

# EPIC CRUDE PIPELINE, LP

## Rules and Regulations Governing the Interstate Transportation by Pipeline of CRUDE PETROLEUM

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The rules and regulations published herein apply only under tariffs which make specific reference by number to this tariff, or to a successive reissue thereof.

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The matter published herein will have no adverse effect on the quality of the human environment.

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## **RULES AND REGULATIONS**

### **Rule 1: Definitions**

Actual Monthly Deficiency Volume	Means for a particular Month the amount that is equal to a given Primary Shipper's Monthly Volume Commitment minus that Primary Committed Shipper's Monthly Shipped Volume for that same Month.
Adjusted Monthly Deficiency Volume	Shall have the meaning described in Rule 22(C)(1)-(2).
Affiliate	Means any Person that directly or indirectly, through one or more intermediaries, controls or is controlled by or is under common control with another Person. The term "control" (including its derivatives and similar terms) means possessing the power to direct or cause the direction of the management and policies of a Person, whether through ownership, by contract, or otherwise. Without limiting the foregoing, any Person shall be deemed to be an Affiliate of any specified Person if such Person owns more than fifty percent (50%) of the voting securities of the specified Person, or if the specified Person owns more than fifty percent (50%) of the voting securities of such Person, or if more than fifty percent (50%) of the voting securities of the specified Person and such Person are under common control.
Aggregate Co-op Deficiency	Means for a particular Month, the amount by which the Co-op Deficiency Threshold exceeds the Aggregate Monthly Shipped Volume for that Month.
Aggregate Monthly Shipped Volume	Means the sum of the total volumes of Crude Petroleum actually shipped on the Pipeline by Carrier from all Group 1 Origin Points to all Group 3 Destination Points during a given Month.
Annual Volume Commitment	Means the Daily Volume Commitment aggregated for one (1) year.
API	Means the American Petroleum Institute.
API Gravity	Means gravity determined in accordance with ASTM designation and expressed in degrees.
Applicable Law	Means any applicable federal, state, tribal or local law, statute, regulation, code, ordinance, license, permit, compliance requirement, order, writ, injunction, decision, directive, judgment, policy or decree of any

Governmental Authority, and any judicial or administrative interpretations thereof, or any agreement, concession or arrangement with any Governmental Authority applicable to either Party or either Party's performance under this Tariff, and any amendments or modifications to the foregoing.

Assay	Means a laboratory analysis of Product to include API Gravity, Reid Vapor Pressure, pour point, sediment and water content, sulfur content, viscosity at 60 degrees Fahrenheit, and other characteristics as may be required by Carrier.
Assignee Shipper	Has the meaning set forth in Rule 21(C).
ASTM	Means the American Society for Testing Materials.
Barrel	Means forty-two (42) gallons of two hundred thirty-one (231) cubic inches per gallon at sixty degrees Fahrenheit (60°F).
Barrels Per Day or BPD	Means a quantity of Barrels in the period of a Day.
Business Day	Means any Day other than a Saturday or Sunday that commercial banks in Houston, Texas are open or permitted to be open for business with the public.
Capacity	Means the quantity of Product the Pipeline Segment at issue is capable of transporting under the current operating conditions.
Carrier	Means EPIC Crude Pipeline, LP.
Carrier Parties	Has the meaning set forth in Rule 18(B).
Committed Shipper	Means a Volume Incentive Shipper or a TSA Shipper.
Committed Rate	Means the rate paid by a Committed Shipper for transportation service on the Pipeline as set forth in Carrier's Rates Tariff. For the avoidance of doubt, all Committed Shipper Volumes Tendered and accepted by Carrier are eligible to be charged the then-effective Committed Rate, however, any such Volumes in excess of the Committed Shipper's MDQ shall not be entitled to Firm Service under Carrier's Prorating Policy, but rather shall be deemed Uncommitted Volumes.
Common Stream	Means Product that is moved through the Pipeline and Pipeline facilities and which is or may be commingled or intermixed with Product of like quality and characteristics.

Completion or Complete	Means when the Pipeline, the origin facilities, the delivery facilities, and associated systems and facilities, and the Robstown Terminal are substantially complete and all permits and approvals from Governmental Authorities have been obtained, such that the Pipeline is ready to commence commercial service with respect to the receipt, transportation, handling, and delivery of Shipper's Product.
Consignee	Means the Party to whom a Shipper has ordered the delivery of Product.
Contract Operator	Means an operator of Carrier's owned or leased facilities used in rendering transportation services pursuant to these Rules and Regulations.
Co-op	Has the meaning set forth in Rule 21(D).
Co-op Deficiency Ratio	Means for a particular Month, the quotient of the Aggregate Coop Deficiency divided by the sum of the Actual Monthly Deficiency Volumes for all Primary Committed Shippers.
Co-op Deficiency Threshold	Means for a particular Month, a Volume of Crude Petroleum equal to (A) 150,000 BPD multiplied by (B) the numbers of Days in that Month.
Crude Petroleum or Product	Means the direct liquid product of oil wells or a mixture of the direct product of oil wells and the indirect petroleum products resulting either from refining of crude oil or the operation of gasoline recovery plants, gas recycling plants, or distillate recovery equipment in gas and distillate fields, or products broken out during the normal production or processing of natural gas and meeting the Specifications referenced in Rule 2, all as further defined in <u>Exhibit B</u> .
Daily Volume Commitment ("DVC")	An aggregate Volume in BPD, as set forth in a Volume Incentive Shipper's T&D Agreement that such Shipper is required to Tender each Day, or be subject to a deficiency obligation. This may also be expressed on a Monthly basis (DVC multiplied by the number of Days in the applicable Month, the "Monthly Volume Commitment" or "MVC") or an annual basis (DVC multiplied by the number of Days in the applicable contract year, as defined in Shipper's T&D Agreement, the "Annual Volume Commitment" or "AVC").
Day	Means a period of twenty-four (24) consecutive hours commencing at 7:00 A.M., Central Time, on a calendar day and ending at 7:00 A.M., Central Time, on the next succeeding calendar day.
Deficiency Payment	Has the meaning described in Rule 22(B).

Delivery Point(s)	Means a point named in the Tariff where the Carrier will deliver Product accepted for transportation on the Pipeline as designated by Shipper to Carrier from time to time.
Eligible Primary Committed Shipper	Has the meaning described in Rule 21(D)(a)(i).
Excess Capacity	Means the Capacity available on the Pipeline when a Primary Committed Shipper has not utilized the entirety of its MDQ.
Excess Capacity Posting	Has the meaning described in Rule 21(D)(a)(i)(1).
FERC	Means the Federal Energy Regulatory Commission, or any successor agency.
Firm Service	Means the type of premium service provided to Committed Shippers. Under Firm Service, Committed Shippers pay premium Committed Rates relative to Uncommitted Shippers during Prorating Months in exchange for not being subject to proration on the lesser of their Monthly Nominated Volumes or MDQ.
Force Majeure	Means any cause, whether or not of the type listed herein, not reasonably within the control of the Party claiming suspension and which prevents or materially impedes a Party's performance of its obligations. Force Majeure shall include, but not be limited to, the following: (i) physical events such as acts of God, including but not limited to lightning, earthquakes, fires, explosions, tornadoes, hurricanes, floods, storm warnings, landslides, or other weather events that cause disruption, breakage or damage to, or necessitate the precautionary shut-down or operating reduction of, wells, plants, pipelines, gathering systems, loading facilities, refineries, terminals, ports or any portion thereof, or other related facilities; (ii) weather-related events affecting an entire geographic region or causing the evacuation thereof, such as low temperatures that cause freezing or failure of wells, lines of pipe, or processing facilities; (iii) acts of others such as strikes, lockouts or other industrial disturbances, riots, sabotage, insurrections or wars, or acts of terror; or (iv) action or inaction of a Governmental Authority, but Force Majeure shall not include: (A) economic hardship, (B) the non-availability of financing or (C) fluctuations in or low market prices for, or adverse or unfavorable market conditions for, oil, natural gas or other hydrocarbons.
Force Majeure Event	Means an event caused by Force Majeure.

Full Commercial Service	Means transportation service provided by Carrier on the Pipeline after its Completion, which shall commence on the FERC-authorized effective date of this F.E.R.C. No. 1.1.0 and Carrier’s F.E.R.C. No. 2.4.0 tariffs.
Governmental Authority	Means any federal, state or local government, municipality, city, town or township, commonwealth or any other political subdivision thereof, or any entity exercising any executive, legislative, judicial, regulatory or administrative functions of or pertaining to government, such as FERC, or any other authority, agency, department, board, commission or instrumentality of the United States, any state of the United States, or any political subdivision thereof, or any court, tribunal or arbitrator(s) of competent jurisdiction, or any governmental, non-governmental self-regulatory, or quasi-governmental regulatory organization, body, agency or authority.
Group	Means a set of individual Origin Point(s) or Delivery Point(s) as specified in Carrier’s Rate Tariff.
Initial T&D Term	Has the meaning set forth in Rule 21(a)(i).
Initial TSA Term	Has the meaning set forth in Rule 21(a)(i).
In-Transit Point	Means Carrier’s point of connection with the facilities of third-party storage providers, including an Affiliate of Carrier.
Intrasystem Transfer	Has the meaning set forth in Rule 27 herein.
Intrasystem Transfer Fee	Has the meaning set forth in the Rates Tariff.
Line Fill	Means a pro rata share (determined by MDQ for Committed Shippers and by initial Nomination for Uncommitted Shippers) of the physical volumes of Crude Petroleum necessary for pipeline fill on the Pipeline.
Losses	Means any actual loss, cost, expense, liability, sanction, fine, penalty, assessment, damage (including personal injury or property damage claims) or demand, including those that arise from suits, claims, cause of actions, court or arbitration judgments, orders or awards, audits, settlements or liens, and all court costs and litigation expenses related thereto, including reasonable attorneys’ fees, as may be awarded by a court.

Maximum Daily Quantity (“MDQ”)	Means the maximum Volume that a Committed Shipper can Tender for Firm Service shipment on the Pipeline per Day. A Committed Shipper’s MDQ is calculated as follows: (1) for a TSA Shipper, the MDQ amount is specified its TSA or (2) for a Volume Incentive Shipper taking service under a T&D Agreement, the MDQ is 4/3rds of that Shipper’s Daily Volume Commitment.
Month	Means a calendar month beginning at 7:00 A.M., Central Time, on the first Day of the calendar month and ending at 7:00 A.M., Central Time, on the first Day of the next succeeding calendar month.
Monthly Volume Commitment	See definition of Daily Volume Commitment.
New Shipper	Shall have the meaning set forth in Carrier’s Prorationing Policy attached hereto in <u>Exhibit A</u> .
Nominate or Nomination	Means a written communication (in form and context specified by the Carrier) made by a Shipper to Carrier requesting that Carrier transport for Shipper in a given Month a stated Volume of Shipper’s Crude Petroleum from an Origin Point to a Delivery Point.
Origin Point(s)	Means a point named in the Tariff where Carrier will accept Product for Transportation, as designated by Shipper to Carrier from time to time.
Open Seasons	Means open and well-publicized solicitation periods where Carrier has offered to contract with prospective Shippers for Committed Shipper Capacity. Carrier held its First Open Season from March 1, 2017 to April 15, 2017, and later reopened its First Open Season from December 14, 2017 through July 26, 2018 (the “First Open Season”). Carrier held a Second Open Season from August 1, 2018 to August 31, 2018, and later reopened its Second Open Season from August 31, 2018 to September 14, 2018, and once again reopened the Second Open Season from September 14, 2018 to September 28, 2018 (the “Second Open Season”). All Committed Shippers who have executed a TSA or T&D Agreement during the First Open Season are Primary Committed Shippers under the Tariffs. All Committed Shippers who have executed a TSA or T&D Agreement during the Second Open Season are Secondary Committed Shippers under the Tariffs. For the purpose of this Rules and Regulations Tariff, “Open Seasons” means the First Open Season and/or Second Open Season, as applicable.
Party	Means Carrier or Shipper individually as referred to herein, or collectively as Parties.



Person	Means any individual, firm, corporation, trust, partnership, limited partnership, master limited partnership, limited liability company, association, joint venture, other business enterprise, Governmental Authority, unincorporated organization or any other legal entity.
Pipeline	Means Carrier's pipeline extending from the Origin Point(s) to the Delivery Point(s), including owned and leased pipeline facilities, and commonly referred to as the "EPIC Crude Pipeline, LP's Eagleford-Permian Ingleside Corpus Pipeline."
Pipeline Loss Allowance ("PLA")	Means the actual Volume of Product lost on either the Pipeline or in operational storage at the Robstown Terminal among all Shippers due to evaporation, measurement, or other Losses in transit.
Pipeline Segment	Means a section of Carrier's Pipeline, the limits of which are defined by two geographically identifiable points, that, because of the way that section of Carrier's Pipeline is designed and operated, must be treated as a unit for purposes of determining Capacity.
Primary Committed Shipper	Means a Committed Shipper who executed a T&D or TSA Agreement during Carrier's First Open Season.
Rates Tariff	Means Carrier's F.E.R.C. No. 2.4.0 rates tariff, or any applicable reissue thereof.
Reid Vapor Pressure	Means the absolute vapor pressure exerted by a liquid at 100° F (37.8°C), as determined by the test method ASTM-D-6377.
Regular Shipper	Shall have the meaning set forth in Carrier's Prorationing Policy attached hereto in <u>Exhibit A</u> .
Robstown Terminal	Means the EPIC Crude Terminal Company, LP owned and operated terminal facilities near Robstown, Texas.
Rules and Regulations Tariff	Means Carrier's F.E.R.C. No. 1.1.0. rules and regulations tariff or any then-applicable reissue thereof.
Secondary Committed Shipper	A Committed Shipper who entered into a T&D or TSA Agreement during the Second Open Season held by Carrier.
Segregated Batch	A Tender of Product having specific identifiable characteristics which is moved through the Pipeline and Pipeline facilities so as to maintain its identity.

Shipper	Means a Committed Shipper or Uncommitted Shipper.
Shipper Parties	Has the meaning set forth in Rule 18(B).
Specifications	Means Product characteristics as described in Exhibit B.
Supplemental Nominations	Has the meaning described in Rule 21(D)(a)(i)(2).
Tank Bottoms	Has the meaning set forth in Rule 12(A).
Tariff(s)	Means this Rules and Regulations Tariff and the Rates Tariff, as either may be superseded from time to time.
Taxes	Means any or all taxes, fees, levies, charges, assessments or other impositions levied, charged, imposed, assessed or collected by any Governmental Authority having jurisdiction.
Tender	Means a delivery by a Shipper to Carrier of a stated quantity and grade of Product, under a Nomination accepted by Carrier, for transportation in accordance with these Rules and Regulations.
Third Party Shipper	A Person, other than Shipper, designated by Shipper to transport Product (including Product not subject to a Shipper's acreage dedication) under this Tariff and either a T&D or TSA Agreement.
Throughput Fee	Means the rate, as designated in Carrier's Rates Tariff, that applies in calculating a T&D Shipper's Deficiency Payment.
Throughput & Deficiency Agreement ("T&D Agreement")	A throughput and deficiency agreement entered into between a Volume Incentive Shipper and the Carrier for transportation on the Pipeline pursuant to an Open Season.
T&D Term	Has the meaning set forth in Rule 22(A).
Transferee	Has the meaning set forth in Rule 27 herein.
Transferor	Has the meaning set forth in Rule 27 herein.
Transportation Services Agreement ("TSA")	A transportation services agreement entered into between a TSA Shipper and the Carrier for transportation on the Pipeline pursuant to an Open Season.

TSA Shipper	A Committed Shipper that has executed a TSA.
TSA Term	Has the meaning set forth in Rule 23(A).
Uncommitted Shipper	Means any Shipper that is not a Committed Shipper.
Uncommitted Rate	Means the rate paid by an Uncommitted Shipper.
Uncommitted Volumes	Means all Volumes Nominated by an Uncommitted Shipper and/or any Volumes Nominated by a Committed Shipper in excess of its MDQ, as applicable.
Volume(s)	Means an amount of Product shipped in Barrels.
Volume Incentive Shipper	A Committed Shipper that has executed a T&D Agreement.

## **Rule 2: Acceptance of Product**

- (A) Carrier reserves the right to refuse to accept any quantity of Product for transportation service which does not conform to this Rule 2 and Carrier's Product Specifications (such Specifications are listed on Exhibit B) or which is not good and merchantable Product readily acceptable for transportation through Carrier's existing facilities.
- (B) The Specifications applicable to Product shipped in the Common Stream from Origin Points in Group 1 to Delivery Points in Group 3, and from Origin Points in Group 2 to Delivery Points in Group 3, are set forth in Exhibit B herein. For Product shipped as a Segregated Batch, Shipper must meet all requirements herein for shipment as a Segregated Batch (including, without limitation, storage requirements and minimum Nomination volume). Carrier may accept or reject any shipment Nominated as a Segregated Batch in its complete and sole discretion.
- (C) Carrier will provide all required facilities and service, including operational storage to accommodate receipt and delivery of the Common Stream(s).
- (D) Carrier may waive the requirements set forth in Sections (A)-(C) of this Rule 2 on a non-discriminatory basis. If Carrier agrees in writing to accept Product that does not meet the applicable quality Specifications in this Rule 2, then, as to such Product (but only as to the Specifications waived), Shipper shall be deemed to be in compliance with this Rule 2 but only until such time as Carrier may withdraw any such agreement or waiver. Carrier will actively monitor deliveries of all Product into the Pipeline. Carrier and any applicable Shipper will use their best efforts to bring any off-Specification Product into Specifications, as applicable. If such efforts between any such Shipper and Carrier do not result in on-Specification deliveries, within a mutually-agreed reasonable period of time, Carrier will have the right to reject such Shipper's off-Specification Product.

## **Rule 3: Additives**

Carrier reserves the right to require, approve or reject, on a non-discriminatory basis, the use of inhibitors and additives, including but not limited to corrosion inhibitors, viscosity or pour point depressants, and drag reducing agents; *provided*, that such use does not adversely affect the merchantability of Crude Petroleum Tendered by Shippers unless such use is required for operational and/or safety reasons.

## **Rule 4: Storage**

Other than operational storage, Carrier owns no facilities for storage and will provide only minimal working tankage for storage that is incidental and necessary to the transportation of Product. Non-incidental storage is a separate service which Shipper must obtain from another Person. Notwithstanding anything to the contrary herein, no term storage or dedicated storage will be offered at applicable operational storage facilities associated with transportation under this Tariff.

### **Rule 5: Receipt Facilities Required**

All Product will be shipped in accordance with the requirements of this Tariff. If Shipper or Consignee desires to ship in Segregated Batches, such Shipper or Consignee shall be responsible for providing tankage for the Volume of each Segregated Batch. Other than limited operational storage at the applicable operational storage facilities, Carrier shall have no obligation to provide storage in connection with the transportation of Product subject to this Tariff in Segregated Batches or otherwise.

### **Rule 6: Destination Facilities Required**

Carrier may refuse to accept Product for transportation unless documentary evidence is furnished that the Shipper or its Consignee has provided the necessary facilities downstream of the Delivery Point(s), for the prompt receipt of Product. If the Shipper or Consignee is unable to or refuses to receive said Product as it arrives at a Delivery Point due to Shipper's failure to so secure necessary facilities downstream of the Delivery Point, Carrier reserves the right to make arrangements for disposition of the Product as it deems appropriate (including sale of same, pursuant to the procedures set forth in Rule 17(E)), in order to clear the Carrier's Pipeline. Any additional expenses incurred by Carrier in making such arrangements shall be borne by the Shipper or its Consignee.

### **Rule 7: Rejection of Product Subject to Dispute, Liens, or Charges; Warranty of Title**

Carrier may reject any Product which, when Nominated for transportation, may be involved in litigation, or the title of which may be in dispute, or which may be encumbered by lien or charge of any kind unless the Shipper provides documentary evidence of the Shipper's unencumbered title or satisfactory indemnity bond to protect Carrier. By Nominating Product, the Shipper warrants and guarantees that it owns or controls, has the right to deliver or have delivered for its account, such Product, and agrees to defend, indemnify, and hold Carrier harmless for any and all Loss, cost, liability, damage, and/or expense resulting from failure of ownership or control thereto, provided that acceptance for transportation by Carrier shall not be deemed: (A) a representation by Carrier as to ownership or control or (B) a waiver of Carrier's rights hereunder.

### **Rule 8: Measurement**

Product Tendered to Carrier for transportation shall be measured by mutually accepted custody transfer facilities. Shipper and its Consignee shall have the privilege of being present or represented during measuring and testing of shipments by Carrier. Measurement by the Carrier is final, regardless of whether Shipper or its Consignee is present. The method of measurement under this Rule 8 will be consistent with the most recently available applicable API Manual of Oil Measurement Standards.

Corrections will be made for temperature from observed degrees Fahrenheit to 60 degrees Fahrenheit (60°F). Carrier shall deduct the amount of sediment and water from Product.

### **Rule 9: Evidence of Receipts and Deliveries**

Product received from Shipper and Product delivered to its Consignee shall, in each instance, be evidenced by custody transfer meter containing data essential to the determination of quantity.

### **Rule 10: Duty of Carrier**

- (A) Carrier shall not be required to transport Product except with reasonable diligence, considering the quality of the Product, the distance of transportation, and other material elements, and will not accept Product to be transported in time for any particular market. Unless otherwise specified, Carrier will not be required to deliver the identical Product received, but shall deliver Product of materially the same quality and specifications as the Product received.
- (B) Carrier may suspend transportation services on the Pipeline or associated operational storage in order to: comply with Applicable Laws of any Governmental Authority; to perform maintenance, testing, inspections, or repairs of the Pipeline; to expand the Capacity of the Pipeline; or to prevent injuries to Persons, damage to property, or harm to the environment, without incurring any obligation for any liabilities except as otherwise provided in a T&D or TSA Agreement. Carrier will provide Shippers with advance notice of any routine or scheduled maintenance on the Pipeline or applicable operational storage facilities: (i) for that portion of the Pipeline operated by Carrier, at least forty-five (45) Days notice; or, (ii) for that portion of the Pipeline operated by a Contract Operator, Carrier shall provide such notice within five (5) Business Days after it is notified by the Contract Operator, unless Contract Operator is (1) an Affiliate of Carrier or (2) a Person who, directly or indirectly, owns equity interests in Carrier, which in the case of (1) or (2) Carrier shall provide at least forty-five (45) Days notice.

### **Rule 11: Application of Rates from and to Intermediate Points**

For Product (A) accepted for transportation from any point on the Pipeline not named in this Tariff, which is intermediate to a point for which rates are published in Carrier's Rates Tariff, Carrier will apply the rates published in such Tariff for the next more distant point specified in the Tariff and (B) accepted for transportation to any point not named in the Tariff which is intermediate to a point for which rates are published in Carrier's Rates Tariff, Carrier will apply the rates published in such Tariff for the next more distant point specified in the Tariff. In the case of either Rule 11 (A) or (B), Carrier shall make a filing to add any such point(s) to the Tariff as required by Section 341.10(a)(2) of the FERC's regulations.

### **Rule 12: Tank Bottom and Line Fill Inventory Requirements; Third Party Access Agreements**

- (A) With the exception of Committed Shippers which shall be obligated for a share of line fill equal to their respective MDQs, Carrier will calculate each Shipper's pro rata share (by multiplying the total Capacity by the fraction of such Shipper's Nomination for such

Month divided by the total Nominations for such Month) of Product required for tank bottoms to facilitate operation of the Pipeline (the “**Tank Bottoms**”) and the unavailable stocks below tank connections, and reasonable additional minimum quantities required for efficient operation of the Pipeline and Product required for pipeline fill on the Pipeline (“the **Line Fill**”).

- (B) Shippers Nominating for the first time after the initial Month of Full Commercial Service, shall be obligated to provide Tank Bottoms and Line Fill Volumes in amounts equal to their Nomination for such Month.
- (C) Product provided by Shippers under this Rule 12 may be withdrawn only after: (i) Shipper’s shipments have ceased and Shipper has notified Carrier in writing to discontinue shipments on the Pipeline; and (ii) the Shipper’s balances have been reconciled between all Shippers.
- (D) Carrier, in its reasonable discretion, may require advance payment of transportation charges on the Volumes to be cleared from Carrier’s system, and any unpaid accounts receivable, before final delivery will be made. In the event a Shipper is more than ninety (90) Days late in making any payment owed hereunder, Carrier may sell any Tank Bottoms and/or Line Fill belonging to such Shipper and apply the proceeds of such sale towards such owed amounts and remit the excess of any applicable proceeds to Shipper. Unless (i) Shipper is deficient in making any such required payments, or (ii) Carrier is prevented by Force Majeure or by actions of the Shipper in fulfilling its obligations under this Rule 12(D), Carrier shall have a reasonable period of time, not to exceed sixty (60) Days, from the receipt of Shipper’s written notice to Carrier, to complete administrative and operational requirements incidental to Shipper’s withdrawal of applicable Tank Bottoms and/or Line Fill, *provided* that the Parties may agree to make physical delivery of the Tank Bottoms and/or Line Fill, arrange for a trade of like Barrels to Shipper, financially settle the return of the Tank Bottoms and/or Line Fill, and/or arrange for a different time period for delivery. Carrier reserves the right to charge a transport fee for Tank Bottoms and/or Line Fill Volumes returned at the applicable Delivery Point(s), which shall not exceed the applicable Committed and Uncommitted Rates for Committed and Uncommitted Shippers, respectively.
- (E) As between Carrier and Shipper, Shipper will at all times retain title to its Product in transit, Tank Bottoms, and Line Fill. Carrier will provide a Monthly statement to Shipper of Shipper’s Product inventory balance (held as Line Fill; Tank Bottoms; and inventory change as a result of receipts, deliveries, and allocation of PLA). If Shipper’s inventory balance drops below its pro rata portion of the volume of Product necessary for the efficient operation of Carrier’s Pipeline system (including operational storage facilities), Carrier will require Shipper to provide the necessary volume to meet its pro rata portion of such volume of Product. If Shipper’s inventory balance for Tank Bottoms and Line Fill exceeds its pro rata portion of the volume of Product necessary for the efficient operation of Carrier’s Pipeline system (including operational storage facilities), Carrier will return the excess volume of Product to Shipper within sixty (60) Days.

- (F) Carrier will have the contractual right to require (or, in its reasonable judgment, waive the requirement for) Shipper or its representative to execute an interconnect agreement or access agreement to any of Carrier's facilities of and from any person, including Shipper's contractors.

### **Rule 13: Nominations Required**

Product will be transported by Carrier only under a Nomination accepted by Carrier. Any Shipper desiring to Tender Product for transportation shall make or cause to make such Nomination to Carrier in writing on or before 2:00 PM Central Time, on the last Business Day prior to the fifteenth (15th) Day of the Month preceding the Month during which the transportation under the Nomination is to begin; except that, if space is available for a current movement, Carrier in its reasonable discretion may consider Shipper Nominations submitted after the foregoing deadline.

Nominations for the transportation of Product for which Carrier has facilities will be accepted under the Tariff in quantities of not less than the following:

Type of Nomination:	Minimum Aggregate Nomination:
Common Stream	2,000 Barrels per Day
Segregated Batches	See Exhibit B

Before Carrier will accept a Nomination from an Uncommitted Shipper, such Shipper must: (A) comply with Rule 17(A); (B) demonstrate to Carrier the adequacy of such Shipper's arrangements and facilities as referenced in Rule 4, Rule 5, and Rule 6; and (C) provide any other information reasonably requested by Carrier.

To the extent a Shipper Nominates greater than the total Capacity of the Pipeline in a Month, such Shipper's Nomination shall be adjusted downward to an amount equal to the lesser of the total Capacity of the Pipeline for such Month or the adjusted Nomination determined under the following paragraph of this Rule 13, if applicable.

In addition to Carrier's rights under Rule 6 herein, Carrier shall have the right, within a reasonable period of time after receiving a Shipper's Nomination, to request documentation from such Shipper to verify the Shipper's Nomination, including evidence of such Shipper's capacity entitlements on downstream facilities necessary to receive a Shipper's entire requested Nomination. Carrier reserves the right to revise a Shipper's Nomination downward (as necessary) if such Shipper fails to, in Carrier's discretion, adequately justify its capacity on such downstream facilities necessary to support delivery of such Shipper's entire requested Nomination.

### **Rule 14: Nominations Greater Than Total Capacity; Prorationing**

Where Nominations in a given Month exceed the Pipeline's total Capacity, all Nominations shall be subject to Carrier's Prorationing Policy found in Exhibit A of this Rules and Regulations Tariff.



### **Rule 15: Application of Rates**

Other than with respect to Tank Bottoms and Line Fill delivered pursuant to Rule 12, Product accepted for transportation shall be subject to the rates in effect on the date of Tender. Payment of the Uncommitted Rate by an Uncommitted Shipper or payment of the Committed Rate by a Committed Shipper will include service on the Pipeline in accordance under the terms of this Tariff, and contract provisions where applicable.

### **Rule 16: Legality of Shipments**

Carrier reserves the right to reject, on a non-discriminatory basis, Product where the Shipper or its Consignee has failed to comply with any Applicable Laws, rules, and regulations made by any Governmental Authority regulating shipments of Product.

### **Rule 17: Payment of Carrier Charges; Adequate Assurances**

(A) If Carrier has reasonable grounds for insecurity regarding the ability of Shipper to provide payment, or Shipper's creditworthiness is or becomes unsatisfactory to Carrier, or if Shipper's title to any Shipper's Product is disputed, Carrier may require Shipper to provide adequate assurances of performance. As adequate assurances, Shipper, in its discretion, may provide either: (i) an irrevocable stand-by letter of credit from a bank (choice of applicable bank subject to approval by Carrier in its sole discretion) with terms reasonably acceptable to Carrier, and in an amount reasonably acceptable to Carrier, within ten (10) Business Days of receiving Carrier's written demand; (ii) a parent guaranty with terms reasonably acceptable to Carrier within ten (10) Business Days of receiving Carrier's written demand; or (iii) prepayment at least five (5) Days prior to the first (1st) Day of each Month of an amount of the following: (1) for a Committed Shipper, prepayment of the amount of money reasonably calculated by Carrier to cover all transportation charges or liabilities under the applicable TSA or T&D Agreement likely to be incurred by Shipper during such Month or (2) for an Uncommitted Shipper, prepayment of an amount of money equal to such Uncommitted Shipper's Nomination for such Month multiplied by the applicable Uncommitted Rate. If Carrier requires Shipper to provide adequate assurances, Carrier will provide Shipper with written notice. If Shipper fails to provide the required adequate assurances within the applicable timeframe set forth above, then, until Shipper has satisfied its adequate assurances obligations under this Rule 17(A), Carrier may suspend service under the applicable TSA or T&D Agreement, to such Shipper (without liability to such Shipper) upon notice to Shipper and with respect to a Volume Incentive Shipper, Carrier may declare any Deficiency Payment(s), which are deemed to be considered actual damages, due for all remaining Months in the Initial T&D Term, or additional term(s) following the Month in which Shipper fails to provide the required adequate assurance.

(B) Minimum Payments for Volume Incentive Shippers.

(i) Definition: Subject to the proviso in Rule 17(B)(ii), if a Volume Incentive Shipper

has an “Actual Monthly Deficiency Volume” as defined in Rule 22(B)-(C) then any Deficiency Payment shall be paid pursuant to Rule 17(B)(ii). Should service under a T&D Agreement commence on a Day that is not the first Day of a Month or should the Term end of a Day other than the last Day of a Month, the Actual Monthly Deficiency Volume, if any, shall be proportionately adjusted.

- (ii) Deficiency Payments: During the Term, if an Actual Monthly Deficiency Volume exists as of the end of any Month, the Shipper shall pay to Carrier an amount equal to the product of (a) the Adjusted Monthly Deficiency Volume for such Month and (b) the applicable Throughput Fee (as set forth in Carrier’s Rates Tariff) in effect for such Month (such product being the “Deficiency Payment”). Any Deficiency Payment due by Shipper hereunder shall be paid by Shipper in the manner provided in the applicable T&D Agreement, provided, however, to the extent a Primary Committed Shipper owes a Deficiency Payment in a given Month pursuant to Rule 22(C)(2), such Deficiency Payment shall be reduced by the product of such Shipper’s Monthly Volumes shipped, either directly or indirectly by such Shipper, from all Group 2 Origin Points to Group 3 Delivery Points (if applicable) times the rate applicable to such Volumes under the Rates Tariff. To the extent that the foregoing reduction does not fully offset Shipper’s Deficiency Payment in such Month, Carrier shall credit the product of such Shipper’s Monthly Volumes shipped from all Group 2 Origin Points to Group 3 Delivery Points (if applicable) times the rate applicable to such Volumes under the Rates Tariff for the three Months following the Month in which the Actual Monthly Deficiency Volume occurred, on a three month rolling basis, to offset Shipper’s Monthly deficiency. For the avoidance of doubt, the foregoing crediting mechanism shall only apply to Shippers in Months where the Aggregate Monthly Shipped Volume is less than the Co-op Deficiency Threshold triggering a Shipper Deficiency Payment calculated under Rule 22(C)(2) of this Tariff.
  
- (C) Shipper shall pay all transportation and other fees and lawful charges accruing on Product delivered to and accepted by Carrier for shipment as measured at the applicable Origin Point(s) by the due date stated in Carrier’s invoice.
  
- (D) No later than the fifteenth (15<sup>th</sup>) Business Day of each Month, Carrier shall deliver to Shipper a statement for transportation services in the preceding Month setting forth (i) the Volumes of Shipper’s Product (in Barrels) received at the applicable Origin Point(s), (ii) the Committed Shipper or Uncommitted Shipper Rate for that Month, (iii) any adjustments for prior periods, and (iv) all other amounts due by Shipper hereunder, including an Deficiency Payments. Carrier’s invoices shall include information reasonably sufficient to explain and support any estimates and charges reflected therein, the reconciliation of any estimates made in a prior Month to any actual measurements, and any adjustments to prior period Volumes and quantities. Shipper shall remit to Carrier amounts due by wire transfer by no later than the twenty-fifty (25<sup>th</sup>) Day of each Month, to the bank account specified by

Carrier. If such due date is not a Business Day, payment is due on the next Business Day following such date.

- (E) All undisputed amounts owed to Carrier, which are not timely paid to Carrier, shall bear interest from the date due until paid. Such interest will be assessed at a rate equal to: (a) one and one-half percent (1.5%) per Month, or (b) the highest rate permitted by Applicable Law, whichever is less, for any invoice or portion of an invoice not paid pursuant to the terms of this Tariff. If any amount is disputed, interest will accrue from the date due until the date paid but will only be due after the dispute is resolved and based on the amount found or agreed to be due. If Shipper disputes any portion of an invoice, Shipper shall promptly notify Carrier in writing (no later than the payment due date) and give reasons, with reasonable detail, for the disputed matters. Carrier and Shipper shall then endeavor to resolve the disputed amount in good faith, in accordance with the provisions of the T&D or TSA Agreement, if applicable. Any payment due resulting from such dispute resolution shall be due within five (5) Business Days following the receipt by Shipper of an amended invoice relating to such resolution. If the Shipper has not entered into a T&D Agreement or TSA, Carrier and Shipper shall each have the right to pursue claims against the other in a court of competent jurisdiction.
- (F) Carrier shall have the right to withhold an amount of Product belonging to Shipper from delivery that would be sufficient to cover all unpaid charges due to Carrier from Shipper until all such unpaid charges have been paid. Furthermore, Carrier shall retain a perfected possessory lien under the Texas Bus. & Comm. Code, Title 1, Chapter 9 (section 9.101, *et seq.*), as applicable, on an amount of a Shipper's Product in Carrier's possession sufficient to secure payment of any and all amounts owed by such Shipper to Carrier. Carrier reserves the right to set off any such charges against any monies owed to Shipper by Carrier on any Product of Shipper in Carrier's custody. If said charges remain unpaid five (5) Days after the due date therefor, Carrier shall have the right, through an agent, to sell such Product at public auction, on any day not a legal holiday, in not less than forty-eight (48) hours after publication of notice of such sale in a daily newspaper of general circulation published in the town or city where the sale is to be held, stating the time, place of sale, and the quantity and location of Product to be sold. At said sale, Carrier shall have the right to bid, and if the highest bidder, to become the purchaser. From the proceeds of said sale, Carrier will pay itself the transportation and all other lawful charges, including expenses incident to said sale, and the balance remaining, if any, shall be paid to Shipper.
- (G) In addition to the rates and fees payable under this Rule 17, Shipper shall convey to Carrier each Month, free of charge, Shipper's allocated share of PLA based on receipts, as determined by Carrier.

**Rule 18: Limitations of Liability and Damages; Indemnity by Parties; Taxes**

- (A) Any other provision of this Tariff notwithstanding, neither Party shall be liable to the other Party for special, indirect, consequential, incidental, punitive or exemplary damages, including lost profit and Loss of business opportunity (except where such damages are determined to be direct damages), in contract or tort (including negligence, joint or several, or strict liability), arising out of this Tariff or applicable shipper agreement, provided that nothing in this Rule 18(A) shall be construed as limiting any obligation of either Party to indemnify the other Party against claims asserted by third parties, including claims of such third parties for special, indirect, consequential, incidental, punitive or exemplary damages. Except as otherwise expressly provided for elsewhere in the Tariff or applicable shipper agreement, a Party's sole remedy against the other Party for non-performance or breach of any provision in this Tariff or applicable shipper agreement, or any other claim whatsoever nature arising out of or in relation to this Tariff or applicable shipper agreement shall be in contract and each Party expressly waives any other right it may have in law or equity. In the event of a Loss of Product while in the Carrier's custody (other than due to a Force Majeure Event) Shipper's sole and exclusive remedy shall be: (i) replacement of such Product at Carrier's expense, or (ii) payment to Shipper of the market value of such Product, if Carrier deems, within a reasonable period of time, that replacing the lost Product is not commercially feasible.
- (B) Shipper shall be responsible for and shall defend, indemnify, release and hold harmless Carrier, its Affiliates, and their respective directors, officers, managers, employees and contractors (except for Shipper) and other representatives (collectively, the "*Carrier Parties*") from and against all Losses arising out of or pertaining to Shipper's delivery to Carrier of Crude Petroleum not meeting the then-applicable Specifications, except that Shipper shall not be responsible for and shall bear no duty to defend, indemnify, release or hold harmless Carrier with respect to Crude Petroleum not meeting the then-applicable Specifications that Carrier agreed to accept in accordance with these Rules and Regulations. Carrier shall be responsible for and shall defend, indemnify, release and hold harmless Shipper, its Affiliates, and their respective directors, officers, managers, employees and contractors (except for Carrier) and other representatives (collectively, the "*Shipper Parties*") from and against all Losses arising out of or pertaining to Carrier's acceptance of Crude Petroleum from other Shippers not meeting the then-applicable Specifications as set forth in this Rules and Regulations Tariff.
- (C) Subject to Rule 18(A), Shipper shall be responsible for and shall defend, indemnify, release and hold harmless the Carrier Parties from and against all Losses incurred by Carrier resulting from Shipper's negligence, willful misconduct or gross negligence in connection with the Tariffs.
- (D) Subject to Rule 18(A), Carrier shall be responsible for and shall defend, indemnify, release and hold harmless the Shipper Parties from and against all Losses incurred by Shipper resulting from Carrier's negligence, willful misconduct or gross negligence in connection with the Tariffs.

- (E) Under the foregoing indemnities, where the personal injury to or death of any Person or Loss or damage to property is the result of the joint or concurrent negligence, gross negligence, or willful acts or omissions of Shipper and Carrier, each Party's duty of indemnification will be in proportion to its share of such joint or concurrent negligence, gross negligence, or willful misconduct.
- (F) Shipper shall pay any and all Taxes levied on Shipper's Product including property Taxes on Shipper's Product in the Pipeline or in operational storage. Carrier shall pay any and all Taxes levied on the Pipeline or in operational storage. Shipper shall not be liable for any Taxes assessed against Carrier based on Carrier's income, revenues, gross receipts, or ownership of the Pipeline or in operational storage, and all state franchise, license, and similar Taxes required for the maintenance of Carrier's corporate existence. If Carrier is required to pay any Tax(es) for Shipper, Shipper shall reimburse Carrier for such Tax(es) within thirty (30) Days after receipt of an invoice and supporting documentation from Carrier.
- (G) If Shipper fails to make arrangements for the removal of its Product from Carrier's facilities upon delivery and a disruption of Carrier's operations or the operation of downstream facilities results, Shipper shall be liable for any actual damages incurred by Carrier as a result of such disruption.
- (H) Carrier shall not bear any risk for, or be liable for any damage, contamination, degradation, or Loss of Shipper's Product resulting from an event of Force Majeure. If contamination, damage, degradation, or Loss of Product from such causes occurs after Shipper's Product has been received by Carrier for transportation and before it has been delivered to Shipper, Shipper shall bear a Loss in such proportion as the amount of Shipper's shipment is to all of the Product held in transportation by the Carrier at the time of such Loss, damage, contamination, or degradation, and the Shipper shall be entitled to have delivered only such portion of Shipper's shipment as may remain after a deduction of Shipper's proportion of such Loss, damage, contamination, or degradation.
- (I) To receive the foregoing indemnities, the Party seeking indemnification must notify the other in writing of a claim or suit promptly (provided that any failure to provide such notice shall not limit a Party's right to indemnification except to the extent that the indemnifying Party shall have been materially prejudiced thereby) and provide reasonable cooperation (at the indemnifying Party's expense) and full authority to the indemnifying Party to defend the claim or suit. Notwithstanding the foregoing, no indemnifying Party shall be entitled to settle any claim or suit without the consent of the indemnified Party unless such settlement contains a full release of the indemnified Party without any liability for any monetary damages or any type of equitable relief. Neither Party shall have any obligation to indemnify the other under any settlement made without its written consent.

### **Rule 19: Scheduling of Delivery**

Where a Shipper requests delivery from the Pipeline at an applicable Delivery Point of Volumes of Product greater than can be immediately delivered, Carrier shall use commercially reasonable efforts to schedule delivery of such Volumes. Carrier shall not be liable for any delay in delivery of any such Volumes resulting from such scheduling of delivery.

### **Rule 20: Pipeage or Other Contracts**

Separate pipeage and other contracts, in accordance with this Tariff and these regulations covering further details, may be required by Carrier before any duty of transportation shall arise.

### **Rule 21: Committed Shipper Terms: General**

The Committed Shipper class shall include Primary Committed Shippers and Secondary Committed Shippers.

#### **(A) Primary Committed Shippers:**

- a. Eligibility: A Shipper participating in the First Open Season shall become a Primary Committed Shipper by the following means:
  - i. By executing a T&D Agreement with a stated Daily Volume Commitment of at least eleven thousand two hundred and fifty (11,250) BPD and an initial term of five (5) or ten (10) years (“Initial T&D Term”) or
  - ii. By executing a TSA with a specified acreage dedication under an initial term of ten (10) years (“Initial TSA Term”).
- b. Firm Service Rights: During periods of prorationing, as defined in Exhibit A, Primary Committed Shippers shall be subject to premium Committed Rates under Carrier’s Rates Tariff, and their Capacity shall not be reduced, unless the Pipeline’s Capacity is also reduced and all Secondary Committed Shipper Capacity has already been curtailed (if Pipeline’s Capacity is reduced, the rules in Exhibit A “Curtailments” shall apply). In prorationing, each Primary Committed Shipper’s Capacity entitlement shall be the lesser of its MDQ or its Nominated Volumes for that Month.

#### **(B) Secondary Committed Shipper:**

- a. Eligibility: A Shipper participating in the Second Open Season shall become a Secondary Committed Shipper by the following means:

- i. By executing a T&D Agreement with a stated Daily Volume Commitment of at least eleven thousand two hundred and fifty (11,250) BPD under an Initial T&D Term of five (5) or ten (10) years or
    - ii. By executing a TSA with a specified acreage dedication under an Initial TSA Term of ten (10) years.
  - b. Firm Service Rights: During periods of prorationing, as defined in Exhibit A, Secondary Committed Shippers shall be subject to premium Committed Rates under Carrier's Rates Tariff, and their Capacity shall not be reduced, unless the Pipeline's Capacity is also reduced (if the Pipeline's Capacity is reduced, the rules in Exhibit A "Curtailments" shall apply). In prorationing, each Secondary Committed Shipper's Capacity entitlement shall be the lesser of its MDQ or its Nominated Volumes for that Month.
- (C) Assignment of Committed Shipper Capacity: A Committed Shipper may assign its rights and obligations under a TSA or T&D Agreement to a third party (an "Assignee Shipper") assuming required Carrier consent, if any, is obtained. If a Committed Shipper assigns its rights and obligations, or a portion of the assets of Committed Shipper relating to its T&D Agreement or TSA, the Assignee Shipper shall assume all of the corresponding rights and obligations of a Committed Shipper with respect to such assigned rights and obligations or assets as provided in this Rule 21 and elsewhere in these Rules and Regulations. The Committed Shipper's Shipper History (as defined in Carrier's Prorationing Policy in Exhibit A) shall apply to the Assignee Shipper with respect to that portion of the rights and obligations or assets assigned as though such Shipper History had been earned by the Assignee Shipper itself.
- (D) Membership in Co-op: All Primary Committed Shippers will be members of the "Co-op." The combined firm Capacity secured by all Primary Committed Shippers may be shared among members of the Co-op, including for the purpose of avoiding deficiency payments. *See* Rule 22(C)(2).
  - a. Co-op Excess Capacity:
    - i. If a Primary Committed Shipper has not utilized the entirety of its MDQ, such space (the "Excess Capacity") shall be pooled together and offered to Primary Committed Shippers that have Nominated their full MDQs in a given Month ("Eligible Primary Committed Shippers").
      - 1. By one (1) Business Day after the Nomination deadline, Carrier shall distribute a notice with that Month's Excess Capacity to Shippers ("Excess Capacity Notice").
      - 2. By one (1) Business Day after the Excess Capacity Posting, Eligible Primary Committed Shippers, shall submit to Carrier, in

writing, their “Supplemental Nominations” for the Excess Capacity, up to the amount of the Monthly Excess Capacity.

3. Where there is more than one Supplemental Nomination, and the combined Supplemental Nominations exceed the Monthly Excess Capacity, that Month’s Excess Capacity shall be allocated on a pro-rata basis among the Eligible Primary Committed Shippers weighted by their respective MDQs.
  - a. If this allocation results in an Eligible Primary Committed Shippers receiving an allotment greater than its Supplemental Nomination, such Shipper shall receive an allotment equal to its Supplemental Nomination.
  - b. Where Excess Capacity remains after allotments based on Supplemental Nominations, such capacity shall be offered to those who submitted Supplemental Nominations on a pro-rata basis.
- ii. Shipper History Credit For Excess Capacity: For purposes of calculating Shipper History, the Primary Committed Shipper who utilizes the Excess Capacity in accordance with this section shall receive credit for such utilization in accordance with the Proration Policy set forth in Exhibit A.

## **Rule 22: Volume Commitment Incentive Program**

- (A) Term and Rates: Each Shipper who executes a T&D Agreement with Carrier for an Initial T&D Term of five (5) or ten (10) years with a Daily Volume Commitment of at least eleven thousand two hundred fifty (11,250) BPD is referred to herein as a Volume Incentive Shipper and shall be entitled to the rights and benefits of Carrier’s Volume Commitment Incentive Program set forth in this Rule 22 and the Committed Rates set forth in the Carrier’s Rates Tariff. The Initial T&D Term together with any extension under the terms of the T&D Agreement, as applicable, may collectively be referred to as the “T&D Term”.
- (B) Deficiency Obligations: For the avoidance of doubt, the following Deficiency Payment obligations and calculations specified in this Rule 22(B) and (C) apply expressly to Primary Committed Shippers. Deficiency Payment obligations for Secondary Committed Shippers (including the calculation of such Deficiency Payments) are governed by the applicable Secondary Committed Shipper’s T&D Agreement. Deficiency obligations for all Primary Committed Shippers are subject to the Co-op Deficiency Threshold, which for a particular Month is 150,000 BPD multiplied by the number of Days in that Month. During the Term, and subject to Rule 17(B) and Rule 22(C), if Shipper has an Actual Monthly Deficiency Volume at the end of a given Month, then Shipper shall pay to Carrier



an amount equal to the product of (i) the Adjusted Monthly Deficiency Volume for such Month and (ii) the Throughput Fee in effect for such Month which would have applied to Shipper's volume had Shipper shipped its full Monthly Volume Commitment (such product being the "Deficiency Payment"). Any Deficiency Payment due by Shipper hereunder shall be paid by Shipper as provided in Rule 17(B).

(C) Deficiency Calculation: In a given Month during the T&D Agreement's Term, Shipper's Adjusted Monthly Deficiency Volume shall be calculated as follows:

1. If, in a given Month, the Aggregate Monthly Shipped Volume exceeds the Co-op Deficiency Threshold, then Shipper's Adjusted Monthly Deficiency Volume shall be deemed to be zero.
2. If, in a given Month, Shipper's Actual Monthly Deficiency Volume and the Aggregate Co-op Deficiency are both greater than zero, then Shipper's Adjusted Monthly Deficiency Volume shall be the Aggregate Co-op Deficiency divided by the sum of the Actual Monthly Deficiency Volumes of all Primary Committed Shippers multiplied by Shipper's Actual Monthly Deficiency Volume. In no event, however, shall Shipper be deemed to have an Adjusted Monthly Deficiency Volume greater than its Actual Monthly Deficiency Volume. Where Shipper has entered into multiple Committed Shipper agreements with Carrier, Shipper shall, as part of the Nominations process, indicate to Carrier to which Committed Shipper agreements its Nomination is to be attributed for the purpose of calculating whether Shipper has an Actual Monthly Deficiency Volume for a given Month.
  - i. Example 1: If there are six Primary Committed Shippers, each with a Monthly Volume Commitment of 25,000 BPD and in a given Month two shippers (one a Primary Committed Shipper and the other an Uncommitted Shipper) have each shipped an average of 75,000 BPD for the Month but the other five Primary Committed Shippers have shipped an average of zero (0) BPD for the entire Month, the five Primary Committed Shippers who shipped zero (0) Barrels would still be deemed to have met their respective Monthly Volume Commitments for that Month.
  - ii. Example 2: If, in a Month containing thirty (30) Days, there are five Primary Committed Shippers, each with a Monthly Volume Commitment of 37,500 BPD, and there are no other Shippers on the Pipeline, the first two Primary Committed Shippers each ship 50,000 BPD, the third Primary Committed Shipper ships 12,500 BPD, the fourth Primary Committed Shipper ships 10,000 BPD and the fifth Primary Committed Shipper ships 2,500 BPD, the Adjusted Monthly Deficiency Volumes for the third fourth, and fifth Primary Committed Shipper will be determined as follows:

1. Assumptions: (1) the Aggregate Co-op Deficiency =  $150,000 - 125,000 = 25,000$  BPD; (2) the Sum of Actual Monthly Deficiency Volumes of All Primary Committed Shippers = 87,500; and (3) Co-op Deficiency Ratio =  $25,000$  divided by  $87,500 = .2857$ .

a. Determining 3rd PCS's Adjusted Monthly Deficiency Volume:

i. 3rd PCS's Actual Monthly Deficiency Volume:  
25,000.

ii.  $25,000 * .2857 = 7,143$ .

iii.  $7,143 \times 30$  Days in the Month = 214,290 Barrels.

b. Determining 4<sup>th</sup> PCS's Adjusted Monthly Deficiency Volume:

i. 4<sup>th</sup> PCS's Actual Monthly Deficiency Volume:  
27,500.

ii.  $27,500 * .2857 = 7,857$ .

iii.  $7,857 \times 30$  Days in the Month = 235,710 Barrels.

c. Determining 5<sup>th</sup> PCS's Adjusted Monthly Deficiency Volume:

i. 5<sup>th</sup> PCS's Actual Monthly Deficiency Volume:  
35,000.

ii.  $35,000 * .2857 = 10,000$ .

iii.  $10,000 \times 30$  Days in the Month = 300,000 Barrels.

(D) Purpose and Revisions: The Volume Commitment Incentive Program is an incentive program to encourage volume commitments necessary in order for the Pipeline to be built. Carrier may, in its discretion, add Origin Points or Delivery Point to the Volume Commitment Incentive Program.

### **Rule 23: TSA Program**

(A) Term and Rates: All Shippers who execute a TSA with Carrier for an Initial TSA Term of ten (10) years and who agree to a specified acreage dedication per a validly executed TSA, shall be entitled to the rights and benefits outlined in this Rule 23 and the Committed Rates set forth in the Carrier's Rates Tariff. The Initial TSA Term, together with any extension under the terms of the TSA Agreement, as applicable, may collectively be referred to as the "TSA Term."

(B) Dedication Required: For the duration specified in the TSA, TSA Shipper shall dedicate one hundred percent (100%) of Product that may be produced from the mineral interests in

its acreage dedication, at least up to a quantity equal to its MDQ, for the purpose of transporting such Product. For such volumes, Shipper shall pay the transportation Committed Rates specified in Carrier's Rates Tariff.

#### **Rule 24: Gravity Bank**

As of the Completion date, there will not be a gravity bank on the Pipeline. After the Completion date, the Carrier, on its own initiative or at the request of at least one of the Committed Shippers, can bring forth a request for the establishment of a gravity bank. The request shall be put forth to vote by the Primary Committed Shippers. If Primary Committed Shippers representing at least sixty-seven (67%) of the total Primary Committed Shipper MDQ vote in favor, Carrier shall establish the gravity bank.

#### **Rule 25: Connection Policy**

Carrier offers limited interconnection service to facilitate the necessary connections associated with the construction of the original pipeline system and related facilities, limited to the connections listed in Carrier's F.E.R.C. 2.4.0 rates tariff. These connections to Carrier's System will be subject to generally-accepted industry standards and all regulatory standards for design and construction, will meet the hydraulic requirements necessary to protect the safety, security, integrity and efficient operation of Carrier's pipeline at the point of connection, and will not degrade the available service or quality of service that exists for Shippers absent any such connection. Presently, carrier does not offer interconnection service with other Crude Petroleum transportation pipelines.

#### **Rule 26: In-Transit Privilege**

Although Carrier does not provide or offer storage services, certain storage providers offer storage services at certain In-Transit Point(s). Shipper may submit a Nomination, in accordance with Rule 13, requesting that its Crude Petroleum offered for transportation be stopped temporarily at an In-Transit Point for storage, provided that: (A) such Nomination shall list the Origin Point and the ultimate Delivery Point; (B) the In-Transit Point(s) nominated by Shipper shall be along the transportation path between the Origin Point and the ultimate Delivery Point; (C) the storage shall last no more than six (6) months; (D) Shipper is solely responsible for arranging for storage services at the In-Transit Point(s), including entering into any required storage services agreement(s) with the affected storage provider(s); (E) Product stopped at the In-Transit Point(s) shall be subject to the rates applicable to the transportation from the Origin Point to the ultimate Delivery Point; (F) Product stopped at the In-Transit Point(s) shall not be subject to a separate transit fee. To the extent practicable and permitted by operating conditions, Carrier may, in its reasonable discretion and on a not-unduly discriminatory basis, accept such Nomination. Upon immediate delivery of the Product to the In-Transit Point(s), the custody and possession of the Product shall transfer to Shipper, and Carrier shall not be liable for any loss and/or damage to such Product while in storage.

Shipper may submit a Nomination, in accordance with Rule 13, requesting that Product previously placed in storage at the In-Transit Point(s) be withdrawn and delivered to the ultimate

Delivery Point, at no additional charge, provided that: (Y) such Nomination shall list the In-Transit Point(s) and the ultimate Delivery Point previously listed on Shipper's Nomination to stop Product for in-transit storage; and (Z) Shipper shall make such Nomination for withdrawal and delivery within six (6) months from the date that Product was intermediately delivered at the In-Transit Point(s) for storage. To the extent practicable and permitted by operating conditions, Carrier may, in its reasonable discretion and on a not-unduly discriminatory basis, accept such Nomination. Upon withdrawal of the Product from the In-Transit Point(s), the custody and possession of the Product shall transfer to Carrier.

### **Rule 27: Intrasystem Transfers**

Carrier shall accept in its sole discretion (to be exercised in a not unduly discriminatory basis) transfers of a Shipper's ("Transferor") Crude Petroleum in Carrier's custody ("Intrasystem Transfer") to a recipient ("Transferee") subject to the Transferor paying the Intrasystem Transfer Fee (set forth in the Rates Tariff). Carrier will only accept Intrasystem Transfers at an effective Origin or Destination Point set forth in the Rates Tariff. For Barrels transferred at an Origin Point, the Transferee shall be obligated to pay the Uncommitted or Committed Rate, as applicable, to transport such Barrels to the Delivery Point. Carrier shall incur no liability with respect for any receipt imbalances, claims, damages, or Losses in connection with Intrasystem Transfers. Shippers shall request Intrasystem Transfers as part of the Nominations procedure in Rule 13, and both Transferor and Transferee shall confirm such request with Carrier within 24 hours after the Transferor submits its Nomination. Intrasystem Transfer requests shall specify: (a) the Transferee (or applicable Consignee), (b) the amount Barrels per Day of Crude Petroleum subject to the Intrasystem Transfer, (c) the applicable Origin or Delivery Point of transfer, and (d) the applicable product grade as set forth on Exhibit B.

### **EXPLANATION OF REFERENCE MARKS:**

[C] Cancel

[N] New

[W] Change in wording only

## Exhibit A – Carrier’s Prorationing Policy (“Prorationing Policy”)

(A) The following definitions apply to this Prorationing Policy

Committed Shipper Allocation	Has the meaning set forth in Section (B)(1) of this Prorationing Policy.
Financial Non-Performance Penalty	Has the meaning set forth in Section (D) of this Prorationing Policy.
New Shipper	Means a Shipper that does not qualify as a Regular Shipper.
New Shipper Proration Factor	Has the meaning set forth in Section (B)(3)(i) of this Prorationing Policy.
Nomination Shortfall	Has the meaning set forth in Section (D) of this Prorationing Policy.
Prorationing Month	Means the Month for which Capacity on the Pipeline is subject to prorationing pursuant to this Rules and Regulations Tariff.
Regular Shipper	Means a Shipper that has shipped Product during every Month of the Shipper History measuring period.
Shipper History	<p>Means the total Volume (in Barrels) of a Shipper’s Crude Petroleum actually shipped (plus any unshipped Volumes for which Deficiency Payments were made) on the Pipeline during the twelve (12) Month period beginning thirteen (13) Months prior to the Prorationing Month (excluding the Month immediately preceding the Prorationing Month).</p> <p>If Carrier has been in Full Commercial Service for less than twelve (12) Months, then Shipper History shall be the total Volume (in Barrels) of Shipper’s Crude Petroleum actually shipped (plus any unshipped Volumes for which Deficiency Payments were made) on the Pipeline since the commencement of full commercial service, excluding Volumes shipped in the Month preceding the Proration Month. If the first (1<sup>st</sup>) Month of Full Commercial Service is a Prorationing Month, a Shipper’s Shipper History, applicable for all purposes under this Prorationing Policy, shall be deemed equal to its Nomination for that first (1<sup>st</sup>) Month.</p>
Total Shipments	Means the Shipper History of the applicable Committed Shipper, Regular Shipper or New Shipper.

Total Throughput Means a Volume equal to the sum of the Total Shipments of all Committed Shippers, Regular Shippers and New Shippers during the period in which Shipper History is measured.

Volumetric Non-Performance Penalty Has the meaning set forth in Section (D) of this Prorating Policy.

(B) Where Carrier receives more Nominations in a Month for transportation of Crude Petroleum than Carrier is able to transport on the Pipeline in the first Month of service, Carrier shall apportion the Pipeline Capacity in the following manner:

1. Committed Shippers: Each Committed Shipper shall be allocated one hundred percent (100%) of the lesser of its MDQ or Monthly Nominated quantity (defined as the “Committed Shipper Allocation”). Where a Committed Shipper Nominates more than its MDQ, the additional volumes shall be treated as Uncommitted Volumes and subject to the Regular Shipper prorating terms in Section (B)(2) of this Prorating Policy. At no time shall the Committed Shipper Allocation be greater than ninety percent (90%) of the Pipeline’s (1) designed capacity or (2) the Capacity that is available on the Pipeline (or any Pipeline Segment) at any given time. Where the available Capacity on the Pipeline (or any Pipeline Segment) is insufficient to satisfy the Monthly Nominations (up to the respective MDQs) of all Committed Shippers, the Nominations submitted by Primary Committed Shippers will be prioritized for scheduling purposes ahead of the Nominations submitted by Secondary Committed Shippers. Individual Committed Shipper Allocations during Prorating Months are subject to Curtailment under Section (C) of this Prorating Policy.

2. Regular Shippers:

i. The percentage of Capacity to be allocated to each Regular Shipper will be calculated by dividing the sum of the Total Shipments of each Regular Shipper by the Total Throughput. The resulting percentages will then be applied to the Pipeline Capacity available after allocations to Committed Shippers and subject to a holdback of up to ten percent (10%) to New Shippers, to determine the Capacity allocation for each Regular Shipper. Each Regular Shipper will be allocated the lesser of its Nomination or its Volume determined pursuant to the above calculation.

ii. In the event that the above calculation results in any Shipper being allocated more Capacity than its Nomination, the excess of the calculated allocation over the Shipper’s Nomination will be reallocated per capita among all other Regular Shippers whose Nominations would not be fulfilled through

the allocations calculated in Sections (B)(2) and (B)(3) of this Prorationing Policy.

- iii. Carrier will repeat this reallocation process until all of the Capacity has been allocated. Allocations for Regular Shippers will be subject to pro rata reduction on the basis of the percentages calculated in this Section (B)(2), if required, to accommodate New Shippers.
3. New Shippers: Up to two and one-half percent (2.5%) of Pipeline Capacity will be allocated to each New Shipper, subject to a cap of ten percent (10%) of Capacity for all New Shippers during periods when Capacity prorationing is required. During Prorationing Months, New Shippers will be allocated Capacity as follows:
- i. If less than four (4) New Shippers have submitted Nominations, each New Shipper will be allocated the lesser of either two and one-half percent (2.5%) of Capacity or its Nomination. In the event that four (4) or more New Shippers have submitted Nominations, the Nominations for each New Shipper shall be totaled and divided into ten percent (10%) of the Pipeline Capacity. The resulting percentage shall be the “***New Shipper’s Proration Factor***.” Each New Shipper will be allocated Capacity equal to the lesser of: (a) two and one-half (2.5%) of available Capacity, (b) its Nomination, or (c) its Nomination multiplied by the New Shipper Proration Factor.
  - ii. Remaining Capacity: Any remaining Pipeline Capacity, subject to the maximum cap of ten percent (10%) of all available Capacity, as outlined above, will be allocated equally among the New Shippers whose Nominations were not fulfilled under the allocations calculated in Section (B)(3)(i).

(C) Curtailments Where Pipeline Capacity is Diminished (“***Curtailments***”):

In case of operational necessity, or any other extraordinary circumstance beyond the control of Carrier, including a Force Majeure Event, that substantially affects the ability of Carrier to deliver the Volumes that have been Tendered by all Shippers for a given Day, Carrier, in its sole discretion, may curtail deliveries to Shippers to the extent that is operationally required.

During an event as described in the preceding paragraph in this Prorationing Policy, Carrier will curtail Shippers in reverse order vis-a-vis its Prorationing Policy, that is: subject to reserving up to ten percent (10%) of the reduced Capacity for New Shippers, Carrier will curtail scheduled deliveries for Committed Shippers last (including curtailing Primary Committed Shipper Volumes last among all other Committed Shipper Volumes), if necessary, on a pro-rata basis as among scheduled quantities. All other scheduled service will be reduced pro rata as among scheduled quantities.

(D) Non-Performance Penalty:

All Shippers shall be subject to the Non-Performance Penalty applicable to a “Nomination Shortfall,” which is defined as where a Shipper fails to Tender at least ninety percent (90%) of its allocated share of Uncommitted Shipper Volumes in a given Prorationing Month; *provided* that Committed Shippers shall receive a credit up to their MDQ in calculating their Nomination Shortfall. If a Shipper experiences a Nomination Shortfall in a given Month, it shall be subject to both a Volumetric Non-Performance Penalty and a Financial Non-Performance Penalty. The “Volumetric Non-Performance Penalty” shall be assessed as follows: (1) where a Nomination Shortfall occurs in a given Prorationing Month, the maximum Nomination that Carrier shall accept from such Shipper in the immediately following Month shall be the Volume Shipper actually shipped during such Nomination Shortfall Month. The “Financial Non-Performance Penalty” shall be assessed as follows: where a Nomination Shortfall occurs in a given Prorationing Month, Carrier shall bill Shipper a Financial Non-Performance Penalty in the amount of the Nomination Shortfall multiplied by the applicable Uncommitted Rate in the following Month’s invoice.



### Exhibit B – Carrier’s Product Specifications Policy

No Crude Petroleum will be accepted for transportation except merchantable Crude Petroleum which is properly settled and contains not more than one percent (1%) of basic sediment, water, and other impurities, and has a temperature not in excess of 100 degrees Fahrenheit (100°F). All Crude Petroleum received at the Origin Point(s) and transported by Carrier, and delivered by Carrier at the Delivery Point(s) shall be merchantable, native crude oil/condensate only, shall exclude all products of gas processing and NGL splitters, and shall meet the following Common Stream Specifications:

Common Stream Product shipped from Groups 1 to 3 ^	Permian Common Stream 1	ASTM Testing Method
API Gravity, API	≥ 36.0 and ≤ 44.0	ASTM D 1298
Sulfur Content, Weight %	≤ 0.45	ASTM D 4294
H <sub>2</sub> S, ppm in vapor	≤ 10.0 PPM	ASTM D 5705 as modified for crude petroleum
Mercaptans	≤ 75 PPM	UOP 163
Max Reid Vapor Pressure, psi	≤ 9.5	ASTM D 6377
Max True Vapor Pressure, psi	≤ 11.0	ASTM D 2879
Basic sediment, water, and other impurities	≤ 1.0 %	ASTM D 4007

Common Stream Product shipped from Groups 1 to 3 ^ [N] *	Permian Common Stream 2	ASTM Testing Method
API Gravity, API	≥ 44.1 – ≤ 50.0	ASTM D 1298
Sulfur Content, Weight %	≤ 0.45	ASTM D 4294
H <sub>2</sub> S, ppm in vapor	≤ 10.0 PPM	ASTM D 5705 as modified for crude petroleum
Mercaptans	≤ 75 PPM	UOP 163
Max Reid Vapor Pressure, psi	≤ 9.5	ASTM D 6377
Max True Vapor Pressure, psi	≤ 11.0	ASTM D 2879
Basic sediment, water, and other impurities	≤ 1.0 %	ASTM D 4007

Common Stream Product shipped from Groups 2 to 3 ^^	Eagle Ford Common Stream 1	ASTM Testing Method
API Gravity, API	≥ 25.0 – ≤ 45.0	ASTM D 1298
Sulfur Content, Weight %	≤ 0.40	ASTM D 4294
H <sub>2</sub> S, ppm in vapor	≤ 10.0 PPM	ASTM D 5705 as modified for crude petroleum
Mercaptans	≤ 75 PPM	UOP 163
Max Reid Vapor Pressure, psi	≤ 10.0	ASTM D 6377
Max True Vapor Pressure, psi	≤ 11.0	ASTM D 2879

Basic sediment, water, and other impurities	≤ 1.0 %	ASTM D 4007
Common Stream Product shipped from Groups 2 to 3 ^^	Eagle Ford Common Stream 2	ASTM Testing Method
API Gravity, API	≥ 45.1 – ≤ 55.0	ASTM D 1298
Sulfur Content, Weight %	≤ 0.25	ASTM D 4294
H <sub>2</sub> S, ppm in vapor	≤ 10.0 PPM	ASTM D 5705 as modified for crude petroleum
Mercaptans	≤ 75 PPM	UOP 163
Max Reid Vapor Pressure, psi	≤ 10.0	ASTM D 6377
Max True Vapor Pressure, psi	≤ 11.0	ASTM D 2879
Basic sediment, water, and other impurities	≤ 1.0 %	ASTM D 4007

^ The minimum Segregated Batch size for Barrels shipped from Group 1 to Group 3 shall be one hundred thousand (100,000) Barrels per Day.

^^ The minimum Segregated Batch size for Barrels shipped from Group 2 to Group 3 shall be: (a) one hundred thousand (100,000) Barrels per Day for Tenders from Origin Points in Gardendale, Texas and (b) sixty thousand (60,000) Barrels per Day for Tenders from Origin Points in Hobson, Texas.

[N] \* Due to prevailing operating conditions, Carrier does not currently offer service under this Common Stream.

The Groups designated herein shall have the meaning as defined in Carrier's applicable Tariffs.

The gravity, viscosity, pour point, and other characteristics of all accepted Crude Petroleum must be readily amenable for transportation through the Carrier's existing facilities, and will not materially affect the quality of other shipments or cause disadvantage to other Shippers and/or the Carrier. If Crude Petroleum is accepted from tankage, settled bottoms in such tanks must not be above a point four inches (4") below the bottom of the pipeline connection with the tank from which it enters Carrier's facilities.

If, upon investigation, Carrier determines that a Shipper has delivered to Carrier's facilities Crude Petroleum that has been contaminated by the existence of and/or excess amounts of impure substances, including but not limited to, chlorinated and/or oxygenated hydrocarbons, arsenic, lead and/or other metals, such Shipper will be excluded from further entry into applicable Pipeline Segments of the Pipeline until such time as Specifications are met to the satisfaction of Carrier. Further, Carrier reserves the right to dispose of any contaminated Crude Petroleum blocking the Pipeline. Disposal thereof, if necessary, may be made in any reasonable commercial manner, and any liability associated with the contamination or disposal of any Crude Petroleum shall be borne by the Shipper introducing the contaminated Crude Petroleum into the Pipeline.

Notwithstanding the foregoing, where Shipper's Product does not meet the Specifications

described herein, Carrier shall confer with Shipper as to means to facilitate transportation of Shipper's Product on the Pipeline. Carrier shall offer Shipper the option, at Shipper's cost, to add tankage and/or other facilities to ship Barrels in Segregated Batches, provided Shipper and Carrier can mutually agree on the Volumes and costs associated with transportation of these Segregated Batches. Carrier shall periodically assess the feasibility of adding additional Segregated Batches, and shall add such Segregated Batches for service in its sole discretion. Carrier reserves the right, in its reasonable discretion, to reject any Tendered Product which does not conform to the Product Specifications of connecting carriers. Carrier reserves the right, in its reasonable discretion, to change the Product Specifications set forth herein to reflect changes to Product Specifications of connecting carriers.