheyenne Light, Fuel and Power Company
CAE–5.
Docket# ER96–979, 000, Illinova Power Marketing, Inc.
CAE–6.
Docket# EF95–5171, 000, United States Department of Energy—Western Area Power Administration Salt Lake City Area Integrated Project
CAE–7.
Docket# ER76–205, 016, Southern California Edison Company
Other#S ER79–150, 024, Southern California Edison Company
ER81–177, 019, Southern California Edison Company
ER82–427, 014, Southern California Edison Company
ER84–75,020, Southern California Edison Company
ER86–271,007, Southern California Edison Company
ER87–483,006, Southern California Edison Company
FA85–67,006, Southern California Edison Company
CAE–8.
Docket# ER95–625, 000, Cincinnati Gas & Electric Company
Other#S EC93–6, 001, Cincinnati Gas & Electric Company
EL95–39, 000, Cincinnati Gas & Electric Company
ER94–1015, 000, Cincinnati Gas & Electric Company
CAE–9.
Docket# ER95–1542, 001, Midamerican Energy Company
Other#S EL96–38, 000, Midamerican Energy Company
ER95–188, 002, Midamerican Energy Company
CAE–10.
Docket# EG96–42, 000, FTM Energy Inc.
CAE–11.
Docket# EL95–81, 000, New York Mercantile Exchange

Consent Agenda—Gas and Oil

CAG–1.
Docket# RP95–396, 007, Tennessee Gas Pipeline Company
Other#S RP96–160, 000, Tennessee Gas Pipeline Company
CAG–2.
Docket# RP96–123, 000, Florida Gas Transmission Company
Other#S RP96–123, 001, Florida Gas Transmission Company
CAG–3.
Docket# RP96–140, 000, Columbia Gas Transmission Corporation
CAG–4.
Docket# RP96–148, 000, National Fuel Gas Supply Corporation
Other#S RP96–148, 001, National Fuel Gas Supply Corporation
CAG–5.
Docket# RP96–151, 000, Florida Gas Transmission Company
Other#S RP96–151, 001, Florida Gas Transmission Company
CAG–6.