The Assistant Secretary for Administration of the Department of Commerce with the concurrence of its General Counsel, formally determined on August 12, 1980, pursuant to section 10(d) of the Federal Advisory Committee Act, that the agenda item covered in the closed session may be exempt from the provisions of the act relating to open meetings and public participation therein, because items will be concerned with matters that are within the purview of 5 U.S.C. 552(c)(6) as information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy. (A copy of the determination is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 5317, Department of Commerce.) All other portions of the meeting are open to the public.

Dated: August 13, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 80-25065 Filed 8-15-80; 8:45 am]

BILLING CODE 3510-22-M

South Atlantic Fishery Management Council; Public Meeting With Partially Closed Session

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The South Atlantic Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), will conduct a series of meetings.

DATE: September 23-25, 1980.

ADDRESS: The meetings will take place at the Holiday Inn, 2600 A1A, Melbourne, Florida.

FOR FURTHER INFORMATION CONTACT: South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, South Carolina 29407, Telephone: (803) 571-4366.

Meeting Agendas follow:

Council— (open meeting) September 23-25, 1980 (1:30 p.m. to 5 p.m., on September 23; 10:30 a.m. to 5 p.m., on September 24; 8:30 a.m. to 12 noon on September 25).

Agenda: Open Session— Final decisions on Billfish and Snapper-Grouper Fishery Management Plans (FMP's); review status of ongoing FMP's, and discuss other management /administrative matters as necessary.

Council— (closed session) September 24, 1980 (8:30 a.m. to 10:30 a.m.)

Agenda: Closed Session— Discuss employee evaluations as well as other personnel matters. Only Council members and staff relevant to these discussions will be allowed to attend the closed session.

The Assistant Secretary for Administration of the Department of Commerce with the concurrence of its General Council, formally determined on August 12, 1980, pursuant to Section 10(d) of the Federal Advisory Committee Act, that the agenda item covered in the closed session may be exempt from the provisions of the Act relating to open meetings and public participation therein, because items will be concerned with matters that are within the purview of 5 U.S.C. 522(c)(6) as information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy. (A copy of the determination is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 5317, Department of Commerce.) All other portions of the meeting are open to the public.

Dated: August 13, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 80-25064 Filed 8-15-80; 8:45 am]

BILLING CODE 3510-22-M

COMMISSION ON FINE ARTS

Meeting

The Commission of Fine Arts will close a portion of its next meeting scheduled for Wednesday, September 3, 1980, at 10:00 a.m. in the Commission's offices at 708 Jackson Place, N.W., Washington, D.C. 20006 to discuss personnel matters and budget estimates, under authority of Section 522b2, 6, and 9(b) of Title 5, U.S.C. This is an amendment to notice of meeting dated July 31, 1980. (45 FR 52257, August 6, 1980)

Inquires should be addressed to Mr. Charles H. Atherton, Secretary, Commission of Fine Arts, at the above address.

Dated in Washington, D.C. August 12, 1980.

Charles H. Atherton,

Secretary.

[FR Doc. 80-25010 Filed 8-15-80; 8:45 am]

BILLING CODE 6330-01-M

COMMUNITY SERVICES ADMINISTRATION

Energy Consumer Advocacy

AGENCY: Community Services Administration.

ACTION: Notice of proposed 1981-82 CSA energy advocacy initiative.

SUMMARY: CSA is proposing to fund approximately 25 two-year grants at an estimated $75,000 per year for activities related to low-income and elderly energy consumer advocacy. (See catalogue of Federal Domestic Assistance; 49.014, "Emergency Energy Conservation Services.") This Notice describes the type of proposals which will be considered by CSA and the application process that is to be followed.

DATE: Proposals must be received by CSA by September 29, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Rufus Bradford, Community Services Administration, 1200-19th Street, NW., Washington, D.C. 20506, Telephone (202) 632-6503, Teletypewriter (202) 254-6218.

SUPPLEMENTARY INFORMATION: This Initiative is being carried out pursuant to the Stipulation and Agreed Order in the case *Simer v. Olivarez* (U.S. District Court—Northern Illinois No 796390—April 25, 1980). That Order, with reference to the CSA Energy Advocacy Initiative, provides that CSA will fund low-income and elderly energy consumer advocacy activities for a two year period commencing in FY 1980 as follows:

"a. 4 million dollars shall be granted to local groups to fund advocacy efforts on behalf of elderly and/or low-income persons with regard to energy issues affecting them, subject to the following requirements:

1. Grants for groups shall average $75,000 per year and at least four groups so funded will be advocacy groups which are not being funded by CSA as energy advocates as of the date of this Order.

2. In selecting which applicants are to receive funds CSA shall give preference to those applicants which can show a demonstrated capability in the following areas, and which propose in their work programs the conduct of activities in these areas: (a) energy availability and access to energy sources, including customer service issues; (b) energy costs and local, state, or federal energy regulatory policies; (c) impact of energy problems on basic necessities such as housing, food, transportation, including building performance standards; and (d) impact of energy conservation, weatherization, and alternative energy development policies on elderly and/or low-income persons.

3. Grantees must utilize at least fifty (50) percent of any grant under this program to contract with existing legal programs serving low-income people as authorized under 42 U.S.C.A. 3001 or 45 U.S.C.A. 2701 or Title XX of the Social Security Act. This 50% legal component may be waived only for those grantees who currently have on staff full time

attorneys working exclusively on energy advocacy or for those grantees that can show in writing a commitment from a practicing legal service program serving consumers for the availability and use of a full time attorney/paralegal for two years for energy advocacy".

The purpose of the waiver described in 3 above is to avoid duplication of funding or services in cases of those grantees who, in carrying out the legal intervention activities emphasized in the Stipulation and Agreed Order, have made adequate provision for access to needed legal services from other sources. Applicants who have made such arrangements which they feel are adequate for the carrying out of their work program should request a waiver, which will be considered as a part of the review of their proposal for funding.

Work Program

Given the nature of the Energy Advocacy Initiative, CSA suggests that applicants, in addition to proposing a work program that addresses the requirements of 2(a) thru (d) of the Stipulation quoted above, discuss the following elements in their proposals:

1. Discussion of the specific cases of legal intervention in which the applicant proposes to engage under the work program, including the goals of such intervention, the hoped-for results, and how they will affect the poor and the elderly, including any on going activities of this nature. Examples of such activity include participation in administrative or rule making proceedings, rate hearings and the like, as well as judicial proceedings.

2. Assessment of the energy advocacy needs which the applicant feels are most pressing for the poor and the elderly in the applicant's State, with a description of the manner in which the applicant proposes to address those needs through its work program, in terms of specific goals, objectives, and strategies. It would be useful, in this context, to describe the extent of State compliance with Sections 111 and 113 of the Public Utilities Regulatory Policies Act (PURPA), and whether and to what extent the objectives of the advocacy project will include the attainment of consumer protective structures or regulations with regard to the customer service issues enumerated in those sections.

3. Description of how the applicant in its work program relates or proposes to relate to Community Action Agencies and other low income groups at the local level, including how and to what extent such agencies and groups participate in the setting of priorities for the project; and describing any non-legal intervention activities which the applicant in conjunction with such organization proposes to undertake.

Examples of non-legal activities include community organization, education, participation in State Plan development for the Home Energy Assistance Program or local emergency planning, or consultation and assistance in the removal of barriers to the uses of alternative energy technologies.

4. Description of the applicant's experience, if any, in energy or other advocacy programming for the poor, and of ways the applicant's activities have lead to changes in laws, regulations, procedures, or institutional behavior affecting the poor and the elderly.

Support To Energy Advocacy Grantees

Applicants should be aware that the Community Services Administration will also be providing support grants to the National Consumer Law Center to provide training and technical assistance to funded advocacy projects, including the sum of $500,000 for an expert witness and consultant fund; and to the Citizen Labor Energy Coalition Foundation for specific training and assistance in community organization and coalition building.

Application Process: Grantees will be selected by the national office of the Community Services Administration, Office of Community Action. However, grants will be made at the Regional level. In addition, grantees will be monitored by the Region pursuant to close policy direction and consultation from CSA Headquarters. It may be that additional funds will become available to support this program activity. In that event the total number of grants could be increased by five or ten and the size of each grant increased by ten to fifteen percent. Applicants should use the application process found at 45 CFR 1067.40. Applying for a grant under Title II, Section 221, (22)(a), and 231 of the Economic Opportunity Act of 1964 as amended. All interested applicants must follow "CSA procedures for the Project Notification and Review System" (A-95) as outlined in 45 CFR 1067.10.

Applications should be forwarded to: Rufus Bradford, Energy Programs, Community Services Administration, 1200—19th Street, N.W.—Room 334, Washington, D.C. 20506, Telephone (202) 632-6503.

It is suggested that you use registered, return-receipt mail and allow sufficient time to assure that this deadline is met.

Reporting Requirements

Financial and project progress report will be submitted quarterly in the manner and format outlined in 45 CFR 1050, Subpart H and Subpart J respectively.

(Sec. 602, 78 Stat 530; 42 U.S.C. 2942)

Richard J. Rios,

Director.

[FR Doc. 80-24742 Filed 8-15-80; 8:45 am]

BILLING CODE 6315-01-M

DEPARTMENT OF EDUCATION

Commission on the Review of the Federal Impact Aid Program

AGENCY: Commission on the Review of the Federal Impact Aid Program.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given that the Commission on the Review of the Federal Impact Aid Program, the members of which were appointed by the President on August 15, 1979, will hold a business meeting on September 18, 1980 through September 19, 1980, in Washington, D.C. The meeting will be open to the general public, and all interested persons are invited to attend. Notice of the meeting is given in accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix 1).

DATE: September 18-19, 1980. The Commission will meet at 9:00 a.m. and continue until business is completed.

ADDRESS:

September 18, 1980—Rayburn House Office Building, Room 2257, Independence Ave. & So. Capitol St., Washington, D.C. 20515.

September 19, 1980—Education Department Building (FOB-6), 400 Maryland Ave., S.W., Room 3000, Washington, D.C. 20202.

TENTATIVE AGENDA: The Commission members will consider recommendations and other Commission business.

FOR FURTHER INFORMATION CONTACT: Richard Dallas Smith, Executive Director, Commission on the Review of the Federal Impact Aid Program, 1832 M Street, N.W., Suite 837, Washington, D.C. 20036, tel. no. (202) 653-5817.

Authority and Function: The Commission on the Review of the Federal Impact Aid Program is established under section 1015 of the Education Amendments of 1978 (Pub. L. 95-961). The Commission is to conduct a review and evaluation of the administration and operation of the Impact Aid Program, authorized under the Act of September 30, 1950 (Pub. L. 874, 81st Congress), and report its recommendations on that program to the President and Congress not later than December 1, 1980. Such recommendations are to include proposed legislation to accomplish the recommendations. Pub. L. 874 requires that the Commissioner make payments to the local educational agencies in accordance with a formula designed to compensate such agencies for the financial burden carried by them by reason of Federal activities—the loss of revenue because of the Federal ownership of real property and provision of education services for federally-connected children—or by reasons of sudden or substantial increases in the school attendance resulting from Federal activities.

Records: Records of all proceedings of the Commission will be kept in accordance with law and will be available for inspection by the public at the offices of the Commission, located at 1832 M Street, N.W., Suite 837, Washington, D.C. 20036.

Signed at Washington, D.C. on the 13th day of August, 1980.

Richard Dallas Smith,

Executive Director, Commission on the Review of the Federal Impact Aid Program.

[FR Doc. 80-25049 Filed 8-15-80; 8:45 am]

BILLING CODE 4000-01-M

Office for Civil Rights

Title VI of the Civil Rights Act of 1964; Lead Agency Status for Elementary and Secondary Schools and Institutions

AGENCY: Department of Education.

ACTION: Announcement of Title VI Lead Agency Status for Elementary and Secondary Schools and Institutions of Higher Education.

SUMMARY: Notice is hereby given that by operation of law, under the Department of Education Organization Act, Pub. L. 96-88, Section 509, all Federal interagency agreements in force on May 4, 1980, the effective date of the Act, which delegated to the Department of Health, Education, and Welfare (HEW) certain compliance responsibilities under Title VI of the Civil Rights Act of 1964, with regard to elementary and secondary schools and institutions of higher education, apply to the Department of Education (ED). Under these agreements and the Department of Education Organization Act, ED is now the lead agency for Title VI compliance rather than HEW.

SUPPLEMENTARY INFORMATION:

The agencies and subject areas for which HEW was the lead agency under Title VI delegations of authority and for which ED became the lead agency on May 4, 1980 are as follows:

Agency	Subject area	Effective date of delegation*
Agriculture	Higher Education	Feb. 7, 1967.
Atomic Energy Commission (Dept. of Energy).	Elementary and Secondary Schools. Higher Education	June 22, 1966. Apr. 22, 1966.
ACTION	Elementary and Secondary Schools. Higher Education	Mar. 22, 1966. Mar. 22, 1966.
Agency for International Development.	Higher Education	Mar. 30, 1966..
Department of Commerce.	Higher Education	Nov. 5, 1966.
Department of Defense.	Elementary and Secondary Schools. Higher Education	June 2, 1966. Apr. 14, 1966.
General Services Administration.	Elementary and Secondary Schools. Higher Education	June 22, 1966. June 13, 1966.
Department of Housing and urban Development.	Elementary and Secondary Schools. Higher Education	June 22, 1966. May 26, 1966.
Department of the Interior.	Elementary and Secondary Schools. Higher Education	June 22, 1966. June 13, 1966.
National Endowment for the Arts/National Endowment for the Humanities.	Elementary and Secondary Schools. Higher Education	June 8, 1976. June 8, 1976.
National Science Foundation.	Elementary and Secondary Schools. Higher Education	June 22, 1966. Apr. 26, 1966.
Office of Economic Opportunity (Community Services Administration).	Elementary and Secondary Schools. Higher Education	July 23, 1966. Apr. 22, 1966.
Office of Emergency Planning.	Elementary and Secondary Schools. Higher Education	June 22, 1966. Mar. 30, 1966.
Department of State.	Higher Education	July 23, 1966.
Department of Transportation.	Higher Education	Aug. 3, 1966.
Tennessee Valley Authority.	Higher Education	Apr. 22, 1966.
Veterans Administration.	Elementary and Secondary Schools. Higher Education	Jan. 17, 1969.
Law Enforcement Assistance Administration.	Higher Education	Sept. 24, 1970.
National Aeronautics and Space Administration.	Higher Education	Mar. 15, 1966.
Small Business Administration.	Elementary and Secondary Schools.	June 22, 1966.

*With the exception of the General Services Administration agreement, which provided for a retroactive effective date, the effective date is the date the delegation was accepted by HEW.

Dated: August 11, 1980.

Shirley M. Hufstedler,

Secretary of Education.

[FR Doc. 80-25030 Filed 8-15-80; 8:45 am]

BILLING CODE 4000-02-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Vickers Petroleum Corp.'s Application for Permission To Use Multiple Allocation Fractions.

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of issuance of order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice that on August 8, 1980, a Decision and Order was issued pursuant to the provisions of 10 CFR 205.90 *et seq.*, and § 211.10(b) denying Vicker's Petroleum Corporation's January 25, 1980 request for permission to use multiple allocation fractions. The request, if granted, would have permitted Vickers to use separate allocation fractions for the distribution of motor gasoline in each of seven (7) proposed marketing subsystems.

A copy of the Decision and Order, with proprietary information deleted, is attached.

FOR FURTHER INFORMATION REGARDING THIS ORDER, PLEASE CONTACT:

John A. Carlyle, Economic Regulatory Administration, Office of Petroleum Operations, Room 2104-I, 2000 M Street NW., Washington DC 20461, Telephone: (202) 653-3701.

Joel M. Yudson, Office of General Counsel, Room 6A-127, 1000 Independence Avenue SW., Washington, DC 20585, Telephone: (202) 252-6744.

Issued in Washington, D.C., on the 8th day of August 1980.

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

Economic Regulatory Administration Decision and Order

August 8, 1980.

To: Vickers Petroleum Corporation, Post Office Box 2240, Wichita, Kansas 67201.

Subject: Application to Use Multiple Allocation Fractions—Case No. 80-004.

I. Introduction

On January 25, 1980, Vickers Petroleum Corporation (Vickers) filed an application with the Department of Energy's (DOE) Economic Regulatory Administration (ERA) for permission to use multiple allocation fractions pursuant to 10 CFR 211.10(b). The request, if granted, would permit Vickers to use a separate allocation fraction for the distribution of motor gasoline in each of its seven (7) proposed marketing subsystems.

II. Legal Authority

Vickers' application is being processed in accordance with 10 CFR 205.90 *et seq.*, and Section 211.10(b).

III. Background

Vickers, a small and independent refiner as those terms are defined in 10 CFR 211.62, owns and operates a refinery at Ardmore, Oklahoma with a DOE certified capacity of 64,100 barrels per day. In addition, Vickers markets motor gasoline which it both produces and purchases in a 19 state area in the central continental United States. The firm sells gasoline at the retail level through wholly-owned subsidiaries operating approximately [proprietary information deleted] service stations and at the wholesale level to branded and non-branded independent marketers. Vicker's maintenance of its gasoline marketing activities depends upon the purchase of gasoline for resale in order to supplement its own refinery production. According to Vickers' application, the motor gasoline which it produces in its Ardmore refinery accounts for approximately [proprietary information deleted] percent of the gasoline which it sells. The remaining [proprietary information deleted] percent is purchased from other firms.

IV. Vickers' Contentions

Vickers asserts that the requirement that it maintain a uniform firm-wide allocation fraction has resulted in frequent and severe supply shortages since the updating of the motor gasoline base period.[1] In its submission Vickers requests permission to establish the following seven (7) distribution subsystems for motor gasoline, which generally conform to state boundaries:

(1) The subsystem which includes the States of Iowa, Kansas, Minnesota, Missouri (excluding the St. Louis metropolitan area), Nebraska, and Oklahoma (hereinafter referred to as the Central subsystem);

(2) The subsystem which encompasses the State of Arizona;

(3) The subsystem which encompasses the State of Colorado;

(4) The subsystem which encompasses the State of Wisconsin;

(5) The subsystem which includes the State of Illinois and the St. Louis, Missouri metropolitan area (hereinafter referred to as the St. Louis subsystem);

(6) The subsystem which includes the States of Alabama, Arkansas, Indiana, Kentucky, Louisiana, and Tennessee; and

(7) The subsystem which encompasses the States of New Mexico and Texas.

Vickers contends that its proposed subsystems are independent and therefore meet the standards to which the DOE adheres in considering applications for relief of this type. Specifically, Vickers has referred to the standards set forth in *Shell Oil Company*, 3 FEA Para. 80,557 (January 22, 1976). The firm has provided the following combination of factors which it believes form a basis upon which its request should be granted:

(i) The subsystems operate in widely disparate geographical areas.

(ii) The sources of supply for each subsystem are separate. The Ardmore refinery provides Vickers with nearly all of the motor gasoline which it distributes in the Central subsystem. Product is distributed to the Central subsystem through the Williams Brothers Pipeline System and by truck hauls from the refinery. None of Vickers' other six subsystems receive gasoline produced at the Ardmore facility. Vickers utilizes exchange agreements with several other refiners, purchases from base period suppliers, and acquisitions on a spot basis on the open market to supply motor gasoline to them.

(iii) The great distance between many of Vickers' subsystems creates difficulties in shipping gasoline from one area to another to compensate for supply imbalances. Vickers has difficulty supplying its base period customers outside the Central subsystem directly from the Ardmore refinery because moving gasoline by truck is costly and they are not served by the Williams Brothers Pipeline System.

(iv) Vickers has taken all possible steps to meet its supply obligations through exchange agreements. Although the firm has attempted to improve its supply position through the acquisition of surplus product it has been unable to pass through the full amount of the increased costs due to the Petroleum Price Regulations and existing market conditions. This produces a situation in which Vickers is incurring a loss on each gallon which it purchases and resells.

Vickers contends that in determining a single allocation fraction it is unreasonable that it be required to include in its allocable supply[2] each month relatively small quantities of spot market gasoline which may be available at times in a particular marketing area because such volumes cannot feasibly be exchanged to any other area. Thus the firm is effectively prevented from acquiring additional supplies of gasoline for resale. However, if Vickers is permitted to maintain separate allocation fractions for each of its proposed distribution subsystems there would be no need to shift such small amounts of gasoline between regions to equalize supplies.

Finally, Vickers makes a broad allegation that approval of its application would be consistent with the national energy objectives enunciated in Section 4(b)(1) of the Emergency Petroleum Allocation Act of 1973 (EPAA), while denial of its application would be inconsistent with these objectives.[3]

V. Comments Received to Vickers' Application

On February 28, 1980, the ERA gave notice of the pendency of Vickers' application to use multiple allocation fractions. See 45 FR 13,186, February 28, 1980. Two firms filed written comments, Gas Mart Company (Gas Mart) and Key Oil Company (Key). Gas Mart purchases the majority of the gasoline which it sells from Vickers. Key's predominant supplier, Parks Oil Company, purchases a significant amount (??? percent) of its total motor gasoline base period entitlement from Vickers. Since both Key and Gas Mart sell gasoline in more than one of Vickers' proposed distribution sybsystems they oppose Vickers' request primarily because it would create difficulties for them, as small wholesale purchasers, to maintain a uniform allocation fraction in their respective marketing systems.

VI. Analyses And Findings

The ERA recently published a notice in the **Federal Register** describing the criteria which are applicable to applications requesting the use of multiple allocation fractions under 10 CFR 211.10(b).[4] In the Criteria we reviewed the standards which the FEA applied in *Shell Oil Company*, supra., to evaluate whether such an application should be approved. These factors are:

(1) The relative location of the marketing area to be included in computing each separate allocation fraction;

(2) The source of supply for each such area;

(3) The method used in transportion the product to each area;

(4) The availability of transporting facilities and the cost of transporting product, either

(a) between such areas, or

(b) from the source of supply to one area as opposed to another;

(5) The destination of product within such an area; and

(6) The degree to which transfers or exchanges of like product with other products have been in the past or could reasonably be arranged.

The ERA intends to continue to utilize the standards set forth in *Shell Oil Company*, supra. We are also concerned with the type of information and standards described below.

(i) An applicant should indicate whether product is available for acquisition on the open market, i.e., surplus and spot markets. A firm generally is required to demonstrate that it cannot improve its supply situation through the purchase of product on the open market. If such product is available to the applicant, then the applicant would not be entitled to relief unless it makes a further showing that its purchase of such product would be impractical or inconsistent with the objectives of the allocation program. The purchase of surplus product may be demonstrated to be impracticable on financial grounds. However, showing that the available surplus product is expensive is not sufficient to justify a finding of impracticability, the applicant must show that it would be unable to recover the costs of purchased product for the period of the multiple allocation fractions, or that it would experience financial difficulties if it had to purchase product to maintain a single allocation fraction. Such a demonstration must be supported by data; mere allegations or conclusions are not sufficient.

(ii) An applicant must demonstrate that it is impracticable to transport or exchange product from one subsystem to another. If financial impracticability is asserted, the showing required would be similar to that required to demonstrate that the purchase of surplus product would be financially impracticable. As with other elements of impracticability, the burden of demonstrating financial impracticability rests upon the applicant.

(iii) An applicant that is a refiner must demonstrate that it is impractical and burdensome for it to increase production of the product and thereby alleviate any supply imbalances.

(iv) An applicant should demonstrate that the competitive viability of the class of independent marketers would not be jeopardized in the regions in which the applicant's allocation fraction would be reduced if relief is granted. In this connection, an applicant should also furnish the DOE its expected allocation fractions with and without relief, for each region in which a separate fraction is requested.

(v) The applicant should show that the circumstances justifying relief are likely to continue during the entire period for which relief is requested.

Despite the allegations made, Vickers' submission to the DOE fails to adequately support its factual contentions, contains inadequate material to support its general legal conclusions, and contains no substantiating financial data which would indicate that Vickers is unable to recover the costs of purchased spot market product.

Vickers, for example, erroneously contends that it would be infeasible to expect it to supply motor gasoline from its Ardmore refinery to marketing areas outside the Central subsystem. Transporting product between the refinery and Vickers' retail outlets in Dallas, Texas is not only feasible but can be accomplished quite readily in view of the fact that they are located within 110 miles of each other.

It would also appear that Vickers is capable of supplying motor gasoline produced at its Ardmore refinery to its retail stations in the St. Louis subsystem. Vickers admits that the Williams Brothers Pipeline has terminals both at Palmyra and St. Charles, Missouri. The St. Charles terminal is about 10 miles from the St. Louis metropolitan area and therefore is easily accessible to Vickers' retail stations located there. Vickers' outlets in central Illinois are not more than 150 miles from either terminal, not an inordinately long distance.

We are unable to accept Vickers' contention that there is no direct supply capability from the Ardmore refinery to its retail stations in the Wisconsin subsystem which are located in the Milwaukee area. The Williams Brothers Pipeline System has a terminal facility within 90 miles, located at Chicago, Illinois. It may be inconvenient to transport gasoline by truck from the Chicago terminal to Milwaukee but it is not burdensome.

Although Vickers contends that the motor gasoline production from the Ardmore refinery is committed to supply purchasers in the Central subsystem, it is not unreasonable to expect Vickers to alter its historical distribution patterns on a short-term basis to relieve any supply shortages. Therefore, we have determined that the St. Louis, Texas/New Mexico, and Wisconsin subsystems are not sufficiently independent of the Central subsystem to constitute separate motor gasoline distribution systems.

Vickers has also submitted data which indicates that its stations in Arizona and the western part of the Texas/New Mexico subsystem procure a substantial portion of their motor gasoline supplies from Navajo Refining Company (Navajo). Thus, Vickers could conceivably arrange with Navajo to divert gasoline from one area to the other in order to compensate for any supply shortfalls. The Arizona stations also obtain gasoline by pipeline from California pursuant to an exchange agreement with Mobil Oil Corporation (Mobil). There has been no showing that Vickers would not be able to modify that arrangement so that, if necessary; its Dallas stations could be furnished gasoline via Mobil pipeline from the firm's Beaumont, Texas refinery. For these reasons, we have concluded that the Arizona and Texas/New Mexico subsystems are not sufficiently independent to constitute separate distribution systems.

However, the mere demonstration that all of part or Vickers' proposed subsystems are independent of one another does not, in and of itself provide the basis for the approval of relief from the requirement to maintain a single allocation fraction. In *Shell Oil Company*, supra, the FEA noted that "The policy of maintaining a single allocation fraction will be outweighed only to the extent that it is truly impracticable and burdensome to do so in particular situations." In this connection Vickers has failed to demonstrate that the procedures which it has utilized in the past are inadequate to relieve any temporary shortages which it may experience.

Vickers has made no showing whatsoever that it has been adversely affected to any substantial extent as a result of the alleged supply problems which it is experiencing or that it would be infeasible to maintain a single allocation fraction from the sources of supply which are currently available. The firm admits, and material submitted in support of its application confirm, that Vickers has been able to arrange exchanges of motor gasoline with nine other refiners which collectively supply six of its distribution subsystems. Vickers has indicated that it has occasionally transferred gasoline between subsystems by means of truck transport and barge. Moreover, Vickers has not demonstrated that surplus motor gasoline is currently in short supply in any of its marketing regions or that it will have difficulty obtaining product in the near future.

Vickers has given no indication of the extent to which it has been unable to recover the costs associated with either purchasing available surplus product or delivering volumes of gasoline by truck, rail or barge between regions. For example, Vickers could have provided the DOE with data which demonstrates that if it purchased motor gasoline on the surplus market and applied the allowable cost increases permitted it by the regulations, its retail prices would not be competitive or that it will incur operating losses. It should be noted that the costs of surplus motor gasoline purchased for resale would be distributed among all of Vickers stations and not borne exclusively by outlets in a given area.

Vickers contends that the regulatory requirement to maintain a single allocation fraction restricts it from increasing its sales of gasoline through purchases on the surplus market. In our view, purchasing available surplus product is a means of mitigating the adverse impact of supply imbalances on a firm. The mere fact that a firm could sell more gasoline in a particular marketing area through such purchases if it is permitted to use separate allocation fractions does not mean that the firm is suffering an undue burden.

There is no basis for Vickers' assertion that the denial of its request is inconsistent with the broad objectives of the EPAA. When the Congress adopted the EPAA, it specified nine general objectives which the regulations promulgated thereunder were to be designed to accomplish. Recognizing that these goals would not always be mutually compatible, the Congress stated that they should be reached "to the maximum extent practicable" (Section 4(b)(1)) and thereby provided the DOE with the discretion to weigh and balance these objectives in formulating and implementing the regulatory program required by the EPAA. One of the principle objectives outlined in the EPAA is the allocation of refined petroleum products in an equitable manner throughout all areas of the U.S. A nationwide allocation fraction for motor gasoline is essential in order to achieve that objective. Despite its allegations, Vickers has not convincingly demonstrated that the denial of its request would substantially frustrate any policy objectives set forth in Section 4(b)(1) of the EPAA. Although Vickers has demonstrated its inability to produce sufficient motor gasoline supplies to meet the entirety of its base period supply obligations results in certain inconveniences, the firm has made no showing that the impact of § 211.10(b) on Vickers is so severe as to result in a serious financial hardship or so disproportionate from its general impact on other firms. Moreover, if the DOE were to grant Vickers' request without a substantial showing that it is truly impractical and burdensome to maintain a single allocation fraction, that action could result in market distortions and Vickers may have an unwarranted competitive advantage over those firms which must continue to employ a single fraction.

We are not pursuaded by Vickers' contention that a situation exists in which it is experiencing severe supply shortages. To the contrary, according to information provided by Vickers and data which the firm has submitted to DOE on Form EIA-25, *Prime Suppliers' Monthly Report*, during the period of March 1979 through July 1980 Vickers' allocation fraction has been below in only three months, July, August, and December 1979. Indeed, during that seventeen month period Vickers' allocation fraction has been at least on eleven occasions.

Based on the considerations set forth above, the ERA has concluded that Vickers has failed to make a compelling showing that it is truly impracticable and burdensome to maintain a single, uniform allocation fraction and that to do so is inconsistent with the objectives of the Mandatory Petroleum Allocation Program.

VII. Order

This order is issued pursuant to the provisions of 10 CFR 205.90 *et seq.*, and § 211.10(b).

It is, therefore, ordered that:

(1) The application filed by Vickers Petroleum Corporation for permission to use multiple allocation fractions be and hereby is denied.

(2) In accordance with the provisions of 10 CFR Part 205, an aggrieved party may file an

appeal from this decision and order with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. The provisions of 10 CFR Part 205, Subpart H, set forth the procedures and criteria which govern the filing and determination of any such appeal.

(3) Communications, other than appeals, regarding this directive should be referred to Charles R. McCrea, Chief, Gasoline Allocation Branch, Allocated Products Division, Office of Petroleum Operations, Economic Regulatory Administration, 2000 M Street, NW., Washington, D.C. 20461, telephone number (202) 653-3701.

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FOOTNOTES]

[1] On February 22, 1979, Activation Order No. 1, Standby Petroleum Product Allocation Regulations, was adopted, 44 FR 11202 (February 28, 1979). In that order, ERA activated certain portions of the Standby Petroleum Product Allocation Regulations in order to update the base period for motor gasoline allocation from the 1972 base period to the corresponding month of the period July, 1977, to June 30, 1978, and implemented the updated base period for an initial period of March, April, and May 1979. Subsequently, on May 1, 1979, ERA issued an Interim Final Rule, 44 FR 26712 (May 4, 1979), which superseded the Activation Order. Under the Interim Rule, the updated base period for motor gasoline allocation was designated as the corresponding month of the period November 1977 through October 1978. The updated base period was permanently established by the final rule, 44 FR 42549 (July 19, 1979).

[2] The term "allocable supply" is defined in 10 CFR 211.10(b)(1).

[3] The objectives are:

* * * Protection of public health, safety, and welfare * * * and the national defense;

Maintenance of all public services * * *;

Maintenance of agricultural operations, including farming, ranching, dairy, and fishing activities * * *;

Preservation of an economically sound and competitive petroleum industry; including the priority needs to restore and foster competition in the producing, refining, distribution, marketing, and petrochemical sectors of such industry, and to preserve nonbranded independent marketers, and branded independent marketers;

The allocation of suitable types, grades, and quality of crude oil to refineries in the United States to permit such refineries to operate at full capacity;

Equitable distribution of crude oil, residual fuel oil, and refined petroleum products at equitable prices among all regions and areas of the United States and sectors of the petroleum industry, including independent refineries, small refiners, nonbranded independent marketers, branded independent marketers, and among all users;

Allocation of residual fuel oil and refined petroleum products in such amounts and in such manner as may be necessary for the maintenance of exploration for, and production or extraction of, fuels, and for required transportation related thereto;

Economic efficiency; and

Minimization of economic distortion, inflexibility, and unnecessary interference with market mechanisms. (EPAA, Section 4(b)(1).)

[4] See *Department of Energy Criteria Applicable to Requests for Multiple Allocation Fractions,* 45 FR 50383 (July 29, 1980).

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Federal Energy Regulatory Commission

[Docket No. CP80-464]

Columbia Gas Transmission Corp.; Notice of Application

August 12, 1980.

Take notice that on July 28, 1980, Columbia Gas Transmission Corporation (Applicant), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP80-464 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing 64 additional points of delivery to existing wholesales customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant proposes to construct the following 64 tap facilities for the following customers:

Columbia Gas of Kentucky, Inc.: 2 taps for residential service—Estimated annual usage of 300 Mcf.
Columbia Gas of Maryland, Inc.: 1 tap for commercial service—Estimated annual usage of 7,500 Mcf.
Columbia Gas of Ohio, Inc.: 39 taps for residential service, 2 taps for commercial service, 4 taps for industrial service, 1 tap for combined residential, commercial and industrial service—Estimated annual usage of 44,342 Mcf.
Columbia Gas of Pennsylvania, Inc.: 2 taps for residential service—Estimated usage of 300 Mcf.
Columbia Gas of Virginia, Inc.: 1 tap for residential service—Estimated annual usage of 150 Mcf.
The Dayton Power and Light Company: 4 taps for residential service, 2 taps for commerical service, 2 taps for combined residential and commerical service—Estimated annual usage of 6,287 Mcf.
Shenandoah Gas Company: 1 tap for residential service—Estimated annual usage of 2,108 Mcf.
West Ohio Gas Company: 1 tap for residential service—Estimated annual usage of 120 Mcf.

Applicant asserts that the additional volumes to be provided through these new points of delivery would be within Applicant's currently authorized level of sales.

It is stated that the total cost of the new interconnections would be $41,030 which cost would be financed through internally generated funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 3, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). 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 petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the cerificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

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