

**MONARCH OIL PIPELINE, LLC**

**LOCAL TARIFF**

**Containing**

**THE RULES AND REGULATIONS SET FORTH IN THIS TARIFF  
GOVERN THE GATHERING, TRANSPORTATION, AND DELIVERY OF**

**CRUDE OIL**

**(as defined herein)**

**BY PIPELINE**

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**GENERAL APPLICATION**

The Rules and Regulations published herein apply only under the tariffs making specific reference by FERC number to this tariff; such reference will include supplements hereto and successive issues hereof. Specific rules and regulations published in individual tariffs will take precedence over the Rules and Regulations published herein.

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The provisions published herein will, if effective, not result in an effect on the quality of the human environment.

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**ISSUED: August 31, 2015**

**EFFECTIVE: October 1, 2015**

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Tariffs available at: <http://monarchnaturalgasllc.com/crude-pipeline/>

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## 5. DEFINITIONS

**“Accounting Period”** means a period of one calendar month, commencing at 9:00 a.m. Central Clock Time on the first day of each month, and ending at 9:00 a.m. Central Clock Time on the first day of the succeeding calendar month.

**“Adequate Assurances”** means the Adequate Assurances provided by the Shippers and accepted by the Carrier in accordance with Item No. 15 of these Rules and Regulations.

**“Affiliate”** means any Person, corporation, partnership, limited partnership, limited liability company, or other legal entity, whether of a similar or dissimilar nature, which (i) controls, either directly or indirectly, a Party, or (ii) is controlled, either directly or indirectly, by such Party, or (iii) is controlled, either directly or indirectly, by a Person or entity which directly or indirectly controls such Party. As used herein, “control” means the ownership of (or the right to exercise or direct) fifty percent (50%) or more of the voting rights in the appointment of directors of such entity, or fifty percent (50%) or more of the interests in such entity.

**“API Gravity”** or **“Gravity”** means Gravity determined in accordance with the ASTM International (formerly known as the American Society for Testing and Materials) (**“ASTM”**) Designation D-287-82 or the latest revision thereof.

**“Applicable Law”** means with respect to any Person, property or matter, any of the following applicable thereto: any statute, law, regulation, ordinance, rule, judgment, rule of common law, order, decree, governmental approval, concession, grant, franchise, license, agreement, directive, ruling, guideline, policy, requirement or other governmental restriction or any similar form of decision of, or determination by, or any interpretation, construction or administration of any of the foregoing, by any Governmental Authority, in each case as amended.

**“Available Capacity”** means the capacity on Carrier’s system available to transport Crude Oil. Available Capacity shall consist of the design capacity of the Pipeline, or any line segment thereof, less any reduction in capacity because of FORCE MAJEURE or INTERRUPTION AND CURTAILMENT, as these terms are defined in the Rules and Regulations.

**“Barrel”** or **“bbl”** means forty-two (42) gallons of 231 cubic inches per gallon at 60 degrees Fahrenheit (60° F).

**“Base Period”** means the twelve-Month period beginning thirteen (13) Months prior to the Proration Period and excluding the Month preceding the Proration Period.

**“Batched”** or **“Batched Shipments”** means transportation of Crude Oil that is Tendered or received at Receipt Points on the Pipeline for transportation to any Delivery Points, as an identifiable unit.

**“Binding Allocation”** means the volume allocated during the month to each Shipper.

**“BPD”** means Barrels of Crude Oil per Day.

**“Carrier”** means Monarch Oil Pipeline, LLC.

**“Central Receipt Point”** or **“CRP”** means inlet flange of Carrier’s facilities at the receipt points located along its System for the purpose of receiving Crude Oil and equipped with (i) automated communication equipment to allow for remote monitoring and control of System pumps and a (ii) Lease Automatic Custody Transfer (“LACT”) unit.

**“Commencement Date”** means the first Day of the Month following the date Carrier notifies Shipper that Carrier has obtained all required operating permits and/or approvals of regulatory authorities, that required amounts of Line and Tank fill have been delivered by Shipper to Carrier in accordance with this tariff and a Committed Shipper’s TSA, and that the Pipeline is operational to the extent necessary to commence Crude Oil gathering and transportation service.

**“Committed Rates”** means those rates applicable to Committed Shippers as set forth in the applicable Carrier rates tariff, and a Committed Shipper’s transportation services agreement. The Committed Rate may be changed from time to time in accordance with the provisions of this Tariff, Carrier’s applicable rates tariff, and any Committed Shipper’s TSA.

**“Committed Shipper”** means a shipper that entered into a transportation services agreement with Carrier as part of or pursuant to any widely publicized, non-discriminatory open season.

**“Committed Shipper Option 1 Shipper”** means any shipper that entered into a transportation services agreement with Carrier as part of or pursuant to the widely publicized, non-discriminatory open season that Carrier held beginning Fourth Quarter, 2014 and committed a Dedication therein in exchange for gathering and transportation services on Carrier’s and/or its Affiliate’s System.

**“Committed Shipper Option 2 Shipper”** means any shipper that entered into a transportation services agreement with Carrier following a widely publicized, non-discriminatory open season and committed to ship or otherwise pay for a specified volume of Crude Oil on Carrier’s System during a specified period.

**“Committed Volume”** means the volume of Crude Oil (stated in BPD) that Carrier has committed in a TSA to make available to the Committed Shipper in exchange for its Dedication or the minimum volume of Crude Oil (stated in BPD) that a Committed Shipper has committed in a TSA to Nominate and ship on the Pipeline, or otherwise pay a Deficiency Payment for, each Day during a Month.

**“Control”** or **“Controlled”** means the possession, directly or indirectly, or the power to direct or cause the direction of the management and policies of any entity, through ownership of fifty-one percent or more of voting securities or other beneficial interest.

**“Crude Oil”** means naturally occurring, unrefined petroleum product composed of hydrocarbon deposits of varying grades.

**“Day”** means a period of twenty-four (24) consecutive hours commencing at 7:00 A.M. prevailing Central Time.

**“Dedication Shipper”** means a Committed Shipper Option 1 Shipper.

**“Dedication”** shall have the meaning set forth in Item No. 135 of these Rules and Regulations.

**“Deficiency Payment”** means a payment for any Deficiency Volume(s), as calculated pursuant to a Committed Shipper’s TSA.

**“Deficiency Volume”** exists if, pursuant to a Committed Shipper’s Transportation Services Agreement, there exists a negative difference between the Committed Shipper’s actual shipments on the Pipeline and the Committed Shipper’s Committed Volume. The Deficiency Volume shall be calculated pursuant to the Committed Shipper’s Transportation Services Agreement.

**“Delivery Point(s)”** means each point on Carrier’s System identified as a point where Carrier can deliver Crude Oil out of its System.

**“Excess Volume”** shall have the meaning set forth in Item No. 135, of these Rules and Regulations.

**“FERC”** means Federal Energy Regulatory Commission.

**“Force Majeure”** means any cause or event not reasonably within the control of the Party whose performance is sought to be excused thereby; including acts of God, strikes, lockouts, or other industrial disputes or disturbances, acts of the public enemy, wars, blockades, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, tornadoes, hurricanes, storms, severe winter

weather, and warnings for any of the foregoing which may necessitate the precautionary shut-down of wells, plants, pipelines, the Pipeline, truck unloading facilities, failure of any parties downstream of the Delivery Point(s) (except for downstream parties that are Affiliates of Carrier) to timely install or provide interconnection or receipt facilities, or other related facilities, floods, washouts, arrests and restraints of governments and people, civil disturbances, explosions, sabotage, breakage or accidents to equipment, machinery, Gathering Systems, plants, truck unloading facilities, other related facilities, or lines of pipe, the making of repairs or alterations to lines of pipe, the Pipeline, truck unloading facilities, plants or equipment, freezing of wells or lines of pipe, electric power shortages, necessity for compliance with any court order, or any law, statute, ordinance, regulation or order promulgated by a Governmental Authority having or asserting jurisdiction (unless such necessity arises as a result of Carrier's or its Affiliates' failure to comply with any Applicable Law (provided that Carrier shall be permitted to resist in good faith the application to it of any such law by all reasonable legal means), inability to obtain necessary permits, rights of way or materials for construction, maintenance or operations provided same were timely and diligently pursued, inclement weather that necessitates extraordinary measures and expense to construct facilities or maintain operations and any other causes, whether of the kind enumerated herein or otherwise, not reasonably within the control of the Party claiming suspension, including any such cause or event occurring with respect to the facilities, services, equipment, goods, supplies or other items necessary to the performance of such Party's obligations hereunder. "Force Majeure" also includes any event of Force Majeure occurring with respect to the facilities or services of either Party's Affiliates or service providers providing a service or providing any equipment, goods, supplies or other items necessary to the performance of such Party's obligations hereunder.

**"Governmental Authority"** means any court, government (federal, tribal, state, local, or foreign), department, political subdivision, commission, board, bureau, agency, official, or other regulatory, administrative, or governmental authority.

**"Indirect Liquid Products"** mean liquid hydrocarbons resulting from the operation in oil or gas fields of gasoline recovery plants, gas recycling plants, Condensate or distillate recovery equipment and includes, but is not limited to, Condensate, Natural Gas Liquids, Natural Gasoline and mixtures of such liquid hydrocarbons.

**"Line Fill" and "Tank Fill"** means the static quantity of Crude Oil needed to occupy the physical space within the Pipeline and any applicable facilities required for Pipeline operations.

**"Losses"** means all losses, liabilities, damages, claims, demands, fines, penalties, costs, or expenses, including reasonable attorneys' fees and court costs.

**“Month”** means a calendar month beginning at 12:01 am on the first day of the calendar month and ending at 12:01 am on the first day of the next calendar month.

**“Nomination”** means a written designation by a Shipper to the Carrier of a stated quantity of Crude Oil for transportation from a specified Receipt Point(s) to a specified Delivery Point(s) over a period of one operating Month in accordance with these Rules and Regulations.

**“Party”** means any one of the following: Carrier or Shipper.

**“Person”** means any individual, corporation, partnership, joint venture, association, joint stock company, limited liability company, trust, estate, unincorporated organization or Governmental Body.

**“Pipeline”** shall mean the Monarch Oil Pipeline, a Crude Oil pipeline owned by Monarch Oil Pipeline, LLC which consists of an 8-inch pipeline capable of transporting approximately 30,000 BPD of Crude Oil from Receipt Points to Delivery Points identified on Carrier’s System.

**“Pipeline Loss Allowance”** shall mean the System’s actual losses due to evaporation, measurement, or other losses in transit.

**“Priority Capacity”** means a Committed Shipper’s capacity up to its Committed Volume that is eligible to not be subject to proration, provided that the Committed Shipper makes a Priority Capacity Election. The Priority Capacity of all Committed Shippers combined shall not exceed ninety percent (90%) of the Available Capacity.

**“Priority Capacity Election”** means the election made by a Committed Shipper during the Month(s) Carrier’s System is in proration in order to secure Priority Capacity during that Month, provided that the Committed Shipper pays a one cent (\$0.01) per Barrel premium over the General Commodity Rate set forth in the Carrier’s applicable rates tariff.

**“Receipt Point(s)”** means each point on Carrier’s System identified as a point where Carrier can accept Crude Oil into its System.

**“Regular Shipper”** means an Uncommitted Shipper that has shipped Crude Oil on Carrier’s System during each month during the Base Period. There shall be no Regular Shippers if Carrier has been in operation less than twelve (12) Months.

**“Regular Shipper Average Monthly Volume”** means a Regular Shipper’s average monthly volume actually shipped during the Base Period.

**“Required Monthly Volume”** means, in any Month, the product of a Committed Shipper Option 2 Shipper’s Committed Volume (to the extent such Shipper has agreed in a TSA to a Required Monthly Volume) multiplied by the number of days in such Month, minus the volume of Crude Oil the Committed Shipper Option 2 Shipper nominated in that same Month, but was not able to transport due to an event of Force Majeure or Interruption and Curtailment affecting the Pipeline.

**“Shipper”** means a party that nominates with Carrier for transportation of Crude Oil, as defined herein and under the terms of these Rules and Regulations.

**“System”** means the facilities, including the pipeline, tanks, pumps and other associated facilities that Carrier owns an interest in, and to which the Rules and Regulations stated herein apply.

**“Tariff”** means this Rules and Regulations tariff.

**“Tender”** means a shipment of Crude Oil presented by a Shipper to the Carrier for movement by the Carrier in accordance with these Rules and Regulations.

**“Transportation Service Agreement”** or **“TSA”** means an agreement executed by Carrier and a Committed Shipper, as part of or pursuant to any widely publicized, non-discriminatory open season, that requests Carrier and/or its Affiliate to provide gathering and/or transportation service so that the Committed Shipper’s Committed Volume may move over and through Carrier’s facilities from a Receipt Point(s) to a Delivery Point(s).

**“Uncommitted Shipper”** means a Shipper that is not a Committed Shipper.

## **10. REQUIRED SHIPPER INFORMATION**

(a) At any time, upon written request of Carrier, on a not unduly discriminatory basis, any prospective or existing Shipper shall provide to Carrier information that will enable the Carrier to enforce the terms of this Tariff. Such information may include, but will not be limited to, the names of any affiliates of the Shipper or prospective Shipper, the legal business name of the Shipper or prospective Shipper and the registered business address of Shipper or prospective Shipper.

(b) Carrier shall not be obligated to accept Crude Oil for transportation from an existing or prospective Shipper if Shipper or prospective Shipper fails to provide to the Carrier any information requested in accordance with subsection (a) of this Item within ten (10) days of the Carrier’s written request, or if Carrier reasonably determines that any of the information provided pursuant to subsection (a) of this Item is false.

## 15. ADEQUATE ASSURANCES

(a) Each Shipper must comply with the provisions of this Item except for any Committed Shipper that has made a dedication of Crude Oil from 30,000 or more acres to the services provided under a TSA, for which such dedication shall constitute an Adequate Assurance and for which such Committed Shipper the provisions of this Item are waived. At any time, upon the request of the Carrier, any prospective or existing Shipper shall provide information to the Carrier that will allow the Carrier to determine the prospective or existing Shipper's capacity to perform any financial obligations that could arise from the transportation of that Shipper's Crude Oil under the terms of these Rules and Regulations, including the payment of transportation charges, equalization obligations and the value of the allowance oil and negative Shipper's balance positions. The Carrier shall not be obligated to accept Crude Oil for transportation from an existing or prospective Shipper if the Shipper or prospective Shipper fails to provide the requested information to the Carrier within ten (10) Days of the Carrier's written request, or if the Carrier's review of the requested information reveals that the existing or prospective Shipper does not have the capacity to satisfy any financial obligations that could arise from the transportation of that Shipper's Crude Oil under the terms of these Rules and Regulations, including the payment of transportation charges, equalization obligations and the reasonably determined value of the allowance oil and negative Shipper's balance positions. Shipper shall be required to report any material change to its financial condition reflected in documents provided to Carrier.

(b) Subject to the provisions of subsection (c) of this Item, the Carrier, upon notice to the Shipper, may only require one or more of the following Adequate Assurances for the payment of all charges and costs as provided for in this Tariff, or otherwise lawfully due to the Carrier to be provided at the expense of the Shipper:

- (1) Prepayment of charges for fees incurred by Carrier for transportation through Carrier's facilities without interest accruing thereon in advance of a delivery Month;
- (2) A cash deposit in an amount satisfactory to Carrier
- (3) a letter of credit at Shipper's expense in favor of Carrier in an amount sufficient to ensure payment of all costs and charges that could reasonably accrue due to the Carrier in a form and from an institution acceptable to Carrier; or
- (4) a guaranty in an amount sufficient to ensure payment of all such costs and charges that could reasonably accrue due to the Carrier, in a form and from a third party acceptable to Carrier

(together, the "*Adequate Assurances*").

(c) In the event that the Carrier reasonably determines that:

- (1) the existing or prospective Shipper's financial condition is or has become impaired or unsatisfactory;
- (2) any Adequate Assurances previously provided by a Shipper no longer provide adequate security for the performance of the Shipper's obligations that could arise from the transportation of its Crude Oil under the terms of this Tariff; or
- (3) the Carrier otherwise determines that it is necessary to obtain Adequate Assurances from the Shipper,

then the Shipper shall provide Adequate Assurances for the payment of the charges and costs as provided for in these Rules and Regulations or otherwise lawfully due to the Carrier relating to the transportation of the Shipper's Crude Oil by the Carrier. For the purpose of these Rules and Regulations, those charges and costs shall include, but are not limited to, transportation charges, equalization obligations, negative Shipper's balance positions and the allowance oil. The Carrier shall not be obligated to accept Crude Oil for transportation from an existing or prospective Shipper if the Shipper or prospective Shipper fails to deliver the Adequate Assurances to Carrier within two (2) Days of Shipper's receipt of Carrier's written request for such Adequate Assurances.

## **20. NOMINATION, MINIMUM QUANTITY**

(a) Crude Oil will be transported by Carrier only under a Nomination accepted by Carrier. Any Shipper desiring to Nominate Crude Oil for transportation shall make such nomination to Carrier prior to 5 p.m. Central Standard Time/Central Daylight Saving Time, whichever is applicable, on or before the 20<sup>th</sup> day of the Month preceding the month during which transportation under the Nomination is to begin; except that, if space is available for the current movement, Carrier has the right to accept a Nomination of Crude Oil for transportation after the 20<sup>th</sup> day of the Month preceding the Month during which transportation under the Nomination is to begin. When the 20<sup>th</sup> day of the Month falls on a weekend or holiday, Nominations will be required prior to 5 p.m. Central Standard Time/Central Daylight Saving Time, whichever is applicable, on the immediately preceding workday. Shippers must submit a separate Nomination for each calendar Month.

(b) Unless otherwise stated on a Tariff making reference to these Rules and Regulations, Nominations for the transportation of Crude Oil for which Carrier has facilities will be accepted into Carrier's System under these Rules and Regulations in quantities of not less than 150 Barrels monthly aggregate, at a daily rate or in quantities and at times to be specified by Carrier, from one or more Shippers as operations permit and provided such Crude Oil is of similar quality and characteristics as is being transported from the Receipt Point(s) to the Delivery Point(s).

(c) When Nominations submitted by Shippers to Carrier on or before the 20<sup>th</sup> day of the Month preceding the operating month do not exceed the capacity of the System or any line segment thereof, additional Nominations may be accepted by the Carrier to fill capacity. These additional Nominations will be accepted only if they do not impair the movement of Crude Oil Nominated before the 20<sup>th</sup> day of the preceding Month and shall be consistent with any terms and conditions of Committed Shippers' TSAs.

## **25. TITLE**

By nominating Crude Oil, Shipper warrants and guarantees that Shipper owns or controls the interest in the Crude Oil, and has the right to ship and/or market said Crude Oil, free from all liens and adverse claims of title ("*Adverse Claims*"), excluding liens to secure payments of production taxes, severance taxes, and other taxes. Carrier shall have the right to reject, on a not unduly discriminatory basis, any Crude Oil, when Nominated for transportation, which may be involved in litigation, or the title of which may be in dispute, or which may be encumbered by a lien or charge of any kind, and it may require of Shipper satisfactory evidence of its perfected and unencumbered title or satisfactory indemnity bond to protect Carrier.

Shipper agrees to indemnify Carrier and hold it harmless from all suits, actions, debts, accounts, damages, costs, losses and expenses arising from or out of Adverse Claims and any such tax liens, whether meritorious or not, of any and all persons, firms or corporations to said Crude Oil or to royalties, overriding royalties, taxes, license fees, or charges thereon. Carrier will be entitled to recover all reasonable costs and attorney's fees incurred by it as a result of its involvement in any action or claim involving Adverse Claims or any such taxes or tax liens.

## **30. SPECIFICATIONS AS TO QUALITY RECEIVED**

(a) Shipper warrants that Shipper's Crude Oil is of a quality acceptable to each of the receiving facilities downstream of the Delivery Point(s) ("*Receiving Facilities*"), in its natural produced state after normal oilfield lease operations and commercially free of dirt, sediment and chemicals foreign to virgin Crude Oil, including, but not limited to, chlorinated and/or oxygenated hydrocarbons, lead and hazardous or industrial wastes. Notwithstanding the foregoing, Carrier shall have the right, without prejudice to any other remedy available to Carrier, to reject any of Crude Oil that fails to meet the Quality Specifications ("out of spec"), even after delivery to Carrier, and to discontinue accepting Shipper's Crude Oil for so long as such conditions exist. Any acceptance by Carrier of out of spec Crude Oil in one instance shall not be deemed as a waiver by Carrier to reject out of spec Crude Oil at a later time. Shipper shall be liable for and shall indemnify Carrier and hold it harmless against all direct costs and Losses (including loss of revenues) incurred by Carrier for damage to Carrier's Facilities or third party Crude Oil caused by Shipper delivering Crude Oil failing to meet the Quality Specifications or for introduction of

contaminates into the Pipeline, which may include costs associated with draining the Pipeline facilities, decontaminating the Pipeline facilities, refilling it with Line Fill and associated loss of revenues. In addition, Shipper warrants that Shipper's Crude Oil:

(1) shall contain less than 0.4% sulfur;

(2) shall be of an API Gravity not to exceed 60° when corrected to 60° Fahrenheit provided that Carrier shall be permitted to batch Shipper's Crude Oil to prevent Carrier from exceeding the specifications set forth in Item No. 35;

(3) Shall not contain more than 1% by volume basic sediment and water ("*BS&W*") and other impurities, or on an individual basis, water shall not be more than 0.3% by volume and basic sediment shall be limited to 0.7% by volume as determined by the average of representative samples.

All specifications set forth in this Item No. 30 are referred to as, the "*Quality Specifications*".

(b) Carrier will work with connecting carriers regarding Carrier's quality specifications and will advise such connecting carriers that any Crude Oil found to be a detriment to Carrier's System will be rejected for further transportation on Carrier's System.

### **35. SPECIFICATIONS AS TO QUALITY DELIVERED**

Commingled Crude Oil in the Pipeline shall not be permitted to exceed the maximum API Gravity of the Receiving Facilities. Carrier may, in its own discretion or at the request of a Shipper, and if operationally feasible in Carrier's sole determination, utilize Batched Shipments for operational efficiency or to ensure that the Crude Oil being delivered at the Delivery Point(s) does not exceed an API Gravity of the lesser of 49.9° or the maximum API Gravity requirements of the Receiving Facilities.

### **40. MIXTURES**

The Indirect Liquid Products of oil and gas wells will not be accepted by Carrier. The installation or operation of vapor recovery units by Shipper shall not reduce Carrier's acceptance or delivery of Crude Oil hereunder.

**45. ADDITIVES**

Carrier reserves the right to approve or reject the injection of corrosion inhibitors, viscosity or pour point depressants, drag reducing agent, or other such additives in Crude Oil to be gathered and/or transported.

**50. DUTY OF CARRIER**

(a) Carrier shall transport Crude Oil with reasonable diligence, considering the quality of the Crude Oil, the distance of transportation, the safety of operation, and other material elements. Carrier cannot commit to delivering Crude Oil to a particular destination at a particular time.

(b) Carrier will operate its system and implement these Rules and Regulations, including those provisions providing for Carrier's discretion, in a manner that is not unduly discriminatory or unduly preferential.

(c) Carrier may refuse to accept any Barrels of Crude Oil from Shipper for services if Shipper is in violation of this Tariff or if a Committed Shipper is in breach of its TSA at the time the volumes of Crude Oil are Nominated or tendered to Carrier.

**55. GAUGING, TESTING AND DEDUCTIONS**

(a) Prior to or during receipt of Crude Oil Tendered by a Shipper, it shall be measured and tested by a representative of Carrier. All measurements by Coriolis mass measurement meters unless otherwise mutually agreed to by Carrier and Shipper on a not unduly discriminatory basis. All measurements and tests shall be made in accordance with the latest ASTM or American Society of Mechanical Engineers-American Petroleum Institute ("*ASME-API*") (Petroleum PD Meter Code) published methods then in effect, whichever apply. Volume and gravity shall be adjusted to 60° Fahrenheit by the use of Table 6A and 5A of the Petroleum Measurement Tables ASTM Designation D1250 in their latest revision. Full deduction for all free water and BS&W content shall be made according to the API/ASTM Standard Method then in effect. Either Party shall have the right to have a representative witness all gauges, tests and measurements. Except for arithmetic errors, in the absence of the other party's representative, such gauges, tests and measurements shall be deemed to be correct.

(b) Crude Oil shall be received and delivered with volume corrected as to temperature from observed degrees Fahrenheit to sixty degrees (60°) Fahrenheit and to correct actual pressures to 14.696 psia. A centrifuge or other methods agreed upon shall be used for ascertaining the percentage of basic sediment, water or other impurities in the Crude Oil, and the full amount of basic sediment, water and other impurities shall be deducted from the corrected volume.

(c) Each Shipper shall be allocated the Pipeline Loss Allowance on a pro-rata basis to cover all normal course of business losses sustained on Carrier's System due to evaporation, measurement, and other losses in transit.

(d) After consideration of all of the factors set forth in this Item, a net quantity (*i.e.* the net balance) will be determined as the quantity deliverable by Carrier, and transportation rates will be assessed on this net balance.

## **60. LINE FILL AND TANK FILL**

(a) Each Shipper shall provide its pro rata share of Barrels of Crude Oil for Line Fill and Tank Fill required for operation of the Pipeline, with such pro rata share being based, in the case of a Committed Shipper, on such Shipper's Committed Volume or, in the case of an Uncommitted Shipper, such Shipper's anticipated throughput over the upcoming calendar year. If the total throughput on the Pipeline increases, causing any particular Shipper's pro rata share of total capacity to decrease, Carrier shall provide a quarterly credit for each such Shipper's account equal to the decrease in that Shipper's pro rata share of Line Fill and Tank Fill. If the total throughput on the Pipeline decreases, causing any particular Shipper's pro rata share of total capacity to increase, Carrier shall have the right, on a quarterly basis, to obtain the necessary operational Line Fill and Tank Fill from the remaining Shippers.

(b) Any losses to Line Fill and/or Tank Fill due to evaporation, measurement or other losses in transit shall be subject to allocation among all Shippers on a pro rata basis but any individual Shipper's allocation during a Month shall never exceed 0.2% of that Shipper's Line Fill or Tank Fill, as applicable.

(c) Crude Oil furnished for Line Fill and Tank Fill may be withdrawn only after: (1) an Uncommitted Shipper has ceased Tendering shipments and has notified Carrier in writing of its intention to discontinue shipments in Carrier's System or a Committed Shipper's TSA has expired or terminated; (2) Shipper inventory balances have been reconciled between Shipper and Carrier; and (3) all fees due and payable to Carrier have been fully and finally paid. Carrier shall have a reasonable period of time after satisfaction of the above in which to complete administrative and operational requirements incident to Shipper's withdrawal of the Crude Oil.

## **65. FLOW RATES**

Carrier will normally take full stream receipts at Receipt Point and will make full stream Deliveries of Crude Oil at Delivery Point(s) at flow rates and volumes compatible with the Carrier's System operations.

**70. STORAGE, ORIGIN AND DESTINATION FACILITIES**

(a) Carrier has working tanks required in the process of transporting Crude Oil, but has no other tankage and, therefore, does not have facilities for rendering, nor does it offer, a storage service related to its Transportation service.

(b) Carrier will accept Crude Oil for transportation only when Shipper has provided or contracted with Carrier for the necessary facilities for delivering Crude Oil into the System at the Receipt Point(s) at a pressure, volume and flow rate compatible with System hydraulics at the proposed Receipt Point(s), and has made the necessary arrangements for shipment beyond the Delivery Point(s) or has provided the necessary facilities for receiving said Crude Oil as it arrives at the Delivery Point(s). Carrier shall not be responsible for fees, charges or cost associated with transfer, conveying, or delivering Crude Oil beyond the Delivery Point(s) of its System.

**75. NOTICE OF ARRIVAL, DELIVERY AT DESTINATION, DEMURRAGE**

(a) Carrier shall be obligated to deliver at Destination the volume of material delivered for transportation, less deductions, as provided herein. Carrier shall provide Shipper twenty-four (24) hours' notice of delivery.

(b) Inasmuch as Carrier has no facilities for rendering, nor does it offer, a storage service, time for accepting Delivery is of the essence, and upon failure to accept promptly any shipment, a demurrage charge of (1.05 cents) per Barrel per day for each day of twenty-four (24) hours or fractional part thereof shall accrue on any part of said shipment offered for delivery and not taken. After expiration of said twenty-four (24) hour notice, Carrier's liability for loss, damage, or delay with respect to the Crude Oil offered for delivery, but not taken by Shipper shall be that of warehouseman only.

(c) If the Shipper is unable or refuses to receive said Crude Oil as it arrives at the specified destination, the Carrier reserves the right to make whatever arrangements for disposition of the Crude Oil it deems appropriate in order to clear its pipeline, provided that Carrier shall treat sale of Shipper's Crude Oil as an option of last resort and shall provide Shipper with twenty-four (24) hours' notice and Shipper will have one (1) business Day to make arrangements to remove the affected Crude Oil from the pipeline prior to engaging in any manner of disposition. Any additional expenses incurred by the Carrier in making such arrangements shall be borne by the Shipper.

**80. OTHER CONTRACTS**

Other contracts may be required of a Shipper, in accordance with this Tariff and these Rules and Regulations, before any duty of transportation by the Carrier shall arise. In the event the terms and conditions in other contracts conflict with this Tariff and these Rules and Regulations, this Tariff and these Rules and Regulations control.

**85. INTRASYSTEM TRANSFERS**

Intrasystem transfers or changes of custody or ownership of Crude Oil are permitted, subject to the entity to whom the Crude Oil is transferred (“Transferee”) taking responsibility for the Transferor’s obligations, and meeting Carrier’s obligations, under this Tariff. An Intrasystem transfer request shall be confirmed in writing with Carrier by both the Transferor and the Transferee within seventy-two (72) hours after the request.

**90. CHARGE FOR FEES INCURRED BY CARRIER**

In addition to all other charges accruing on Crude Oil accepted for transportation through Carrier’s facilities, a per Barrel charge will be assessed and collected in the amount of any tax, fee, or other charge levied against Carrier by any Federal, State or local agency for the purpose of creating a fund for the reimbursement of parties who sustain costs or losses resulting from oil pipeline industry operations (including, without limitation, for the prevention, containment, clean-up and/or removal of spills, the reimbursement of persons sustaining loss therefrom or any other lawful purpose). Carrier shall be under no obligation to contest or protest on behalf of Shipper the legality of such tax, fee or other charge. If a per Barrel charge is assessed, the amount of such charge shall be stated in a FERC tariff.

**95. APPLICATION OF RATES & CHARGES**

(a) Crude Oil received for transportation shall be subject to the rates in effect on the date of receipt of such Crude Oil, irrespective of the date of the Tender. Shippers will be charged the applicable rate multiplied by the actual volumes tendered to the Carrier by such Shipper for the month. Such volumes tendered to Carrier will be determined in the manner provided in these Rules and Regulations, GAUGING, TESTING AND DEDUCTIONS.

(b) In the event that a Shipper tenders less than 95% of its Binding Allocation, as specified in these Rules and Regulations, Carrier shall charge Shipper a Capacity Allocation Fee equal to the rate applicable to Shipper’s Binding Allocation multiplied by the difference between 95% of Shipper’s Binding Allocation and its tendered volumes. Carrier shall not assess a Capacity Allocation Fee to the extent Shipper’s nominated volumes have been reduced because of an

event of Force Majeure, as defined in these Rules and Regulations, or Interruption or Curtailment, as defined in these Rules and Regulations.

#### **100. PAYMENT OF TRANSPORTATION RATES AND OTHER CHARGES**

(a) After delivery of Shipper's Crude Oil has commenced on Carrier's System, Carrier will mail a settlement statement to Shipper on or before the fifteenth (15<sup>th</sup>) day of the month following the Month of deliveries hereunder. Such statement will include but not be limited to:

- (1) The volume delivered to the Receipt Point(s) and volumes redelivered to the Delivery Point(s), net of the Pipeline Loss Allowance;
- (2) An itemization of the transportation fee in accordance with Carrier's applicable rates tariff.

In the event actual measurements of quantities of Shipper's Crude Oil are unavailable in any month of service, Carrier may invoice Shipper based on estimated quantities, which shall be corrected to actual quantities once such actual quantities are available. Payment shall be due within fifteen (15) days of the invoice date.

(b) Late payments shall accrue interest at the rate of 1.5% per month, or if such interest rate exceeds the maximum rate allowed by law, then the maximum rate allowed by law will be used. In the event a payment is late by more than sixty (60) days, Carrier may withhold from delivery Crude Oil volumes of equal value (in US Dollars) to the Dollar amount of the late payment (plus accrued interest) until payment of the late Fees has been made. Payments received by Carrier from Shipper shall be attributed to the earliest unpaid invoice issued to Shipper; provided, however, that such payments shall not be attributed to any amounts disputed subject to Item No. 100(d).

(c) A Party shall have the right, at its own expense, upon reasonable Notice and at reasonable times, to examine and audit and to obtain copies of the relevant portion of the books, records, and telephone recordings of the other Party to the extent reasonably necessary to verify the accuracy of any statement, charge, payment, or computation made under this Tariff. This right to examine, audit, and to obtain copies shall not be available with respect to proprietary information not directly relevant to transportation services provided under this Tariff. All invoices and billings shall be conclusively presumed final and accurate and all associated claims for underpayments or overpayments shall be deemed waived unless such invoices or billings are objected to in writing, with adequate explanation and documentation, within the twenty-four (24) month period following the month of Crude Oil delivery at the Delivery Point(s). All retroactive adjustments shall be paid in full by the Party owing payment within thirty (30) Days of notice substantiating such inaccuracy.

(d) To the extent a Committed Shipper is required to make a Deficiency Payment pursuant to the terms and conditions of that Committed Shipper's TSA, the TSA shall govern the manner in which Carrier collects the Deficiency Payment from the Committed Shipper.

(e) If Shipper, in good faith, disputes the amount of any such invoice or any part thereof, Shipper will pay such amount as it concedes to be correct. If Shipper disputes the amount due, it must provide supporting documentation acceptable in industry practice to support the amount disputed within ten (10) Days of the date of such invoice. If the Parties are unable to resolve such dispute, either Party may pursue any remedy available at law or in equity to enforce its rights under this Agreement. Carrier will have the right to suspend the performance of services under these Rules and Regulations if any then due undisputed payments remain unpaid; and, if such remain unpaid for thirty (30) days after notice to Shipper, Carrier will have the right to sell such portions of the Crude Oil at auction as necessary to reimburse Carrier for all then undisputed due amounts, including interest. Carrier may be a bidder and purchaser at such sale. Out of the proceeds of said sale, Carrier shall pay itself for all transportation, demurrage, and other lawful charges, expenses of notice, advertisement, sale and other necessary expenses, and expenses of caring for and maintaining the Crude Oil, and the balance shall be held for whomever may be lawfully entitled thereto after the auction. If the proceeds of said sale do not cover all expenses incurred by Carrier, the Shipper is liable to Carrier for any deficiency.

Carrier's rights under this item are not exclusive but shall be in addition to any other rights or remedies available hereunder or under applicable law.

## **105. INTERRUPTION AND CURTAILMENT**

(a) Carrier may interrupt, curtail or reduce transportation service to Shippers for such periods of time as it may reasonably require for the purpose of effecting or allowing any repairs, maintenance, replacement, upgrading or other work related to the pipeline System, or upstream/downstream facilities in circumstances which do not constitute Force Majeure ("***Interruption and Curtailment***"). If such interruption is due to a planned outage, Carrier shall give Shippers prior notice of such Interruption and Curtailment as soon as reasonably possible. If such interruption is unforeseen, Carrier shall give Shippers notice of such Interruption and Curtailment as soon as reasonably possible. Carrier shall use reasonable commercial efforts to minimize the extent and duration of any interruption and the impact of such interruption on the operation of the Pipeline System.

(b) During periods of Interruption and Curtailment, pursuant to this Item, Carrier shall curtail transportation service and prorate Available Capacity based upon Shipper's Binding Allocation determined in accordance with Item No. 110 of these Rules and Regulations.

(c) A “Curtailement” or “curtailement event” does not include Shipper's default or an inability to receive Crude Oil by any entity downstream of the Delivery Point(s) that is not an affiliate of Carrier for any reason.

## 110. PRORATIONING

This Proration Policy governs when the amount of Crude Oil Nominations properly submitted by the system Shippers exceeds Carrier’s capacity for a given Month (“*Proration Period*”). During a Proration Period, Available Capacity shall be allocated among eligible Shippers on a Monthly basis.

(a) Carrier will maintain up to ninety percent (90%) of the Available Capacity for Committed Shippers and Regular Shippers for allocation under subsection (c) below.

(b) Carrier shall make available at least ten percent (10%) of the Available Capacity to Uncommitted Shippers and Regular Shippers to the extent they submit Nominations in excess of their Regular Shipper Average Monthly Volumes, pro rata, for allocation under subsection (c) below.

(c) If Carrier receives Nominations for shipment of Crude Oil in excess of Available Capacity on a line segment for the month, Carrier shall allocate capacity among Committed Shippers, Regular Shippers, and Uncommitted Shippers based on the following procedures:

- (1) Carrier shall divide up to ninety percent (90%) of the Available Capacity by the total of all volumes nominated by Committed Shippers, up to their Committed Volumes (or the three (3) Month average of a Committed Shipper’s Required Quarterly Volume, as applicable), and Regular Shippers, up to their Regular Shipper Average Monthly Volumes, to determine the first Proration Factor. Carrier shall then multiply each Committed Shipper’s and Regular Shipper’s Nominations, up to their Committed Volumes (or the three (3) Month average of a Committed Shipper’s Required Quarterly Volume, as applicable) and Regular Shipper Average Monthly Volumes, respectively, by the first Proration Factor to determine the Committed Shippers’ allocation of capacity without operation of the Priority Capacity Election.
- (2) Seven (7) Days before the first (1<sup>st</sup>) Day of the Proration Period, Carrier shall notify each Committed Shipper of the capacity that would be allocated to that Committed Shipper through the operation of subsection (c)(1) without making a Priority Capacity Election, and shall provide each Committed Shipper twenty-four (24) hours to make a Priority Capacity Election with respect to all or part of its Nomination, up to its Committed Volume (or the three (3) Month average of a Committed Shipper’s Required Quarterly Volume, as applicable). For purposes of this subsection (c)(2), in the event of FORCE MAJEURE or INTERRUPTION AND CURTAILMENT, a Committed Shipper’s Nomination shall also be adjusted to be a pro rata share of aggregate Committed Shipper Nominations (or the three (3) Month average of a Committed Shipper’s Required Quarterly Volume, as applicable, to the extent such Committed Shipper has nominated its full Required Quarterly Volume) multiplied by

ninety percent (90%) of Available Capacity. A Committed Shipper's Committed Volume shall also be prorated to account for reductions in Available Capacity.

- (3) Committed Shippers making a Priority Capacity Election in subsection (c)(2) shall be allocated their Priority Capacity to the extent of such Priority Capacity Election, plus their allocation of capacity determined in subsection (c)(1). Committed Shippers not making a Priority Capacity Election shall be allocated only their capacity determined in subsection (c)(1).
  - (4) After capacity is allocated under subsection (c)(3), the remaining Available Capacity, up to ninety percent (90%) of all Available Capacity, shall be allocated pro rata to Regular Shippers based upon their respective Nominations that are less than or equal to their Regular Shipper Average Monthly Volumes.
  - (5) After an allocation is made pursuant to subsection (c)(4), the remaining Available Capacity shall be allocated pro rata to Regular Shippers (for volumes not allocated under subsection (c)(4)) and Uncommitted Shippers.
- (d) Any remaining Available Capacity not allocated through the application of paragraphs (c)(1) through (c)(5) shall be allocated pro rata among Shippers having unmet Nominations according to the following priority until the remaining Available Capacity is fully allocated or all of the remaining Nominations have been fulfilled: first to Committed Shippers, second to Regular Shippers; and third to Uncommitted Shippers.
- (e) If during a Proration Period, a Shipper fails to use all of its allocation of Available Capacity, such unused allocation shall be made available first to Committed Shippers, second to Regular Shippers, and third to Uncommitted Shippers.
- (f) Carrier will inform each Shipper of its Binding Allocation by five (5) days before the Month during which transportation is to begin.
- (g) A Shipper may not use an affiliated or cooperating entity to obtain an increased allocation of Available Capacity during a Proration Period or, in the case of a Regular Shipper, seek Uncommitted Shipper status in order to pool two or more allocations to the benefit of the Shipper.

## **115. LIABILITY OF CARRIER**

In addition to the liability previously defined in these Rules and Regulations:

- (a) Carrier shall not be liable to Shipper for any delay in delivery, damage thereto, or for any loss of Crude Oil caused by Force Majeure, by act of default of Shipper, by act or default by the Crude Oil owner (if different from the Shipper), by a defect or vice in the transported Crude Oil, or resulting from any other cause not due to the gross negligence of Carrier. Any such loss or damage shall be apportioned by Carrier to each shipment or Batched Shipment of Crude Oil or

portion thereof involved in such loss in the proportion that such shipment or portion thereof bears to the total of all Crude Oil in the loss, and each Shipper shall be entitled to receive only that portion of its shipment remaining after deducting his proportion as above determined of such loss. Carrier shall prepare and submit a statement to Shipper showing the apportionment of any such loss.

(b) Carrier will not be liable for discoloration, contamination, or deterioration of Crude Oil transported unless such discoloration, contamination, or deterioration of Crude Oil transported results from the gross negligence of Carrier.

(c) Carrier will operate the Pipeline under the Tariff solely as a common carrier and not as an owner, manufacturer, or seller of the Crude Oil transported or stored thereunder, and Carrier expressly disclaims any liability for any expressed or implied warranty for Crude Oil transported or stored thereunder, including any warranties of merchantability or fitness for intended use.

## **120. LIABILITY OF SHIPPER**

In addition to the liability previously defined in these Rules and Regulations:

(a) Shipper shall be in control and possession of the Crude Oil until delivered to Carrier at the Origin(s) and following delivery of the Crude Oil by Carrier at the Destination(s). While in Shipper's control and possession, Shipper shall be fully responsible and liable for any and all damages, claims, actions, expenses, penalties and liabilities, including attorney's fees, arising from personal injury, death, property damage, environmental damage, pollution, or contamination relating to the Crude Oil and Shipper agrees to release, indemnify, hold harmless, and defend Carrier with respect thereto. Shipper further agrees to release, indemnify, hold harmless, and defend Carrier from and against any and all damages, claims, actions, expenses, penalties and liabilities, including attorney's fees, arising from personal injury, death, property damage, environmental damage, pollution, or contamination relating to Shipper's performance or nonperformance of its obligations under this Agreement.

(b) Shipper shall also be liable to Carrier for property damage, repairs, and restoration, including damages for loss of use of any of its facilities, which may in any manner arise or grow out of Shipper's breach of warranty or representation with respect to any shipment Tendered by it and transported by Carrier, including Shipper's failure to Tender Crude Oil that meets the quality specifications set forth herein. Shipper will release, indemnify, hold harmless, and defend Carrier from and against any and all damages, claims, actions, expenses, penalties and liabilities, including attorney's fees, arising from any breach of warranty or representation.

**125. FORCE MAJEURE**

(a) The term “Force Majeure”, as used herein is as defined in DEFINITIONS of these rules and regulations.

(b) The following shall not, under any circumstance, constitute an event of Force Majeure:

- (1) Shipper’s inability to purchase Crude Oil;
- (2) Shipper’s lack of funds;
- (3) The availability of more attractive markets for Crude Oil;
- (4) The absence of a market for Crude Oil; or
- (5) The availability of alternative Crude Oil transportation Systems.

(c) If a Party is rendered unable, wholly or in part, by Force Majeure to carry out its obligations under this Tariff, then the non-performing Party shall give prompt written notice of the Force Majeure stating facts supporting such claim of inability to perform. Thereupon, the Party’s obligation to perform shall be suspended during the period it is unable to perform because of the Force Majeure, but for no longer period. The non-performing Party shall use due diligence to remove the cause of Force Majeure, where commercially practicable, with all reasonable dispatch; provided, however, that this provision shall not require the settlement of strikes, lockouts, or other labor difficulty, when such course is determined inadvisable by such Party.

(d) Notwithstanding the above provisions, no event of Force Majeure shall:

- (1) Relieve any Party from any obligation under a Contract or the Tariff unless such Party gives notice with reasonable promptness of such event to the other Party; or
- (2) Relieve any Party from any obligation under a Contract or the Tariff after the expiration of a reasonable period of time within which, by the use of its due diligence, such Party could have remedied or overcome the consequences of such event of Force Majeure.

(e) Except as otherwise expressly provided in the Tariff, no event of Force Majeure shall relieve any Shipper from its obligations under the Tariff to make payments pursuant to these Rules and Regulations or to provide Adequate Assurances pursuant to these Rules and Regulations to Carrier under the Tariff during the continuance of such Force Majeure event.

**130. CLAIMS, SUITS, AND TIME FOR FILING**

As a condition precedent to recovery, claims other than those under Section 100 of these Rules and Regulations, PAYMENT OF TRANSPORTATION RATES AND OTHER CHARGES, must be filed in writing with the Carrier within nine (9) months after delivery of the Crude Oil,

or, in case of failure to make delivery, then within nine (9) months after a reasonable time for delivery has elapsed; and suits arising out of such claims shall be instituted against the Carrier only within two (2) years and one (1) day from the day when notice of the claim was provided to Carrier in writing. Where claims are not filed or suits are not instituted thereon in accordance with the foregoing provisions, Carrier will not be liable and such claims will not be paid.

### **135. COMMITTED SHIPPER PROGRAM**

In addition to the rules and regulations set forth in this tariff, as applicable, and the terms of a Committed Shipper's TSA, the provisions in this Item No. 135 shall apply to qualifying shipments of a Committed Shipper:

(a) **Committed Volume.** As of the Commencement Date, or the commencement date as set forth in a Committed Shipper's TSA, whichever is later for that particular Committed Shipper, and continuing through the term of the TSA, a Committed Shipper agrees to Nominate and ship, or otherwise pay a Deficiency Payment for failure to ship its Required Monthly Volume. Carrier shall assess the Deficiency Payment pursuant to that Committed Shipper's TSA.

(b) **Priority Capacity Election.** A Committed Shipper eligible to make a Priority Capacity Election should the Pipeline enter into a period of Proration may elect and secure Priority Capacity by paying a one cent (\$0.01) per Barrel premium over the General Commodity Rate set forth in Carrier's applicable rates tariff for its Committed Volume(s). The portion of a Committed Shippers' actual shipments, up to its Committed Volume, that are not subject to a Priority Capacity Election, shall be subject to the applicable Committed Rate.

(c) **Dedication.** Dedication shall mean all of a Committed Shipper Option 1 Shipper's recoverable Crude Oil or all of a Committed Shipper Option 1 Shipper's Affiliate's recoverable Crude Oil produced from oil and gas wells located within the "**Production Area**" in which Shipper or its Affiliates now or hereunder owns, controls, acquires, and has the right to sell, market (as such marketing rights may change from time to time), or otherwise dispose of, and that is not subject to a prior dedication; and, by a Dedication Shipper's executed TSA dedicates and commits all present and future right, title, and interest in the Crude Oil produced from the oil and gas wells located within the Production Area solely to Carrier and/or its Affiliates for gathering and transportation for the TSA's term. The Production Area is defined as: (1) "South Lipscomb" located in Lipscomb and Hemphill Counties, Texas and a two (2) mile radius surrounding the South Lipscomb area; (2) and "Hemphill" located in Hemphill County, Texas.

(f) **Excess Volume.** Subject to available capacity, Committed Shipper shall have the right during each Month of the term of its TSA, but not the obligation, to ship Crude Oil in excess of its Committed Volume ("**Excess Volume**") at its Committed Shipper rate. Carrier agrees to

transport such Excess Volume subject to available capacity and the provisions set forth in this Tariff and the Committed Shipper's TSA.

(g) Carrier's Right to Utilize Unused Capacity. To the extent a Committed Shipper does not utilize up to its Committed Volume in any Month, Carrier shall be free to utilize such unused capacity for the provision of transportation services to other Shippers without impacting the payment obligations of Committed Shipper, including a Committed Shipper's obligation to make Deficiency Payments pursuant to this Tariff and Committed Shipper's TSA. Any unused Committed Volume will be made available on a first-come, first-serve basis for Committed Shipper Excess Volume prior to being made available subject to Item No. 20(c) of these Rules and Regulations.