

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;  
William L. Massey, and Nora Mead Brownell

Northern Natural Gas Company

Docket No. RP98-39-031

ORDER GRANTING CLARIFICATION

(Issued July 11, 2003)

1. On May 8, 2003, the Commission issued an order (May 8 Order)<sup>1</sup> in this proceeding which granted requests for rehearing, motions for clarification, and petitions for relief in regards to Kansas ad valorem tax refunds owed to Northern Natural Gas Company (Northern). The May 8 Order also set matters for hearing, ordered refunds by some producers, and ceased collection efforts as to others. Northern, Ensign Operating Company and Ensign Oil & Gas Inc. (Ensign), and Indicated Producers have requested clarification of the Commission's May 8 Order. This order grants those requests.

**Background**

2. The background to this proceeding has been fully set forth in our prior orders<sup>2</sup> and will not be repeated here. On September 10, 1997, the Commission issued an order requiring producers to refund to Northern, and other pipelines, ad valorem tax reimbursement amounts, with interest, that unlawfully exceeded the applicable MLP, for the period October 3, 1983, through June 28, 1988.<sup>3</sup> Since then, the refund obligations of many producers to Northern have been resolved by settlement or otherwise. As here relevant, the May 8, 2003 Order (May 8 Order) set for hearing the remaining unresolved producer refund obligations. Appendix B to the May 8 order listed the specific producers whose refund obligations were set for hearing and the refund amount Northern contended each such producer owed as of January 31, 2003.

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<sup>1</sup>Northern Natural Gas Co., 103 FERC ¶ 61,152 (2003).

<sup>2</sup>See Northern Natural Gas Co., 101 FERC ¶ 61,152 at P 2-6.

<sup>3</sup>Public Service Company of Colorado, 80 FERC ¶ 61,264 (1997).

3. Northern and Indicated Producers request clarification concerning certain of the producers and refund amounts listed in Appendix B. Ensign requests clarification concerning the date its refund payment is due.

### **Discussion**

4. In its motion for clarification, Northern contends that the refund amounts listed in Appendix B for ESPAGAS and GlobalSantaFe reflect application of the refund reduction provisions of the settlement approved in this proceeding in December 2000,<sup>4</sup> and thus do not reflect the full amounts owed by these two parties, neither of which accepted the settlement. Northern states that the full refund amount owed by ESPAGAS is \$1,060,960.62, plus interest accrued through the date of payment, and the full refund amount owed by GlobalSantaFe is \$943,968.89, plus interest accrued through the date of payment. The Commission grants clarification that these are the full refund amounts claimed by Northern.

5. Northern also requests removal of Davidson Trust and Wyocan from Appendix B, since they have paid their refund obligations in full. In light of Northern's statement that these two parties have paid their refunds, the Commission removes them from Appendix B and their refund obligations will not be subject to the hearing established by the May 8 order.

6. Northern also requests that Key Gas Corp., Renick Farms and The Chinook Energy Corp. be replaced in Appendix B by American Penn Energy, Donoco Energy, and CEC Technologies Limited respectively as parties with refund obligations. Northern explains that in a May 2, 2003 report to the Commission it had stated that additional research had determined that American Penn Energy is the party responsible for claims originally assigned to Key Gas Corp., since it is the successor by merger to Anador Resources, Inc., the initial recipient of the relevant ad valorem tax reimbursement. Similarly, additional research shows that Donoco Farms is the party responsible for claims originally assigned to Renick. Finally, Northern states that The Chinook Energy Corp. has changed its name to CEC Technologies Limited. Northern states that it has notified American Penn Energy, Renick Farms, and CEC Technologies Limited of their refund obligations. The Commission grants Northern's request to modify Appendix B to remove Key Gas Corp., Renick Farms, and The Chinook Energy Corp. and replace them with American Penn Energy, Donoco Energy, and CEC Technologies Limited, respectively. Accordingly, the

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<sup>4</sup>Northern Natural Gas Co., 93 FERC ¶ 61,311 (2000).

refund obligations of American Penn Energy, Donoco Energy, and CEC Technologies Limited shall be included in the hearing established by the May 8 order.

7. Finally, Northern requests clarification that JEFECO be considered a party with an outstanding obligation, and therefore be added to Appendix B of the May 8 Order. Northern states that JEFECO has partially paid its refund obligation and has offered to pay the balance over seven years, but without interest. Northern states that it has requested payment of the balance over four years, with interest, and JEFECO has not yet responded to Northern's request. Since Northern and JEFECO remain in dispute over the total amount to be paid by JEFECO to resolve its refund obligation, the Commission will add JEFECO to Appendix B, and accordingly its refund obligation shall be included the hearing established by the May 8 order.

8. On June 6, 2003, Indicated Producers filed a motion for clarification of the Commission's May 8 Order. Indicated Producers point out that the May 8 order stated that BP Amoco and ExxonMobil asserted that they should not be responsible for claimed refunds relating to working interests formerly owned by Walter Kuhn/Drilling Company or Ensign Operating Company, contending that they did not obtain those properties through successorship. The May 8 order then found that these parties should be included in the hearing. However, Appendix B did not include BP Amoco or ExxonMobil, with regard to the claim that it owes refunds with respect to working interests formerly owned by Ensign Operating Company. The Commission clarifies that the hearing includes all claims by Northern that BP Amoco and ExxonMobil owe refunds with respect to working interests formerly owned by either Walter Kuhn/Drilling Company or Ensign Operating Company.

9. On May 30, 2003, Ensign Operating Company and Ensign Oil & Gas Inc.(Ensign) filed a motion for clarification in this proceeding. Ensign is requesting that its obligation to make ad valorem refund reimbursements not be due until after the Commission issues its final order on the hearing regarding outstanding refund obligations. As the Commission stated in the May 8 order, 103 FERC at P 20 n. 10, since the contested refunds are being set for hearing, payment of those refunds obligations are not due at this time, but interest will accrue until time of payment. This applies to Ensign's refund obligations, as well as all other refunds set for hearing. The Commission will establish a refund due date following resolution of the issues set for hearing.

The Commission orders:

(A) The motions for clarification of Northern, Ensign, and Indicated Producers are hereby granted, as discussed in the body of this order.

(B) Appendix B of the Commission's May 8 Order is to be revised to include the full refund amounts of ESPAGAS and GlobalSantaFe; replace Key Gas Corp., Renick Farms and the Chinook Energy Corp. with American Penn Energy, Donoco Farms, and CEC Technologies Limited, respectively; add JEFECO, BP Amoco, and ExxonMobil as parties; and remove David Trust and Wyocan as parties, as discussed in the body of this order.

(C) The refund obligations of Davidson Trust and Wyocan are extinguished, in recognition of payments ending their obligations.

By the Commission.

( S E A L )

Linda Mitry,  
Acting Secretary.