B. Calculation of Refund Amounts

As stated above, the audits which gave rise to the Macmillan Consent Order identified all of the customers allegedly overcharged during the audit period. In total, there are 66 identified customers who were allegedly overcharged by Macmillan during its refund period. The Larson audit identified six customers which account for 21.2 percent of the alleged overcharges, while the remaining 78.8 percent of the alleged overcharges were attributed to Larson's sales to customers at its retail stations. With respect to the identified customers of Larson and Macmillan, we have determined that the use of the audit results to establish potential refunds on a firm-specific basis is more accurate than any other method to relate probable injury to refund amount.

We shall therefore base the identified customers-potential refunds on the amount that each of these firms was allegedly overcharged, as determined by the ERA audit. Thus, the principal amount of each firm's maximum refund is 100 percent of the amount designated for that firm in the Consent Order plus a pro rata share of the interest that the DOE has collected on that amount. (For Larson, the latter is approximately 45 percent of the interest that Larson actually owed at the time the money was placed in the escrow account.) The firms and their potential refund amounts are listed in the Appendices to this Decision.

We propose to use a volumetric methodology to distribute that portion of the consent order fund attributable to transactions with members of Larson's retail class of purchaser. The volumetric refund presumption assumes that the alleged overcharges by a firm were spread equally over all gallons of product marketed by that firm. In the absence of better information, this assumption is sound because the DOE price regulations generally required a regulated firm to account for increased costs on a firm-wide basis in determining its prices. This

presumption is rebuttable, however. A retail customer claimant which believes that it suffered a disproportionate share of the alleged overcharges may submit evidence proving this claim in order to receive a larger refund. See Sid Richardson Carbon and Gasoline Co./Siouxland Propane Co., 12 DOE 85,054 (1984).

Under the volumetric methodology we plan to adopt for the Larson proceeding, a retail customer claimant will be eligible to receive a refund equal to the number of gallons of motor gasoline purchased from Larson from May through December 1979 multiplied by the volumetric factor. The volumetric factor for Larson is equal to \$0.0123.4 We also propose to establish a minimum amount of \$15 for refund claims. We have found that the cost of processing claims in which refunds are sought for amounts less than \$15 outweighs the benefits of restitution in those situations. See, e.g., Uban Oil Co., 9 DOE ¶ 82,541 at 82,225 (1982); see also 10 CFR 205.286(b). Therefore, a claimant must have purchased at least 1,220 (\$15/\$0.0123) gallons of Larson motor gasoline during the Larson audit period in order to be eligible for a refund.

In addition, each successful claimant will receive a pro rata share of the interest accrued on the consent order funds between the date the funds were placed in the Larson and Macmillan escrow accounts and the date the applicant's refund is disbursed.

IV. Conclusion

Refund applications in this proceeding should not be filed until the issuance of a final Decision and Order. Detailed procedures for filing applications will be provided in the final Decision and Order. Before disposing of any of the funds received, we intend to publicize the distribution process and to provide an opportunity for any affected party to file a claim.

Any funds that remain after all firststage claims have been decided will be distributed in accordance with the

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

It Is Therefore Ordered That

- (1) The refund amount remitted to the Department of Energy by Kenny Larson Oil Company pursuant to the September 21, 1981 Consent Order will be distributed in accordance with the foregoing Decision.
- (2) The refund amount remitted to the Department of Energy by Macmillan Oil Company pursuant to the March 7, 1988 Consent Order will be distributed in accordance with the foregoing Decision.

APPENDIX A—LARSON CUSTOMERS
AND THEIR POTENTIAL REFUND
AMOUNTS

	Customer name	Con- sent order amount	Interest col- lected	Potential principal refund
	Schultz Sani- tary Service B & C Towing D & A Supply	\$416 96 91	\$471 109 101	\$887 205 192
	Portland General Electric Larry Hepler Skig Nagal	685 93	773 109	1,458 202
	Farms Retail Cus- tomers	192 5,842	219 6,625	411 12,467
	Total	7,415	8,407	15,822

APPENDIX B-MACMILLAN CUSTOMERS AND THEIR POTENTIAL REFUND AMOUNTS

Customer name		Pre-set- tlement	Potential refund
	charge amount	interest	amount
Ace Lines, Inc	\$223	\$172	\$395
Armstrong Rubber	17,982	13,904	31,886
Associated Milk Producers	635	491	1,126
Atlantic Municipal Utilities	694	537	1,231
Bankers Life	2,068	1,599	3,667

⁴The volumetric factor was computed by dividing \$12,467 (78.8 percent of the \$15,822 collected for the Larson escrow account) by 1,016,250 (the