

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

IN RE BP PROPANE INDIRECT  
PURCHASER ANTITRUST LITIGATION

No. 06-C-3541

This Document Relates To:

Honorable James B. Zagel

ALL INDIRECT PURCHASER ACTIONS

**NOTICE OF PENDENCY OF CLASS ACTION,  
PROPOSED CLASS SETTLEMENT AND HEARING**

**PLEASE READ THIS ENTIRE NOTICE CAREFULLY.**

**YOUR LEGAL RIGHTS MAY BE AFFECTED BY CLASS ACTION LAWSUITS NOW PENDING IN THIS COURT.**

**THERE ARE TWO FUNDS FROM WHICH YOU MAY  
BE ENTITLED TO RECEIVE MONEY.**

**THIS NOTICE CONCERNS IMPORTANT RIGHTS  
YOU MAY HAVE IN ADDITION TO THOSE  
DESCRIBED IN THE NOTICE FROM THE  
U.S. DEPARTMENT OF JUSTICE.**

**PLEASE READ AND KEEP BOTH NOTICES.**

**TO: All persons or entities (including but not limited to individuals, companies, corporations, partnerships, joint ventures, agents, principals, and employees) who:**

Purchased propane from a person or entity other than the BP Releasees or any Producer in April 2003 or during the period February 1, 2004 through March 31, 2004. Excluded from the Indirect Purchaser Class are the BP Releasees.

This Notice is given pursuant to Rule 23 of the Federal Rules of Civil Procedure and an Order of the United States District Court for the Northern District of Illinois. The purpose of this Notice is to inform you of: (1) the pendency of this litigation, which involves allegations that defendants BP America, Inc., BP Corporation North America Inc., BP International Services Company, BP Products North America Inc. ("BP Products"), BP Energy, and BP America Production Company (collectively, "BP" or "Defendants") manipulated the propane market; (2) the Court's approval of the Settlement Class as defined below; (3) the Court's approval of Lead Counsel for the Settlement Class; and (4) a proposed settlement (the "Settlement") that has been reached on behalf of the Settlement Class with BP in the amount of Fifteen Million Two Hundred Fifty Thousand Dollars (\$15,250,000.00) ("Settlement Fund").

You have received this Notice because, based on Plaintiffs' investigation, you are a potential member of the Settlement Class.

**THIS NOTICE CONTAINS THE FOLLOWING INFORMATION:**

- Section 1: Summary of your Rights as a Settlement Class Member
- Section 2: The Settlement Class and its Counsel
- Section 3: Background of the Litigation
- Section 4: Summary of the Settlement
- Section 5: Participation in the Settlement Class
- Section 6: Submission of Proofs of Claim
- Section 7: The Final Approval Hearing
- Section 8: How to be Excluded from the Settlement Class
- Section 9: Objections to the Settlement
- Section 10: Attorneys' Fees and Expenses
- Section 11: Incentive Awards to Plaintiffs
- Section 12: Examination of Papers and Inquiries
- Section 13: Change of Address

**1. SUMMARY OF YOUR RIGHTS AS A SETTLEMENT CLASS MEMBER**

Your options as a member of the Settlement Class are described with greater detail later in this Notice. Generally, if you qualify as a Settlement Class member, you have these rights:

You may share in the Settlement Fund, as provided herein, if the Court approves the Settlement, by remaining a member of the Settlement Class. You need not do anything to remain in the Settlement Class, but you must submit a valid Proof of Claim to be **received** by the Administrator no later than April 15, 2010 to be eligible to share in the Settlement Fund if the Court approves the Settlement. See Section 6 below.

You may exclude yourself from the Settlement Class, in which case you will not be entitled to share in the Settlement Fund even if the Court approves the Settlement. If you choose to exclude yourself, your request for exclusion must be **received** by the Administrator by January 11, 2010. See Section 8 below.

If you remain in the Settlement Class, you may also object to the Settlement, the fee award and expense reimbursement to be requested by Lead Counsel and/or the incentive awards to be requested on behalf of the Plaintiffs. If you wish to object, your objection must be **received** by the Court and sent to counsel by January 11, 2010. See Section 9 below. By objecting, you do not lose any right to share in the distribution of the Settlement Fund if the Court approves the Settlement.

Also, if you remain in the Settlement Class, you may enter an appearance as a Settlement Class member in the litigation through your own counsel at your expense. See Section 5 below.

If you do not exclude yourself from the Settlement Class, then the proposed Settlement, if approved by the Court, will affect your right to commence or continue any other lawsuit or proceeding, either in the United States or in any foreign jurisdiction, regarding any of the conduct alleged in this class action.

**2. THE SETTLEMENT CLASS AND ITS COUNSEL**

Class. On November 6, 2009, the Court certified the Settlement Class, defined as follows:

All persons or entities, including but not limited to individuals, companies, corporations, partnerships, joint ventures, agents, principals, and employees, who purchased propane from a person or entity other than the BP Releasees or any Producer in April 2003 or during the period February 1, 2004 through March 31, 2004. Excluded from the Indirect Purchaser Class are the BP Releasees.

The Settlement Class does not include persons who purchased propane options, futures contracts, swaps or other financial contracts.

The Settlement Class also does not include persons who only purchased propane directly from the Defendants or any other Producer, and no compensation will be provided for such purchases.

The Court appointed Plaintiffs Richard Dennison, Stephen Hesano, Michael Withum, Gregory Sydor, Myles Levin, Gateway FS, Inc., Scott Mehrag, James Marcello, Drew Halpern, Donald Mowers, Kurt Nebel, Donald and Jennifer Terry, H. Steven

Plaut, David A. Mullins III, David Guin, Craig Ridgway, Anita White and Ideal Bottle Gas, Inc. (hereinafter “Plaintiffs”) to serve as representatives of the Settlement Class. The Court has also appointed the law firms of Lovell Stewart Halebian LLP (“Lovell Stewart”) as Chairman of Lead Counsel, and Lovell Stewart; Futterman Howard Watkins Wylie & Ashley, Chtd.; Wexler Wallace LLP; Kirby McInerney LLP; and Miller Law LLC as Lead Counsel for the Settlement Class.

If you purchased propane as described in the Settlement Class definition above, you are a member of the Settlement Class, and have the rights described in this Notice.

### **3. BACKGROUND OF THE LITIGATION**

Beginning in 2006, several class action and individual lawsuits were filed against various BP defendants by propane purchasers. These lawsuits were ultimately consolidated before the Court and interim class counsel were appointed.

On April 4, 2008, Plaintiffs filed their consolidated complaint (“Consolidated Complaint”) in which they alleged that Defendants manipulated the TET propane market during April 2003 and between February 1, 2004 and March 31, 2004. Plaintiffs alleged that, as a result of the manipulation, Defendants unlawfully inflated not only TET propane prices but prices of certain non-TET propane as well. This allegedly caused putative class members who purchased propane between February 1, 2004 and March 31, 2004 to pay higher prices than they would have paid in the absence of the illegal conduct. The Consolidated Complaint asserted claims for relief for violations of state antitrust laws, state consumer protection laws, and state common law restitution, disgorgement, and unjust enrichment, in respect of the February 1, 2004 through March 31, 2004 period. In the drafting of their original and Consolidated Complaint, Lead Counsel obtained expert assistance in marshalling and analyzing detailed market and transactional data. Lead Counsel concluded that Defendants’ alleged manipulation during April 2003 caused no damages that putative class members could legally recover.

On May 9, 2008, Defendants filed a motion to dismiss the Consolidated Complaint. The motion asked the Court to dismiss all state law claims. In this motion and their Reply Memorandum, Defendants argued that, among other points: (i) Plaintiffs’ monopolization claims fail because the Defendants’ corner of TET propane supplies lasted only a matter of days, was too short in duration, did not cause any structural change to the market, and did not preclude competitors from entering the market; (ii) plaintiffs’ Consolidated Complaint establishes the absence of certain elements needed to pursue antitrust claims under certain states’ laws; (iii) plaintiffs cannot maintain state consumer protection claims aimed at remedying alleged antitrust violations under certain states’ laws; (iv) plaintiffs’ Consolidated Complaint establishes the absence of certain elements needed to pursue state consumer protection claims; and (v) plaintiffs’ Consolidated Complaint does not allege the conferral of a benefit upon the BP defendants sufficient to state a claim for unjust enrichment, restitution or disgorgement.

This motion has been fully briefed by all parties and is available on the Settlement Website. See Section 12 below. The Court has not ruled on the motion to dismiss.

In addition to the issues raised in Defendants’ motion to dismiss, Lead Counsel have evaluated numerous factual and legal issues that Plaintiffs would confront in the course of the litigation. Lead Counsel also carefully analyzed whether Defendants’ manipulation was the legal and factual cause of inflated propane prices, the duration and extent of any manipulation, the scope of market participants who could recover money damages under the asserted legal theories, and how best to establish what prices would have been had there been no manipulation. These issues and others pose substantial legal and evidentiary challenges in the case.

Commencing in May 2007, concurrent with the conduct of the litigation, Lead Counsel engaged BP in an extensive settlement negotiation process. Lead Counsel continued to work closely with their experts during these negotiations.

Plaintiffs estimate that aggregate actual losses are approximately \$30,000,000 (exclusive of any “offset” sums received from the Restitution Fund described below) and assuming that all Settlement Class members file claims. Defendants estimate that aggregate actual losses are significantly less than this amount. Plaintiffs negotiated for a provision in which there is no reversion to Defendants of any portion of the Settlement Fund, with unclaimed funds redistributed to Settlement Class members who submit timely Proofs of Claim.

The Settlement Agreement was ultimately reached based on each party’s informed view of the legal and factual risks each faced in the litigation.

In agreeing to the Settlement in the principal amount of \$15.25 million (as described below), the parties also took into account that, in separate proceedings not involving this putative class action, BP entered into a Deferred Prosecution Agreement (“DPA”) with the U.S. Department of Justice (“DOJ”) on October 25, 2007, related to Commodity Exchange Act, wire fraud and mail fraud claims. In connection with the DPA, BP admitted, among other things, that it had manipulated the price of February

2004 TET Propane. Under the DPA, BP agreed to pay, in addition to substantial penalties, \$53,503,000 into a fund for victim restitution (“Restitution Fund”). The original closing date for submission of claims to the Restitution Fund was April 15, 2009. The Court has recently re-opened the Restitution Fund and set a new Addendum Claims Deadline of December 14, 2009; the website for the Restitution Fund is <https://bpsettlement.ftitools.com/bpsettlement/Home.aspx>.

Based on their analysis, Lead Counsel believe that the Settlement Fund in this case will likely provide substantial compensation to members of the Settlement Class and that the Restitution Fund may provide significant additional compensation to numerous Settlement Class members.

At this time, neither Plaintiffs nor Defendants have proven their assertions. Plaintiffs believe they have meritorious claims against Defendants, and Defendants believe that they have meritorious defenses to Plaintiffs’ claims. Lead Counsel has concluded that a settlement with BP is in the best interests of Plaintiffs and the Settlement Class. The Settlement provides a substantial and immediate benefit to Settlement Class members, and avoids the risks, as described above, that liability or damages might not be proven at trial.

The Court expresses no opinion whether Plaintiffs’ allegations are correct or whether Defendants are liable to Plaintiffs for the conduct alleged in the Consolidated Complaint. The purpose of this Notice is to inform you of the Settlement and of the certification of the Settlement Class.

#### **4. SUMMARY OF THE SETTLEMENT**

##### **a. Cash Terms**

Plaintiffs, on behalf of the Settlement Class, have entered into a Settlement Agreement with BP under which BP has paid into an interest-bearing escrow account Fifteen Million Two Hundred Fifty Thousand Dollars (\$15,250,000.00) in exchange for a release and discharge of all claims asserted or which could have been asserted on behalf of Settlement Class members against the BP Releasees for the manipulation of the April 2003 TET Propane market and the February 2004 TET Propane market alleged in the Consolidated Complaint. (The release and discharge provision is set forth in Section 4.e. below, and the full Settlement Agreement is available on the Settlement Website. See Section 12 below.) The Settlement Agreement provides that expenses associated with providing notice of the Settlement to the Settlement Class and expenses associated with administering the Settlement Fund (including administrator fees and bank fees) will be paid for out of the Settlement Fund.

If the Court approves the Settlement, the \$15.25 million, plus accruing interest, less notice and administration costs and any amounts approved by the Court to reimburse litigation expenses and to pay attorneys’ fees to Lead Counsel and/or the incentive awards to Plaintiffs (see Sections 10 and 11 below, if any (the “Net Settlement Fund”), will be available for distribution under the Plan of Allocation to Settlement Class members **who timely submit valid Proofs of Claim** in proportion to their total eligible loss amount. See Section 4.c. below.

Again, there is no reversion, and the shares of each Settlement Class member who opts out or otherwise fails to submit a Proof of Claim will, after the Effective Date, be distributed to Settlement Class members who submit valid Proofs of Claim.

##### **b. The Impact of the Restitution Fund on Class Members**

As described above, BP has also agreed in the DPA to the creation of a Restitution Fund totaling approximately \$53.5 million. In an Order dated August 7, 2009, the Court approved a Restitution Plan Addendum that permits additional Eligible Recipients to seek compensation from the Restitution Fund and establishes a new Addendum Claims Deadline by which claims must be filed. The DOJ has disseminated or will disseminate separate notice of the Restitution Fund and the Restitution Plan Addendum. See <https://bpsettlement.ftitools.com/bpsettlement/Home.aspx>. It is essential that you consult those notices for details of your possible right to recover from the Restitution Fund. Any recovery under the Restitution Fund will be independent of your recovery from the Settlement Fund in this case.

In the opinion of Lead Counsel, BP’s combined contributions to the Restitution Fund and the Settlement Fund are likely to provide substantial compensation for the damages suffered by Settlement Class members, but it is essential that those eligible for recovery from both Funds apply to each for compensation. If you have not received a notice from the Restitution Fund and believe you may be eligible for participation, please contact the Restitution Fund Administrator (at <https://bpsettlement.ftitools.com/bpsettlement/Home.aspx>) for assistance. Please act promptly. The Addendum Claims Deadline for submission to the Restitution Fund is December 14, 2009. If you have submitted or will submit a claim to the Administrator of the Restitution Fund and wish to seek recovery from the Settlement Fund in this Action as well, you must still complete and return the attached Proof of Claim. If you have any doubt about whether you are eligible for participation in the Restitution Fund under

the Restitution Plan Addendum, you should submit claims both to the Restitution Fund and to the Settlement Fund.

**IF YOU ARE ELIGIBLE TO PARTICIPATE IN BOTH THE SETTLEMENT FUND AND THE RESTITUTION FUND, YOU MUST APPLY SEPARATELY TO BOTH FUNDS. THE AMOUNT YOU RECEIVE FROM THE SETTLEMENT FUND IN RESPECT OF ANY GIVEN PURCHASES WILL BE REDUCED BY AMOUNTS YOU RECEIVE FROM THE RESTITUTION FUND FOR SUCH PURCHASES. (See Plan of Allocation attached).**

**c. Distribution of the Net Settlement Fund**

As detailed in the Plan of Allocation, attached as Exhibit 1 to this Notice, the Net Settlement Fund will be distributed to Eligible Class Members, defined as Settlement Class members who timely submit a valid Proof of Claim form and are determined by the Administrator, in consultation with Lead Counsel, to be entitled to payment, all as described in the Plan of Allocation.

To the extent apparent from a submitted Proof of Claim, the Administrator will attempt to remind Eligible Class Members who have not submitted needed documentation that they should do so.

**d. Right of Withdrawal Provision**

The Settlement Agreement grants BP the option to terminate the Settlement under certain conditions set forth in a confidential agreement between the Parties and filed with the Court under seal. BP's election to terminate the Settlement must be made, if at all, within twenty-one days of when the Administrator notifies BP of all Settlement Class members that have timely and validly excluded themselves from the Settlement Class.

**e. Release and Discharge**

The Settlement Agreement provides that a Release and Discharge will apply if the Court approves the Settlement and it becomes effective. In pertinent part, paragraph 30 of the Settlement Agreement reads as follows:

Plaintiffs covenant and agree and each Indirect Purchaser Class Member and the Indirect Purchaser Class shall be deemed to covenant and agree, that, upon the occurrence of the Effective Date and in consideration of payment of the Settlement Amount and for other valuable consideration as provided for in this Agreement, the Releasers hereby release and forever discharge the BP Releasees, individually and collectively, from liability for any and all claims, demands, actions, suits, obligations, promises, liabilities or costs of any kind, including but not limited to any tort claims, contract claims, statutory claims, controversies, actions, causes of action, declaratory judgment actions, cross-claims, counterclaims, demands, debts, claims for damages, liquidated damages, trebled, punitive or exemplary damages, fines or penalties, equitable relief, expenses and/or attorneys' fees, or liabilities of any nature whatsoever in both law or in equity, whether class, individual, or otherwise in nature, that Releasers, or each of them, ever had, now has, or hereafter can, shall, or may have, against the BP Releasees, whether known or unknown, suspected or claimed, on account or arising out of, relating to or based on conduct alleged or asserted in the Action. Subject to the limitations stated in this paragraph 30, upon the Effective Date of the Settlement, for consideration provided for herein, Plaintiffs covenant and agree, and each Indirect Purchaser Class Member and the Indirect Purchaser Class shall be deemed to covenant and agree that he, she or it shall not, at any time, institute, cause to be instituted, assist in instituting or permit to be instituted on his, her or its behalf any proceeding in any state or federal court, in or before any administrative agency, or any other proceeding or otherwise allege or assert against the BP Releasees, individually or collectively, any of the claims released in this Section D.

**5. PARTICIPATION IN THE SETTLEMENT CLASS**

If you are a member of the Settlement Class as defined above (see Section 2), you will automatically remain a Settlement Class member unless you timely exclude yourself from the Settlement Class. If you wish to remain in the Settlement Class, you do not need to take any action at this time and your interests will be represented by Plaintiffs and by Lead Counsel.

As a member of the Settlement Class, to the extent described in the Plan of Allocation, you may be entitled to share in the proceeds of the Settlement if it is approved by the Court. You will also be bound by all terms of the Settlement Agreement, including, among other things, the Release and Discharge provision set forth above.

As a member of the Settlement Class, you also have the right to be heard with respect to whether the Court should approve the Settlement and award attorneys' fees, reimbursement of expenses, and incentive awards to the Plaintiffs who brought this litigation. See Sections 7, 9, 10, and 11 below.

While Lead Counsel will continue to represent the interests of the Settlement Class, you may, if you choose, hire your own lawyer at your own expense to enter an appearance on your behalf as a Settlement Class member in the litigation. You are not required to do so to participate in the Settlement Fund.

In order to participate in the Settlement Fund, you must submit a valid Proof of Claim by April 15, 2010. Please do not dispose of any document that reflects your purchases of propane for which you make a claim in this case. You may need these documents to support or complete the accompanying Proof of Claim. See Section 6 below and the Plan of Allocation, provided as Exhibit 1 to this Notice.

## **6. SUBMISSION OF PROOFS OF CLAIM**

To be eligible to participate in the Settlement Fund if the Court approves the Settlement, you must submit a qualified Proof of Claim to be **received** by the Administrator no later than April 15, 2010. A copy of the Proof of Claim form is provided for your convenience as Exhibit 2 to this Notice. You should provide all information required by the Proof of Claim form, and sign the form and accompanying release before submitting it to the Administrator. (See the Proof of Claim form for instructions on how to file your claim in hardcopy.) Proofs of Claim may also be submitted electronically. (See the Proof of Claim form for the instructions on how to file your claim electronically.) If you wish to submit your Proof of Claim electronically, please download required forms and instructions at the Settlement Website: [www.BPIndirectPropaneSettlement.com](http://www.BPIndirectPropaneSettlement.com).

**Confidentiality.** Data submitted by Settlement Class members will be held in strict confidence, available only to the Administrator, Lead Counsel, experts or consultants acting on behalf of the Settlement Class, and if necessary in the determination of Lead Counsel, outside counsel for BP, and BP's outside experts. If necessary to resolve a dispute about the claim, such data may also be disclosed to Court personnel. In no event will a Settlement Class member's data be made publicly available, including to any other market participant or BP personnel (except as set forth above).

## **7. THE FINAL APPROVAL HEARING**

The Court will hold a Final Approval Hearing on February 10, 2010 at the United States District Court, Everett McKinley Dirksen Building, 219 South Dearborn Street, Courtroom 2503, Chicago, Illinois 60604, to: (1) determine whether the Settlement (including the Plan of Allocation of the Net Settlement Fund among the members of the Settlement Class) should be approved as fair, reasonable, and adequate; and (2) consider the award of attorneys' fees, reimbursement of expenses, and incentive awards to the Plaintiffs. See Sections 9, 10, and 11. If you wish to be heard by the Court on any of these matters, whether in favor of or in objection to one or more of them, you may appear at the Final Approval Hearing, but you are not required to do so. The Final Approval Hearing may be continued without further notice.

## **8. HOW TO BE EXCLUDED FROM THE SETTLEMENT CLASS**

You have the right to exclude yourself from the Settlement Class. If you exclude yourself from the Settlement Class (*i.e.*, opt out of the Settlement Class), you will not be bound by any decision or Court judgment regarding the Settlement and you will retain the right individually to pursue any claims you may have against Defendants. If you exclude yourself from the Settlement Class and the Court approves the Settlement, you will not share in the Settlement or in any distribution from the Net Settlement Fund.

If you wish to exclude yourself from the Settlement Class, you must send a signed request for exclusion, in writing. The request for exclusion must be **received** by the Administrator no later than January 11, 2010, at the following address:

**For U.S. Mail:**

*In re BP Propane Indirect Purchaser Antitrust Litigation*  
Administrator, c/o Rust Consulting, Inc.  
P.O. Box 24674  
West Palm Beach, Florida 33416

Copy to:  
Christopher Lovell  
Lovell Stewart Halebian LLP  
61 Broadway, Suite 501  
New York, New York 10006

**For Deliveries:**

*In re BP Propane Indirect Purchaser Antitrust Litigation*  
Administrator, c/o Rust Consulting, Inc.  
5210 Hood Road  
Palm Beach Gardens, Florida 33418

Copy to:  
Marvin A. Miller  
Miller Law LLC  
115 S. LaSalle Street, Suite 2910  
Chicago, Illinois 60603

Your request for exclusion must contain your full name, including that of any predecessor entities from April 1, 2003 forward, as well as your address.

**9. OBJECTIONS TO THE SETTLEMENT**

If you do not exclude yourself from the Settlement Class, you may object to the Settlement (including the Plan of Allocation), the award of attorneys' fees, reimbursement of expenses, or incentive awards to Plaintiffs. See Sections 4, 10, and 11. Your objection must be in writing, provide proof that you are a member of the Settlement Class, include the caption of this litigation, be signed by you, and must be **received** by the Clerk of Court no later than January 11, 2010 at the following address:

Clerk of Court  
United States District Court  
Everett McKinley Dirksen Building  
219 South Dearborn Street  
Chicago, Illinois 60604

A copy of your objection must also be sent to the following counsel, *via* First Class Mail, postage prepaid:

**Lead Counsel**

Christopher Lovell  
Ian T. Stoll  
**LOVELL STEWART HALEBIAN LLP**  
61 Broadway, Suite 501  
New York, New York 10006  
Telephone: (212) 608-1900  
Chairman of Co-Lead Counsel

Marvin A. Miller  
**MILLER LAW LLC**  
115 S. LaSalle Street  
Suite 2910  
Chicago, Illinois 60603  
Telephone: (312) 332-3400

**Counsel for BP**

Richard C. Godfrey, P.C.  
David J. Zott, P.C.  
Andrew A. Kassof, P.C.  
**KIRKLAND & ELLIS LLP**  
300 North LaSalle  
Chicago, Illinois 60654  
Telephone: (312) 862-2000  
Fax: (312) 862-2200

Your objection will be considered by the Court whether or not you choose to appear at the Final Approval Hearing. See Section 7 above. In addition to submission of your written objection, you may also appear and be heard at the Final Approval Hearing, in person or through a duly authorized attorney, to assert your objection. To appear before the Court at the Final Approval Hearing you or your counsel must file a notice of intention to appear, a statement of the position to be asserted, and the grounds for your objection, together with copies of any supporting papers or brief. These papers must be filed with the Clerk of Court, United States District Court, Everett McKinley Dirksen Building, 219 South Dearborn Street, Chicago, Illinois 60604, with proof of service upon Lead Counsel and Counsel for BP, identified above, on or before January 11, 2010.

Except as provided in this Notice, no person will be entitled to object to the Settlement, any request for an award of attorneys' fees, reimbursement of litigation expenses, and incentive awards to Plaintiffs. Any person who fails to comply with these procedures will be deemed to have waived, and shall be foreclosed forever from raising, any objections or appealing from any orders or judgments entered with respect to the Settlement Agreement (including the Plan of Allocation), attorneys' fees, reimbursement of litigation expenses, or incentive awards to Plaintiffs.

**10. ATTORNEYS' FEES AND EXPENSES**

All work performed by Lead Counsel for approximately three years litigating the Action has been performed on a wholly-contingent basis. As such, Lead Counsel has not received any payments of any kind for fees or expenses advanced in this litigation.

At the Final Approval Hearing, Lead Counsel will apply to the Court for an award from the Settlement Fund of attorneys' fees in an amount not to exceed one third of the Settlement Fund, plus interest. This application will cover all professional services already provided in this Action, as well as all future services, including in connection with administration of the Settlement and distribution of the Net Settlement Fund. Lead Counsel will also seek reimbursement of expenses advanced and incurred in litigating the Action, not to exceed \$300,000, including experts, consultants, and other reasonable expenses (excluding the cost of providing notice to the Settlement Class). The application of Lead Counsel for the award of reasonable attorneys' fees and the reimbursement of expenses will be filed with the Clerk of the Court on or before January 20, 2010, and posted on the Settlement Website shortly thereafter. See Section 12 below.

If you wish to object to the application for attorneys' fees and reimbursement of expenses, you must follow the procedures outlined in Section 9 above, which addresses objections to the Settlement.

**11. INCENTIVE AWARDS TO PLAINTIFFS**

At the Final Approval Hearing, Lead Counsel will also apply to the Court for incentive awards to be paid from the Settlement Fund to named Plaintiffs in an aggregate amount not to exceed \$10,000.00 in recognition for their efforts in initiating and pursuing this litigation on behalf of the Settlement Class. The petition for the incentive awards to be paid to Plaintiffs will be filed with the Clerk of the Court on or before January 20, 2010, and posted on the Settlement Website shortly thereafter. See Section 12 below.

If you wish to object to the application for incentive awards to Plaintiffs, you must follow the procedures outlined in Section 9 above, which addresses objections to the Settlement.

**12. EXAMINATION OF PAPERS AND INQUIRIES**

This Notice contains only a summary of the litigation and the Settlement Agreement. For more detailed information regarding the matters involved in this litigation, please refer to the Settlement Agreement, the Consolidated Complaint, and other papers on file in this litigation, which may be inspected at the Office of the District Clerk, United States District Court, Everett McKinley Dirksen Building, 219 South Dearborn Street, Chicago, Illinois 60604, during regular business hours of each business day. In addition, the Consolidated Complaint, Settlement Agreement, and other relevant documents are posted at the Settlement Website: [www.BPIndirectPropaneSettlement.com](http://www.BPIndirectPropaneSettlement.com). Inquiries regarding this litigation may be addressed to Lead Counsel:

Christopher Lovell  
Ian T. Stoll  
**LOVELL STEWART HALEBIAN LLP**  
61 Broadway, Suite 501  
New York, New York 10006  
Telephone: (212) 608-1900

Marvin A. Miller  
**MILLER LAW LLC**  
115 S. LaSalle Street  
Suite 2910  
Chicago, Illinois 60603  
Telephone: (312) 332-3400

If you have questions concerning this Notice or the litigation, you may contact Lead Counsel. **Please do not contact the Clerk of Court or the Judge.**

**13. CHANGE OF ADDRESS**

If this Notice reached you at an address other than the one on the mailing label, or if your address changes, please send your correct address to the Administrator at the address specified in Section 8 above.

Dated: November 6, 2009

BY ORDER OF:  
The Honorable James B. Zagel  
United States District Court  
for the Northern District of Illinois

**EXHIBIT I**  
**INDIRECT PURCHASER SETTLEMENT PLAN OF ALLOCATION**

- I. Method of Distribution**
- II. Definitions**
- III. Applicable Artificiality Amount**
- IV. Applicable Propane Derivatives Transactions Offset**

**I. METHOD OF DISTRIBUTION**

**A. The Amount Paid To Each Eligible Class Member**

Promptly after the Proof of Claim process, the entire Net Settlement Fund will be distributed to Eligible Class Members. *See* Section II, Definitions, Eligible Class Member.

The amount paid to each Eligible Class Member shall be determined by multiplying the Net Settlement Fund by a fraction, the numerator of which is that Eligible Class Member's Recognized Claim and the denominator of which is the sum of all Eligible Class Members' Recognized Claims. That is:

$$\frac{\text{Each Eligible Class Members' Recognized Claim}}{\text{All Eligible Class Members' Recognized Claims}} \times \text{Net Settlement Fund} = \text{Payment Amount To Each Eligible Class Member}$$

*See* Section II, Definitions, Net Settlement Fund.

**B. Recognized Claim**

The **Recognized Claim** for each Eligible Class Member shall be such Class Member's Recognized Impact minus, if applicable, such Eligible Class Member's Recognized Deduction.

That is, each Eligible Class Member's Recognized Impact minus that Class Member's Recognized Deductions equals that Eligible Class Member's Recognized Claim.

**C. Recognized Impact**

The **Recognized Impact** for each Eligible Class Member shall be their Recognized Volume of Physical Propane purchased, multiplied by the Applicable Artificiality Amounts, if any, for such volume(s).

$$\text{Recognized Volumes of Propane Purchased} \times \text{Applicable Artificiality Amounts For Such Purchases} = \text{Recognized Impact}$$

1. **The Recognized Volume of Physical Propane Purchased** shall be the number of gallons of physical propane purchased by that Eligible Class Member, for which delivery of the physical propane is taken by March 31, 2004, through the types of propane and contracts, at the locations, and during the times set forth in the Applicable Artificiality Amounts. The Settlement Administrator's finding, based upon adequate documentation or other demonstration from such Eligible Class Member, shall determine the Recognized Volumes for each Class member.<sup>1</sup> *See* Section III below.

2. **Applicable Artificiality Amounts.**

Plaintiffs' estimate of the amounts of artificial price inflation caused by Defendants are set forth in Section III below, "Applicable Artificiality Amounts." These amounts vary according to the type of propane or contract, the place and the time of purchase. *See* Section III below.

3. **Multiplying The Recognized Volumes Purchased By The Applicable Artificiality Amounts For Those Purchases, Produces The Recognized Impact.** Again, the "Recognized Impact" is determined by multiplying the Recognized Volume of Physical Propane Purchased by the Applicable Artificiality Amounts for such purchases. *See* Section III.

**D. Recognized Deductions**

This method of distribution identifies three types of benefits received by certain Eligible Class members from the alleged manipulation. These benefits will each be subtracted from such Eligible Class member's Recognized Impact. *See* Section II below,

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<sup>1</sup> Class Members must supply the details of their purchases requested in the Proof of Claim, and retain their records of such purchases in order to establish their recognized impact. *See* Proof of Claim.

Definitions. These benefits are referred to as **Recognized Deductions**.

(1) **Applicable Offset.** The first deduction is the amount, if any, of payments that an Eligible Class Member received from the DPA Fund for the same purchases as are claimed in this settlement. *See* Section II below, Definitions, DPA Fund.

(2) The second deduction is the amount, if any, of artificial price inflation gains caused by Defendants that each Eligible Class Member received from any Derivative Transactions that have not been charged as an offset to such class member in the Direct Purchaser Settlement or the DPA Fund. *See* Section IV below, Applicable Propane Derivatives Transactions Offset; *see* Definitions, DPA Fund; Direct Purchaser Settlement.

(3) The third deduction is the amount, if any, of artificial price inflation that the Eligible Class Member received from sales, if any, of physical propane at the inflated prices caused by Defendants. *See* Section III below, Applicable Artificiality Amounts. For Eligible Class Members who are end users of physical propane, there likely will be no sales of physical propane. For Eligible Class Members who are Resellers or Wholesalers of propane, there may be such sales of physical propane at inflated prices. *See* Section III below, Applicable Artificiality Amounts.

If an Eligible Class Member has one or more of the foregoing Recognized Deductions, then the sum total of their Recognized Deductions is subtracted from their Recognized Impact. The remainder is the Recognized Claim of such Eligible Class Member.

## **II. DEFINITIONS**

The “**Applicable Artificiality Amounts**” shall be the amounts (expressed in cents per gallon) set forth in the Applicable Artificiality Section (Section III below) for the times, locations and types of propane purchases specified there.

The “**Applicable Offset**” received from the DPA Restitution Fund shall be an amount determined by the Settlement Administrator proportionate to the Restitution Fund payment received by the Eligible Class Member for purchase volumes included in any Recognized Impact calculation for such Class Member.<sup>2</sup>

“**Basis Contract**” means a contract for the purchase of propane at a price that is based on an index price, Rack propane price, daily average price, or other calculation based on a market price. For example, a contract for purchase at a price based on an OPIS TET propane price, an OPIS Non-TET propane price or a Rack propane price.

“**Dixie Region**” means Mississippi; Alabama; Georgia; Florida; South Carolina; North Carolina.

The “**DPA Restitution Fund**” is the \$53,503,000 paid by BP America, Inc. pursuant to a deferred prosecution agreement entered into by BP and the U.S. Department of Justice, Criminal Division, Fraud Section, and judicially approved on November 15, 2007, as modified by Court Order dated August 7, 2009.

“**Derivative Transaction**” means any transaction, initiated or closed between February 12 and February 29, 2004, inclusive, in (a) an OPIS TET or Non-TET propane option expiring in February 2004 or having prices tied to February 2004 OPIS TET or Non-TET prices; (b) a February 2004 OPIS TET or Non-TET propane forward contract; (c) an OPIS TET or Non-TET propane index expiring in February 2004 or based on February 2004 OPIS TET or Non-TET prices; or (d) an OPIS TET or Non-TET propane swap expiring in February 2004 or having prices based on February 2004 prices.

“**Direct Purchaser Settlement**” means the settlement set forth in the Direct Purchaser Settlement Agreement dated January 7, 2009 and filed as Document No. 111-2 in *In re: BP Propane Direct Purchaser Antitrust Litigation*, Case No. 1:06-CV-3621, MDL No. 1946 (N.D. Ill.).

“**Eligible Class Members**” are defined as Class Members who submit a valid Proof of Claim form and are determined by the Administrator, in consultation with Lead Counsel, to be entitled to a payout of \$15.00 or more.

“**Enterprise Region**” means parts of Texas and parts of New Mexico.<sup>3</sup>

“**Flat Price Contract**” means a contract for the purchase of propane in which the price is a specified, numerical price.

The “**Net Settlement Fund**” is defined as the Settlement Fund minus any Court-approved costs or fees.

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<sup>2</sup> Example: if the Eligible Class Member’s Restitution Fund payment is in respect of the same volume(s) **and only the same** volume(s) as are reflected on the Eligible Class Member’s proof of claim herein, then the Applicable Offset from the Restitution Fund shall be 100% of the DPA Restitution Fund payment to such Class Member. If, for another example, the Restitution Fund payment is not based on any of the recognized purchaser volumes in the Eligible Class Member’s proof of claim herein, then the Applicable Offset shall be 0% of the DPA Restitution Fund payment.

<sup>3</sup> The parts of the States of Texas and New Mexico that are within the Enterprise Region are defined as follows: (1) All parts of Texas other than those defined to be the TEPPCO Region (*see* fn.4); (2) New Mexico: The County of Lea.

“**Non-TET Propane**” means propane stored in the non-TEPPCO caverns and/or storage facilities at Mont Belvieu, Texas and/or shipped through the Enterprise or Dixie pipeline systems.

“**Other Contract**” means a contract for the purchase of physical propane in which the price is set using terms other than those described in the definitions of “Basis Contract” and “Flat Price Contract.”

“**Qualifying Sales of Physical Propane**” are sales to which the Applicable Artificiality Amounts apply under Section III and for which delivery of the physical propane was taken by March 31, 2004, through the types of contracts, at the locations and during the times that qualify for the Applicable Artificiality Amounts in Section III below.

“**Rack Propane Price**” or “**at the Rack Price**” means the price for rack propane quoted by a wholesale truckload sale or smaller lot where title transfers at a terminal, including those at an end of the pipeline including that quoted by [www.OPISnet.com](http://www.OPISnet.com).

The “**Recognized Deduction**” for each Eligible Class Member shall be (1) any Applicable Offset actually received by such Class Member from the DPA Restitution Fund, plus (2) any net artificial proceeds received from any Derivative transactions that were not used as an offset in the DPA Restitution Fund or in the Direct Purchaser Settlement, plus (3) any artificial proceeds received from Qualifying Sales of physical propane.

“**Recognized Volume of Physical Propane**” means the amounts of physical propane purchased by an Eligible Class Member, for which delivery of the physical propane was taken by March 31, 2004, through the types of contracts, at the locations and during the times that qualify for the Applicable Artificiality Amounts in Section III below.

“**Relevant Geographic Area**” means Alabama, Arkansas, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, Missouri, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, and Wisconsin.

“**TEPPCO Region**” means Louisiana, parts of Texas; Arkansas; Tennessee; parts of Missouri; parts of Illinois; parts of Indiana<sup>4</sup>, Ohio; Kentucky; West Virginia; Pennsylvania; Virginia; Maryland; Delaware; New Jersey; New York; Connecticut; Rhode Island; Massachusetts; Vermont; New Hampshire; Maine.

“**TET propane**” means propane stored in Texas Eastern Products Pipeline Co., LLC’s (“TEPPCO’s”) caverns and/or storage facilities in Mont Belvieu, Texas and/or shipped through the TEPPCO system.

### **III. APPLICABLE ARTIFICIALITY AMOUNTS**

For all daily amounts of artificiality for purchases or sales in all categories set forth below, the Applicable Artificiality Amount shall be that set forth for each such day.

However, if the Administrator determines that the following alternative calculation would provide the Eligible Class Member with a Recognized Claim that is greater than using the foregoing Applicable Artificiality Amounts, then the following calculation shall be used to determine the Applicable Artificiality Amounts.

If using, in all instances, and for all purchases and sales, the average of the artificiality set forth for that day and the amount of artificiality set forth for the prior trading day as the Applicable Artificiality Amount would, on net, provide a greater Recognized Claim from the Eligible Class Member, then the Administrator shall automatically use the average of the artificiality for that day and the artificiality for the prior trading day as the Applicable Artificiality Amount.

#### **A. All Fifty States for TET or Non-TET Basis Contracts**

##### **1. TET Price Basis Contracts, Single Day Or Average**

To the extent that the Administrator finds that: (i) an Eligible Class Member purchased physical propane priced

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<sup>4</sup> The parts of the States of Texas, Missouri, Illinois and Indiana that are within the TEPPCO Region are defined as follows:

Texas: The Counties of Cooke, Grayson, Fannin, Red River, Bowie, Wise, Denton, Collin, Hunt, Delta, Hopkins, Franklin, Titus, Morris, Cass, Tarrant, Dallas, Rockwall, Kaufman, Rains, Van Zandt, Wood, Harrison, Ellis, Hill, Navarro, Henderson, Smith, Gregg, Rusk, Panola, Limestone, Freestone, Anderson, Cherokee, Nacogdoches, Shelby, Robertson, Leon, Houston, Angelina, San Augustine, Sabine, Burleson, Brazos, Grimes, Madison, Walker, Trinity, San Jacinto, Polk, Tyler, Jasper, Newton, Washington, Waller, Montgomery, Liberty, Hardin, Austin, Fort Bend, Harris, Chambers, Jefferson, Orange, Colorado, Wharton, Brazoria, Galveston, and Matagorda.

Missouri: The Counties of Perry, Cape Girardeau, Scott, Mississippi, New Madrid, Pemiscot, Dunklin, Stoddard, Bollinger, Madison, Wayne, Butler, Iron, Carter, and Ripley.

Illinois: The Counties of Alexander, Pulaski, Massac, Pope, Hardin, Gallatin, Saline, Johnson, Williamson, Jackson, Randolph, Perry, Franklin, Hamilton, White, Wabash, Edwards, Wayne, and Jefferson.

based on OPIS TET propane prices on (or including) the following days, (ii) that physical delivery of such propane was taken on or before March 31, 2004 and (iii) that such purchase was **not** the subject of a claim filed and/or was not otherwise qualified for consideration for payment (if a claim had been made) in the Direct Purchaser Settlement, then the Applicable Artificiality Amount for such purchases in any State shall be as follows:

**TET Basis Applicable Artificiality Amounts**

Date	Cents Per Gallon	Date	Cents Per Gallon
2/12/2004	4.5	2/21/2004	8.4
2/13/2004	6.8	2/22/2004	8.4
2/14/2004	6.8	2/23/2004	12.6
2/15/2004	6.8	2/24/2004	18.8
2/16/2004	6.8	2/25/2004	26.4
2/17/2004	4.5	2/26/2004	18.5
2/18/2004	5.6	2/27/2004	23.7
2/19/2004	6.5	2/28/2004	23.7
2/20/2004	8.4	2/29/2004	23.7

For such purchases dependent on a single OPIS-TET price on all other days, the Applicable Artificiality shall be zero.

If the purchase of physical propane is priced based on an average that includes the days or a day set forth above, then the Applicable Artificiality Amount shall be the sum of the Applicable Artificiality Amount for each day in the average divided by the number of days in the average. Example: If February 28 and February 29 are included in a five day average with March 1, March 2 and March 3, then the Applicable Artificiality Amount shall be the sum of 23.7 (February 28), 23.7 (February 29), 0 (March 1), 0 (March 2) and 0 (March 3) divided by five, that is, 47.4 divided by 5 or an Applicable Artificiality Amount of 9.48 cents per gallon.

**2. Non-TET Price Basis Purchases, Single Day Or Average**

To the extent that the Administrator finds that: (i) an Eligible Class Member purchased physical propane priced based on OPIS non-TET propane prices on (or including) the following days, (ii) that physical delivery of such propane was taken on or before March 31, 2004 and (iii) that such purchase was **not** the subject of a claim filed and/or was not otherwise qualified for consideration for payment (if a claim had been made) in the Direct Purchaser Settlement, then the Applicable Artificiality Amount for such purchases in any State shall be as follows:

**Non-TET Basis, Applicable Artificiality Amounts**

Date	Cents Per Gallon	Date	Cents Per Gallon
2/12/2004	2.8	2/21/2004	6.8
2/13/2004	5.8	2/22/2004	6.8
2/14/2004	5.8	2/23/2004	6.8
2/15/2004	5.8	2/24/2004	8.6
2/16/2004	5.8	2/25/2004	13.4
2/17/2004	3.0	2/26/2004	7.7
2/18/2004	4.6	2/27/2004	6.0
2/19/2004	5.0	2/28/2004	6.0
2/20/2004	4.4	2/29/2004	6.0

For such purchases dependent on a single OPIS Non-TET price on all other days, the Applicable Artificiality Amount shall be zero.

If the purchase of physical propane is priced based on the average of the Non-TET price for a specified number of days that includes the days or a day set forth above, then the Applicable Artificiality Amount shall be the sum of the Applicable Artificiality Amount set forth above for each day in the average divided by the number of days in the average. Example: If February 28 and February 29 are included in the five day average with March 1, March 2 and March 3, then the Applicable Artificiality Amount shall be the sum of 6.0 (February 28), 6.0 (February 29), 0 (March 1), 0 (March 2) and 0 (March 3) divided by five, that is, 12 divided by 5 or 2.4 cents per gallon.

**3. Applicable Artificiality Amount Equals Zero**

To the extent that the Administrator finds that the price for a purchase of physical propane is “basis” or based on the price of a specified pipeline other than the TET, Enterprise and Dixie pipelines, then the Applicable Artificiality Amount shall be zero regardless of the place or State of purchase.

**B. Other Types of Purchases: Rack Price, Flat Price And Other Contracts**

Eligibility for compensation for other types of purchases of physical propane is limited to the types of purchases set forth below (a) within the Relevant Geographic Area, or (b) of TET or non-TET propane.

**1. Rack Price Basis Contracts, Single Day Or Average**

To the extent that the Administrator finds that: (i) an Eligible Class Member demonstrates either that it purchased TET, Dixie or Enterprise propane priced at “the rack,” or at a price based on the rack propane price, on (or including) the days set forth below, or that it purchased and took delivery within the Relevant Geographic Area of physical propane priced at the rack, or at a price based on the rack propane price, on (or including) the days set forth below, (ii) that physical delivery of such propane was taken on or before March 31, 2004 and (iii) that such purchase was **not** the subject of a claim filed and/or was not otherwise qualified for consideration for payment (if a claim had been made) in the Direct Purchaser Settlement, then the Applicable Artificiality Amount for such purchases will be determined as follows.

**a. Rack Propane Applicable Artificiality Amount: TET**

The following are the Applicable Artificiality Amounts for Eligible Class Members who demonstrate (a) that they took delivery of the propane in the TEPPCO Region of propane purchased in such region priced at the rack or at a price based on the rack propane price, or (b) that they purchased and took delivery of TET propane priced at “the rack” or at a price based on the rack propane price.

	<u>TET</u>
2/12/2004	0.00
2/13/2004	2.18
2/17/2004	4.96
2/18/2004	4.44
2/19/2004	3.55
2/20/2004	2.63
2/23/2004	3.47
2/24/2004	4.40
2/25/2004	11.49
2/26/2004	15.85
2/27/2004	10.64
3/1/2004	11.78
3/2/2004	2.69

If the purchase of physical propane is priced based on an average that includes the days or a day set forth above, then the Applicable Artificiality Amount shall be the sum of the Applicable Artificiality Amount for each day in the average divided by the number of days in the average. Example: If March 1 and March 2 are included in a five day average with March 3, March 4 and March 5 (for TET or TEPPCO), then the Applicable Artificiality Amount shall be the sum of 11.78 (March 1), 2.69 (March 2), 0 (March 3), 0 (March 4) and 0 (March 5) divided by five, that is, 14.47 divided by 5 or 2.894 cents per gallon.

**b. Rack Propane Applicable Artificiality Amount: Dixie**

The Applicable Artificiality Amount for Eligible Class Members taking delivery in the Dixie Region of propane purchased in such region priced at the rack price or at a price based on the rack propane price is that set forth below UNLESS the Eligible Class member demonstrates that the propane was TET or Enterprise propane in which case the Applicable Artificiality Amount for TET or Enterprise propane shall apply. Also, the Applicable Artificiality Amount for Eligible Class members who demonstrate that they purchased Dixie propane priced at “the rack” or at a price based on the rack propane price, is that set forth below.

	<u>Dixie</u>
2/12/2004	0.00
2/13/2004	1.75
2/17/2004	3.68
2/18/2004	3.55

2/19/2004	2.61
2/20/2004	1.68
2/23/2004	2.37
2/24/2004	2.54
2/25/2004	4.62
2/26/2004	2.74
2/27/2004	0.63
3/1/2004	0.37
3/2/2004	0.13

If the purchase of physical propane is priced based on an average that includes the days or a day set forth above, then the Applicable Artificiality Amount shall be the sum of the Applicable Artificiality Amount for each day in the average divided by the number of days in the average.

**c. Rack Propane Applicable Artificiality Amount: Enterprise**

The Applicable Artificiality Amount for Eligible Class Members taking delivery in the Enterprise Region of propane purchased in such region priced at the rack price or at a price based on the rack propane price is that set forth below UNLESS the Eligible Class member demonstrates that the propane was TET or Dixie propane in which case the Applicable Artificiality Amount for TET or Dixie propane shall apply. Also, the Applicable Artificiality Amount for Eligible Class members who demonstrate that they purchased Enterprise propane priced at “the rack” or at a price based on the rack propane price that is set forth below.

	<u>Enterprise</u>
2/12/2004	0.00
2/13/2004	1.75
2/17/2004	3.96
2/18/2004	3.22
2/19/2004	2.16
2/20/2004	1.27
2/23/2004	0.00
2/24/2004	0.03
2/25/2004	1.46
2/26/2004	0.87
2/27/2004	0.00
3/1/2004	0.00
3/2/2004	0.00

If the purchase of physical propane is priced based on an average that includes the days or a day set forth above, then the Applicable Artificiality Amount shall be the sum of the Applicable Artificiality Amount for each day in the average divided by the number of days in the average.

To the extent that an Eligible Class Member demonstrates that it purchased TET, Dixie or Enterprise propane at the rack, or at a price based on the rack propane price, then the Applicable Artificiality Amount for such purchase shall be those set forth under the TET, Dixie or Enterprise column above.

**d. Rack Propane Applicable Artificiality Amount: Remainder of Relevant Geographic Area**

The Applicable Artificiality Amount for Eligible Class Members taking delivery and purchasing in Colorado, Wisconsin, Michigan, Oklahoma and those parts of the States of Missouri, Illinois, Indiana and New Mexico that are not within the TEPPCO, Dixie or Enterprise regions are set out in the columns labeled with the respective state names in Table IV below (unless the Eligible Class member demonstrates that the propane purchased was TET, Enterprise or Dixie propane.<sup>5</sup>)

<sup>5</sup> Again, to the extent that an Eligible Class Member demonstrates that it purchased TET, Dixie or Enterprise propane at the rack, or at a price based on the rack propane price, then the Applicable Artificiality Amount for such purchase shall be those set forth under the TET, Dixie or Enterprise column above.

**Table IV: Rack Price Applicable Artificiality Amounts**

	Colorado	Illinois	Indiana	Michigan	Missouri	New Mexico	Oklahoma	Wisconsin
2/12/2004	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
2/13/2004	1.44	0.00	0.00	0.00	0.00	1.75	1.75	1.75
2/17/2004	2.60	0.00	2.82	2.84	0.00	3.96	3.96	1.54
2/18/2004	1.58	0.00	2.81	3.55	0.00	3.22	3.22	0.00
2/19/2004	0.28	0.00	2.81	1.55	0.00	2.16	2.16	0.00
2/20/2004	0.00	0.00	2.10	0.00	0.00	1.27	1.27	0.00
2/23/2004	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
2/24/2004	0.00	0.00	1.06	1.29	0.00	0.03	0.03	0.00
2/25/2004	0.55	2.84	0.43	1.75	2.84	1.46	1.46	2.78
2/26/2004	2.23	3.97	0.93	2.70	3.97	0.87	0.87	2.96
2/27/2004	1.83	3.74	0.95	1.60	3.74	0.00	0.00	3.07
3/1/2004	0.18	3.65	0.00	0.21	3.65	0.00	0.00	3.56
3/2/2004	0.00	0.85	0.00	0.00	0.85	0.00	0.00	0.00

If the purchase of physical propane is priced based on the average of a Rack Price for a specified number of days that includes the days or a day set forth above, then the Applicable Artificiality Amount shall be the sum of the Applicable Artificiality Amount for each day in the average divided by the number of days in the average.

**2. Applicable Artificiality Amount For Flat Price Contracts Or Other Contracts**

**a. Flat Price**

The Applicable Artificiality Amount for any contract that has a Flat Price which is established before February 12, 2004, or after March 8, 2004, shall be zero.

To the extent that the Administrator finds that an Eligible Class Member: (i) purchased physical propane priced at a “Flat Price” that was established between February 12 and March 8, 2004, (ii) that physical delivery of such propane was taken on or before March 31, 2004 and (iii) that such purchase was not the subject of a claim filed in and was not otherwise qualified for consideration for payment (if a claim had been made) in the Direct Purchaser Settlement, then the Applicable Artificiality Amount for such purchases shall be determined as follows.

Multiply the average of the Applicable Artificiality Amounts in Section B1 above for the locations in which the purchased propane was received over the five day period preceding the date that the Flat Priced Contract was established by 0.5 PROVIDED THAT if Eligible Class members prove they purchased TET, Enterprise or Dixie propane in such contract then multiply the average of the Applicable Artificiality Amounts for such type (TET, Enterprise or Dixie) of propane in B1 above over the five day period preceding the date that the Flat Priced Contract was established, by 0.5.<sup>6</sup>

**b. Other Contracts In Impacted States**

It is not anticipated that any type of purchase contract other than those set forth above (“Other Contract”) will qualify for payment under this Plan of Allocation.

Moreover, to the extent that the Administrator finds that an Eligible Class Member purchased in the Relevant Geographic Area physical propane in any Other Contracts (that is, contracts with any pricing term or pricing mechanism other than those previously described in this Plan of Allocation) the Applicable Artificiality Amount shall be zero unless the conditions set forth in the following paragraph are satisfied.

If the Administrator, in consultation with Co-Lead Counsel, determines (i) that the purchase was not the subject of a claim filed in and not otherwise qualified for consideration for payment (if a claim had been made) in the Direct Purchaser Settlement, (ii) that the quantity of propane purchased at artificially impacted prices under such Other Contract is sufficiently ascertainable, (iii) that the pricing of such Other Contract was likely artificially inflated by the artificial inflation of prices listed above or by another aspect or aspects of Defendants’ conduct; (iv) that delivery was taken by March 31, 2004 and (v) that at

<sup>6</sup> To receive a distribution, Eligible Class Members will be required to provide documentation sufficient to prove (a) that they did not purchase propane pursuant to a contract or agreement under which the price was established prior to February 12 or after March 8, 2004, and (b) the location in which the physical propane was received. See Proof of Claim.

least one part of the common class-wide artificial impact formula set forth above may be properly applied to the pricing and purchase volumes under such Other Contract so as to reasonably estimate the artificial impact, then the Applicable Artificiality Amount shall be that which the Administrator determines is most properly applicable to such Other Contract, multiplied by 0.25.

**3. Applicable Artificiality Amount is Zero**

For all other purchases, the Applicable Artificiality Amount shall be zero.

**IV. APPLICABLE PROPANE DERIVATIVES TRANSACTIONS OFFSET**

If an Eligible Class Member engaged in Derivative Transactions in propane that were initiated or closed out between February 12 and February 29, 2004, inclusive, and did not have a net gain (as determined below) on all such transactions initiated or closed out between February 12 and February 29, 2004, inclusive, then the Applicable Propane Derivatives Transactions Offset shall be zero.

To the extent that the Administrator finds that an Eligible Class Member engaged in Derivative Transactions in propane that were initiated or closed out between February 12 and February 29, 2004, inclusive, and had a net gain on all such transactions, then the Applicable Propane Derivatives Transaction Offset shall be the net gain from all such transactions initiated or closed out between February 12 and February 29, 2004, inclusive, less any portion of such net gain that was used as an offset in the Direct Purchaser Litigation or the DPA Fund, all as determined by the Administrator.

Such net gain shall be determined by the net result of “A” – “D” below.

**A. OPIS TET Or Non-TET Propane Options Expiring In February 2004 Or Having Prices Tied To February 2004 OPIS TET Or Non-TET Prices**

**1. Call Options**

**Formula 1:** The gross gain per barrel to the call-option holder (long options position) is:

(1a) GROSS GAIN = 0, *if*  $PTETAVERAGE < PSTRIKE$  (out-of-the-money call, not exercised)

(1b) GROSS GAIN =  $PTETAVERAGE - PSTRIKE$ , *if*  $PTETAVERAGE > PSTRIKE$  and  $PSTRIKE > PTETBUTFORAVERAGE$  (in-the-money call, exercised only due to Defendants’ actions)

(1c) GROSS GAIN =  $PTETAVERAGE - PTETBUTFORAVERAGE$ , *otherwise* (deep-in-the-money call, exercised regardless of Defendants’ actions)

where:

PTETAVERAGE =	The average of the OPIS midpoint TET price over the option period
PSTRIKE =	The strike price of the option
PTETBUTFORAVERAGE =	For options with a payoff based on the average price of TET propane over multiple days, the average of TET But-For Prices over the option period, where TET But-For Prices are calculated as the Mont Belvieu OPIS TET Price minus the Applicable Artificiality Amount for the TET Basis Contracts, on each day of the option period. For options with a payoff based on the price of TET propane for a single day, the TET But-For Price is calculated as the Mont Belvieu OPIS TET Price minus the Applicable Artificiality Amount for the TET Basis Contracts, on that day.
PNONTETBUTFORAVERAGE =	For options with a payoff based on the average price of Non-TET propane over multiple days, the average of Non-TET But-For Prices over the option period, where Non-TET But-For Prices are calculated as the Mont Belvieu OPIS Non-TET Price minus the Applicable Artificiality Amount for the Non-TET Basis Contracts, on each day of the option period. For options with a payoff based on the price of Non-TET propane for a single day, the Non-TET But-For Price is calculated as the Mont Belvieu OPIS Non-TET Price minus the Applicable Artificiality Amount for the TET Basis Contracts, on that day.

**Formula 2:** For calculation purposes,

(1a) – (1c) can be combined. Multiplying by contract size yields the gross gain on the long call-option position:

$$(2) \text{ GROSS GAIN} = Q \times \max\{0, \text{PTETAVERAGE} - \max[\text{PSTRIKE}, \text{PTETBUTFORAVERAGE}]\}$$

The gross loss on the short call-option position is just (2) multiplied by -1.

The gain or loss on the options contract is comprised of two parts. The first is the gain on the options position, as discussed above. The second is the option premium, the amount the option buyer pays the option writer. If the option is in the money at the time it is purchased (i.e., the date the contract is agreed/date the position is opened), the price inflation results in a premium higher than it would have been, yielding a loss to the buyer (and gain to the seller) per barrel:

$$\text{PREMIUM LOSS} = [\text{PTET1} - \max(\text{PSTRIKE}, \text{PTETBUTFORPRICE1})] \times (-1), \text{ if } \text{PTET1} > \text{PSTRIKE} \text{ PREMIUM LOSS} = 0 \text{ otherwise}$$

where:

PTETAVERAGE =	The average of the OPIS midpoint TET price over the option period
PSTRIKE =	The strike/exercise price of the option
PTETBUTFORAVERAGE =	For options with a payoff based on the average price of TET propane over multiple days, the average of TET But-For Prices over the option period, where TET But-For Prices are calculated as the Mont Belvieu OPIS TET Price minus the Applicable Artificiality Amount for the TET Basis Contracts, on each day of the option period. For options with a payoff based on the price of TET propane for a single day, the TET But-For Price is calculated as the Mont Belvieu OPIS TET Price minus the Applicable Artificiality Amount for the TET Basis Contracts, on that day.
PNONTETBUTFORAVERAGE =	For options with a payoff based on the average price of Non-TET propane over multiple days, the average of Non-TET But-For Prices over the option period, where Non-TET But-For Prices are calculated as the Mont Belvieu OPIS Non-TET Price minus the Applicable Artificiality Amount for the Non-TET Basis Contracts, on each day of the option period. For options with a payoff based on the price of Non-TET propane for a single day, the Non-TET But-For Price is calculated as the Mont Belvieu OPIS Non-TET Price minus the Applicable Artificiality Amount for the TET Basis Contracts, on that day.
PTET1 =	The OPIS TET price for February 2004 TET propane on the day the position was opened
PTETBUTFORPRICE1 =	The TET But-For Price for February 2004 TET propane on the day the position was opened
Q =	Contract quantity (barrels)

**Formula 3:** Adding together the gain/loss on the options position to the gain/loss on the options premium yields the gain/loss on the option contract to the buyer:

$$(3) \text{ GAIN/LOSS} = Q \times (\max\{0, \text{PTETAVERAGE} - \max[\text{PSTRIKE}, \text{PTETBUTFORAVERAGE}]\} - \max\{0, \text{PTET1} - \max[\text{PSTRIKE}, \text{PTETBUTFORPRICE1}]\})$$

The gain/loss to the call-option writer is just (3) multiplied by -1. The call-option writer benefits from a higher premium, but loses more when the option is exercised.

## 2. Put Options

**Formula 4:** The gross loss per barrel to the put-option holder (long options position) is:

(4a) GROSS LOSS = 0, if  $\text{PTETBUTFORAVERAGE} > \text{PSTRIKE}$  (deep out-of-the-money put, not exercised regardless of Defendants' actions).

(4b) GROSS LOSS =  $\text{PTETBUTFORAVERAGE} - \text{PSTRIKE}$ , if  $\text{PTETAVERAGE} > \text{PSTRIKE}$  and  $\text{PSTRIKE} > \text{PTETBUTFORAVERAGE}$  (out-of-the-money put, not exercised only due to Defendants' actions)

(4c) GROSS LOSS =  $\text{PTETBUTFORAVERAGE} - \text{PTETAVERAGE}$  otherwise (in-the-money put, exercised)

where:

PTETAVERAGE =	The average of the OPIS midpoint TET price over the option period
PSTRIKE =	The strike/exercise price of the option
PTETBUTFORAVERAGE =	For options with a payoff based on the average price of TET propane over multiple days, the average of TET But-For Prices over the option period, where TET But-For Prices are calculated as the Mont Belvieu OPIS TET Price minus the Applicable Artificiality Amount for the TET Basis Contracts, on each day of the option period. For options with a payoff based on the price of TET propane for a single day, the TET But-For Price is calculated as the Mont Belvieu OPIS TET Price minus the Applicable Artificiality Amount for the TET Basis Contracts, on that day.
PNONTETBUTFORAVERAGE =	For options with a payoff based on the average price of Non-TET propane over multiple days, the average of Non-TET But-For Prices over the option period, where Non-TET But-For Prices are calculated as the Mont Belvieu OPIS Non-TET Price minus the Applicable Artificiality Amount for the Non-TET Basis Contracts, on each day of the option period. For options with a payoff based on the price of Non-TET propane for a single day, the Non-TET But-For Price is calculated as the Mont Belvieu OPIS Non-TET Price minus the Applicable Artificiality Amount for the TET Basis Contracts, on that day.

**Formula 5:** For calculation purposes, (4a) – (4c) can be combined. Multiplying by contract size yields the gross loss on the long put-option position:

$$(5) \text{ GROSS LOSS} = Q \times \min\{0, \text{PTETBUTFORAVERAGE} - \min[\text{PSTRIKE}, \text{PTETAVERAGE}]\}$$

The gross gain on the short put-option position is just (5) multiplied by -1.

The gain or loss on the options contract is comprised of two parts. The first is the loss on the options position, as discussed above. The second is the option premium, the amount the option buyer pays the option writer. If the strike price in the option exceeds the But-For Price at the time the option is purchased (i.e., the date the contract is agreed/date the position is opened), the price inflation results in a premium lower than it would have been, yielding a gain to the buyer (and loss to the seller) per barrel:

$$\text{PREMIUM GAIN} = [\text{PTETBUTFORPRICE1} - \min(\text{PSTRIKE}, \text{PTET1})] \times (-1), \text{ if } \text{PTETBUTFORPRICE1} < \text{PSTRIKE} \text{ PREMIUM GAIN} = 0 \text{ otherwise}$$

where:

PTETAVERAGE =	The average of the OPIS midpoint TET price over the option period
PSTRIKE =	The strike/exercise price of the option
PTETBUTFORAVERAGE =	For options with a payoff based on the average price of TET propane over multiple days, the average of TET But-For Prices over the option period, where TET But-For Prices are calculated as the Mont Belvieu OPIS TET Price minus the Applicable Artificiality Amount for the TET Basis Contracts, on each day of the option period. For options with a payoff based on the price of TET propane for a single day, the TET But-For Price is calculated as the Mont Belvieu OPIS TET Price minus the Applicable Artificiality Amount for the TET Basis Contracts, on that day.
PNONTETBUTFORAVERAGE =	For options with a payoff based on the average price of Non-TET propane over multiple days, the average of Non-TET But-For Prices over the option period, where Non-TET But-For Prices are calculated as the Mont Belvieu OPIS Non-TET Price minus the Applicable Artificiality Amount for the Non-TET Basis Contracts, on each day of the option period. For options with a payoff based on the price of Non-TET propane for a single day, the Non-TET But-For Price is calculated as the Mont Belvieu OPIS Non-TET Price minus the Applicable Artificiality Amount for the TET Basis Contracts, on that day.
PTET1 =	The OPIS TET price for February 2004 TET propane on the day the position was opened
PTETBUTFORPRICE1 =	The TET But-For Price for February 2004 TET propane on the day the position was opened
Q =	Contract quantity (barrels)

**Formula 6:** Adding together the gain/loss on the options position to the gain/loss on the options premium yield the gain/loss on the option contract to the buyer:

$$(6) \text{ GAIN/LOSS} = Q \times (\min\{0, \text{PTETBUTFORAVERAGE} - \min[\text{PSTRIKE}, \text{PTETAVERAGE}]\} - \min\{0, \text{PTETBUTFORPRICE1} - \min[\text{PSTRIKE}, \text{PTET1}]\})$$

The gain/loss to the call-option writer is just (6) multiplied by -1. The put-option writer is damaged by receiving a lower premium, but loses less when the option is exercised.

**B. February 2004 OPIS TET Or Non-TET Propane Forward Contracts**

The formulas calculating gains or losses for forward transactions are as follows:

TET GAIN/LOSS =	$(\text{PTET} - \text{PTETBUTFORPRICE}) \times Q \times T$
NON-TET GAIN/LOSS =	$(\text{PNONTET} - \text{PNONTETBUTFORPRICE}) \times Q \times T$

where:

PTET =	The OPIS midpoint TET price on the day of the transaction
PNONTET =	The OPIS midpoint Non-TET price on the day of the transaction
PTETBUTFORPRICE =	Mont Belvieu OPIS TET Price minus the applicable Artificiality Amount for TET Price Basis Contracts on the day of the transaction.
PNONTETBUTFORPRICE =	Mont Belvieu OPIS Non-TET Price minus applicable Artificiality Amount for Non-TET Price Basis Contracts on the day of the transaction.
Q =	Contract quantity (barrels)
T =	Transaction indicator (+1 for sales, -1 for purchases)

**C. OPIS TET Or Non-TET Propane Index Expiring In February 2004 Or Based On February 2004 OPIS TET Or Non-TET Prices**

The formulas for calculating gains or losses for index transactions are as follows:

TET GAIN/LOSS =	$(\text{PTETAVERAGE} - \text{PTETBUTFORAVERAGE}) \times Q \times T$
NON-TET GAIN/LOSS =	$(\text{PNONTETAVERAGE} - \text{PNONTETBUTFORAVERAGE}) \times Q \times T$

where:

PTETAVERAGE =	The average of the OPIS midpoint TET price over the index period
PTETBUTFORAVERAGE =	The average of the TET But-For Prices over the index period, where TET But-For-Prices are calculated as the Mont Belvieu OPIS TET Price minus the Applicable Artificiality Amount for TET Price Basis contracts, for each day of the index period.
PNONTETAVERAGE =	The average of the OPIS midpoint Non-TET price over the index period
PNONTETBUTFORAVERAGE =	The average of the Non-TET But-For Prices over the index period, where Non-TET But-For-Prices are calculated as the Mont Belvieu OPIS Non-TET Price minus the Applicable Artificiality Amount for Non-TET Price Basis contracts, for each day of the index period.
Q =	Contract quantity (barrels)
T =	Transaction indicator (+1 for sales, -1 for purchases)

**D. OPIS TET Or Non-TET Swap Expiring In February 2004 Or Having Prices Based On February 2004 OPIS TET Or Non-TET Prices**

The formulas calculating gains or losses for swap transactions are as follows:

TET GAIN/LOSS =	$[(\text{PTET} - \text{PTETBUTFORPRICE}) - (\text{PTETAVERAGE} - \text{PTETBUTFORAVERAGE})] \times Q \times T$
NON-TET GAIN/LOSS =	$[(\text{PNONTET} - \text{PNONTETBUTFORPRICE}) - (\text{PNONTETAVERAGE} - \text{PNONTETBUTFORAVERAGE})] \times Q \times T$

where:

PTETAVERAGE =	The average of the OPIS midpoint TET prices over swap period
PTET =	The OPIS midpoint TET price on the date of the transaction
PNONTETAVERAGE =	The average of the OPIS midpoint Non-TET prices over swap period
PNONTET =	The OPIS midpoint Non-TET price on the date of the transaction
PTETBUTFORPRICE =	Mont Belvieu OPIS TET Price minus the Applicable Artificiality Amount for TET Price Basis contracts, for the relevant day.
PNONTETBUTFORPRICE =	Mont Belvieu OPIS Non-TET Price minus the Applicable Artificiality Amount for Non-TET Price Basis contracts, for the relevant day.
PTETBUTFORAVERAGE =	The average of the TET But-For Prices over the swap period, where TET But-For-Prices are calculated as the Mont Belvieu OPIS TET Price minus the Applicable Artificiality Amount for TET Price Basis contracts, for each day of the swap period.
PNONTETBUTFORAVERAGE =	The average of the Non-TET But-For Prices over the swap period, where Non-TET But-For-Prices are calculated as the Mont Belvieu OPIS Non-TET Price minus the Applicable Artificiality Amount for Non-TET Price Basis contracts, for each day of the swap period.
Q =	contract quantity (barrels)
T =	transaction indicator (+ 1 for sales, -1 for purchases) For the purposes of determining "T," the transaction will be deemed a sale if you received a fixed price and paid a floating price, and a purchase if you paid a fixed price and received a floating price.