

place into an escrow account the interest on the total principle amount attributable to Kaiser's working interest. The March 9, 1998, deadline was established for first sellers to remit refunds of Kansas ad valorem taxes to their pipeline purchasers, as required by the Commission's September 10, 1997 order in Docket Nos. GP97-3-000, GP97-4-000, GP97-5-000, and RP97-369-000.<sup>2</sup> Kaiser's petition is on file with the Commission and open to public inspection.

The Commission's September 10 order on remand from the D.C. Circuit Court of Appeals<sup>3</sup> directed first sellers under the NGPA to make Kansas ad valorem tax refunds, with interest, for the period from 1983 to 1988. The Commission issued a January 28, 1998 order in Docket No. RP98-39-001, *et al.* (January 28 Order),<sup>4</sup> clarifying the refund procedures, stating that producers could request additional time to establish the uncollectability of royalty refunds, and that first seller may file requests for NGPA section 502(c) adjustment relief from the refund requirement and the timing and procedures for implementing the refunds, based on the individual circumstances applicable to each first seller.

Kaiser states it is substantially and adversely affected by the potential Kansas ad valorem tax refund requirement. Kaiser is not seeking to relieve itself of that refund obligation. Rather Kaiser seeks to establish procedures which ensure: (a) That it pays only that which is legitimately owed; and (b) that if it is subsequently determined that its refund liability was less than that originally claimed by Anadarko Petroleum Company (Anadarko) in Docket No. RP98-43-000, it can recover the overpayment. Accordingly, Kaiser requests an adjustment to the general refund procedures to permit it to pay the following amount into an escrow account: the interest on the principal amount attributable to Kaiser's working interest, totaling \$19,816.78.

Kaiser states that although there are issues relating to portions of the principal refunds which are pending before the court,<sup>5</sup> to demonstrate its

good faith in these proceedings Kaiser has paid the principal amount of refunds attributable to Kaiser's working interest in the amount of \$10,169.99 to Anadarko. Should the Commission provide assurances that Kaiser will be able to recover any overpayments without having to initiate a prompt return of refund amounts determined not to be due (such return of refunds not dependent upon recovery from consumers), Kaiser would agree to waive this request for escrowing certain monies. Without such assurances, Kaiser is entitled to have its property protested until the issue of liability has been fully resolved in Court or Congress.

Any person desiring to be heard or to make any protest with reference to said petition should on or before 15 days after the date of publication in the Federal Register of this notice, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211, 385.1105, and 385.1106). 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 proceeding. Any person wishing to become a party to a 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,**

*Acting Secretary.*

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. SA98-30-000]

#### Kaiser-Francis Oil Company; Notice of Petition for Adjustment

March 19, 1998.

Take notice that on March 9, 1998, Kaiser-Francis Oil Company (Kaiser-Francis) filed a petition for adjustment under section 502(c) of the Natural Gas Policy Act of 1978 (NGPA),<sup>1</sup> requesting that the refund procedures in the Commission's September 10, 1997 order in Docket Nos. RP97-369-000, GP97-3-

000, GP97-4-000, and GP97-5-000,<sup>2</sup> be altered with respect to Kaiser-Francis' Kansas ad valorem tax refund liability.

The Commission's September 10 order on remand from the D.C. Circuit Court of Appeals<sup>3</sup> directed first sellers under the NGPA to make Kansas ad valorem tax refunds, with interest, for the period from 1983 to 1988. The Commission issued a January 28, 1998 order in Docket No. RP98-39-001, *et al.* (January 28 Order),<sup>4</sup> clarifying the refund procedures, stating that producers could request additional time to establish the uncollectability of royalty refunds, and that first seller may file requests for NGPA section 502(c) adjustment relief from the refund requirement and the timing and procedures for implementing the refunds, based on the individual circumstances applicable to each first seller.

Kaiser-Francis requests authorization, pursuant to the Commission's January 28 Order, to defer payment to Williams Natural Gas Company (Williams) of principal and interest refunds attributable to unrecovered royalties for one year until March 9, 1999. In addition, Kaiser-Francis requests that it be allowed to place into an escrow account during the requested 1-year deferral period: (1) An amount equal to the principal and interest on royalty refunds which have not been recovered; (2) an amount equal to the interest on royalty refunds recovered (the principal of which was paid to Williams (to protect the interests of royalty owners); and (3) an amount equal to the interest on the total remaining amount of refunds allegedly due (i.e., the interest due on principal), excluding royalties.

Kaiser-Francis argues that it seeks to establish these procedures to ensure that it pays only that which is legitimately owed, and that it will be able to recover the overpayment, if it is subsequently determined that Kaiser-Francis's refund liability was less than that originally claimed by Williams. Kaiser-Francis asserts that a one-year deferral in the obligation to make royalty refunds is necessary in order to allow it to confirm the appropriate refund amounts due, to attempt to locate the prior royalty owners, and to seek recovery of such amounts from the proper royalty owners.

<sup>2</sup> See 80 FERC ¶ 61,264 (1997); order denying reh'g issued January 28, 1998, 82 FERC ¶ 61,058 (1998).

<sup>3</sup> *Public Service Company of Colorado v. FERC*, 91 F.3d 1478 (D.C. 1996), cert. denied, Nos. 96-954 and 96-1230 (65 U.S.L.W. 3751 and 3754, May 12, 1997).

<sup>4</sup> 82 FERC ¶ 61,059 (1998).

<sup>2</sup> See 80 FERC ¶ 61,264 (1997); order denying reh'g issued January 28, 1998, 82 FERC ¶ 61,058 (1998).

<sup>3</sup> *Public Service Company of Colorado v. FERC*, 91 F.3d 1478 (D.C. 1996), cert. denied, Nos. 96-954 and 96-1230 (65 U.S.L.W. 3751 and 3754, May 12, 1997).

<sup>4</sup> 82 FERC ¶ 61,059 (1998).

<sup>5</sup> See, Case No. 98-60043, United States Court of Appeals for the Fifth Circuit in *Anadarko Petroleum Corp. v. FERC*, and *Union Pacific Resources Company v. FERC*.

<sup>1</sup> 15 U.S.C. 3142(c) (1982).

On or before March 9, 1999, Kaiser-Francis proposes to file documentation with the Commission, of those royalties which were not collectible and disburse the recovered royalty refund principal only to Williams. Until that time, Kaiser-Francis proposes to place the interest from royalty refunds which was recovered in its escrow account to protect the royalty owners. In addition, Kaiser-Francis argues that its proposal for an escrow account is necessary to protect its property and that of its royalty owners.

Any person desiring to be heard or to make any protest with reference to said petition should on or before 15 days after the date of publication in the **Federal Register** of this notice, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211, 385.1105, and 385.1106). 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 proceeding. Any person wishing to become a party to a 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,**

*Acting Secretary.*

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. SA98-51-000]

#### Kansas Petroleum, Inc.; Notice of Petition for Adjustment

March 19, 1998.

Take notice that on March 9, 1998, Kansas Petroleum, Inc. (KPI), James E. Rhude, E.N. Diderich Trust, and Rhude & Fryberger, Inc., collectively referred to as Applicants, filed a petition for adjustment under section 502(c) of the Natural Gas Policy Act of 1978 (NGPA), requesting that the refund procedures in the Commission's September 10, 1997, order in Docket Nos. RP97-369-000, GP97-3-000, GP97-4-000, and GP97-5-000,<sup>1</sup> be altered with respect to

Applicant's Kansas ad valorem tax refund liability.

The Commission's September 10 order on remand from the D.C. Circuit Court of Appeals<sup>2</sup> directed first sellers under the NPGA to make Kansas ad valorem tax refunds, with interest, for the period from 1983 to 1988. The Commission issued a January 28, 1998 order in Docket No. RP98-39-001, *et al.* (January 28 Order),<sup>3</sup> clarifying the refund procedures, stating that producers could request additional time to establish the uncollectability of royalty refunds, and that first sellers may file requests for NGPA section 502(c) adjustment relief from the refund requirement and the timing and procedures for implementing the refunds, based on the individual circumstances applicable to each first seller.

Applicants request that the Commission pursuant to the Commission's January 28 order, (1) grant an extension of 60 days to make refunds to allow Applicants and Colorado Interstate Gas Company (CIG) to reach an agreement of the correct amount of the potential refund liability of Applicants and submit any unresolved dispute to the Commission; (2) to grant an adjustment to its procedures to allow to defer payment to CIG of principal and interest refunds attributable to royalties for one year until March, 9, 1999, and (3) to grant adjustment to its procedures to allow Applicants to place into an escrow account during the requested 1-year deferral period the amount of the refund which is in dispute if there is a dispute and also (i) an amount equal to the royalty refunds which have not been collected from royalty owners (principal and interest), (ii) principal and interest on amounts attributable to production prior to October 4, 1983, (iii) interest on royalty amounts which have been recovered from the royalty owners (principal of which was refunded) and (iv) interest on all reimbursed principal amounts determined to be refundable as being in excess of maximum lawful prices (excluding interest retained under (i), (ii), and (iii) above.

Applicants also request that, if retaining these funds in escrow is not permitted, the Commission adopt other procedures requiring CIG to repay to Applicants, with interest, any of the amounts paid to them from escrow which subsequently are determined to

have been a part of their refund obligation.

Any person desiring to be heard or to make any protest with reference to said petition should on or before 15 days after the date of publication in the **Federal Register** of this notice, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211, 385.1105, and 385.1106). 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 proceeding. Any person wishing to become a party to a 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,**

*Acting Secretary.*

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. SA98-52-000]

#### Kansas Petroleum, Inc.; Notice of Petition for Adjustment

March 19, 1998.

Take notice that on March 9, 1998, Kansas Petroleum, Inc., E.N. Diderich Trust, James E. Rhude, and Rhude & Fryberger, Inc. (Applicants), filed in Docket No. SA98-52-000 a petition for adjustment pursuant to Section 502(c) of the Natural Gas Policy Act 15 U.S.C. 3412(c) and Rules 1101-1117 of the Commission's Rules of Practice and Procedure (18 CFR 385.1101-385.1117) requesting to be relieved from any further refund liability not heretofore paid for the Kansas *ad valorem* tax reimbursements set forth in a Statement of Refunds Due submitted to Kansas Petroleum, Inc. by KN Interstate Transmission Co. Pending determination of this request, Applicants also request that they be permitted to place in an escrow account the amount of interest on the refund liability as calculated by them, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

Applicants state that, in a Settlement Agreement dated January 16, 1989, with

<sup>1</sup> See 80 FERC ¶ 61,264 (1997); order denying reh'g issued January 28, 1998, 82 FERC ¶ 61,058 (1998).

<sup>2</sup> *Public Service Company of Colorado v. FERC*, 91 F.3d 1478 (D.C. 1996), cert. denied, Nos. 96-954 and 96-1230 (65 U.S.L.W. 3751 and 3754, May 12, 1997).

<sup>3</sup> 82 FERC ¶ 61,059 (1998).