

PINNACLE TRANSPECOS MIDSTREAM, LLC

LOCAL TARIFF

CONTAINING

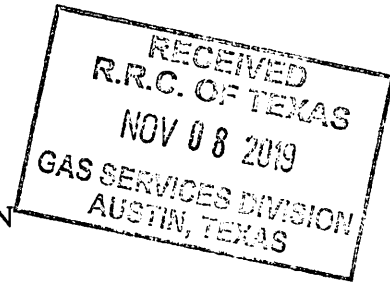
RULES, REGULATIONS AND RATES

GOVERNING THE GATHERING AND TRANSPORTATION

OF

CRUDE OIL

BY PIPELINE



Rules and regulations published herein apply only under tariffs making specific reference by number to this tariff; such references will include subsequent reissues hereof.

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

P-5 Operator ID: P-665694; T-4 Permit Information: 09669.

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SECTION I
RULES AND REGULATIONS OF RAILROAD COMMISSION OF TEXAS
RULE 71. PIPELINE TARIFFS

The following nineteen (1-19) rules are reprinted here pursuant to the requirements of the Railroad Commission of Texas, Title 16, Part 1, Chapter 3: Rule §3.71. The Rules and Regulations set forth in this Section I may be modified by the Rules and Regulations contained in Section II and which are referenced at the end of each particular Rule 1-19 by the words "Refer to Item ____."

Every person owning, operating, or managing any pipeline, or any part of any pipeline, for the gathering, receiving, loading, transporting, storing, or delivering of crude petroleum as a common carrier shall be subject to and governed by the following provisions, common carriers specified in this section shall be referred to as "pipelines," and the owners or shippers of crude petroleum by pipelines shall be referred to as "shippers."

Rule 1. All marketable oil to be received for transportation. By the term "marketable oil" is meant any crude petroleum adapted for refining or fuel purposes, properly settled and containing not more than 2.0% of basic sediment, water, or other impurities above a point six inches below the pipeline connection with the tank. Pipelines shall receive for transportation all such "marketable oil" tendered; but no pipeline shall be required to receive for shipment from any one person an amount exceeding 3,000 barrels of petroleum in any one day; and, if the oil tendered for transportation differs materially in character from that usually produced in the field and being transported therefrom by the pipeline, then it shall be transported under such terms as the shipper and the owner of the pipeline may agree or the commission may require. (Refer to Item 22.)

Rule 2. Basic sediment, how determined -- temperature. In determining the amount of sediment, water, or other impurities, a pipeline is authorized to make a test of the oil offered for transportation from an average sample from each such tank, by the use of centrifugal machine, or by the use of any other appliance agreed upon by the pipeline and the shipper. The same method of ascertaining the amount of the sediment, water, or other impurities shall be used in the delivery as in the receipt of oil. A pipeline shall not be required to receive for transportation, nor shall consignee be required to accept as a delivery, any oil of a higher temperature than 90 degrees Fahrenheit, except that during the summer oil shall be received at any atmospheric temperature, and may be delivered at like temperature. Consignee shall have the same right to test the oil upon delivery at destination that the pipeline has to test before receiving from the shipper. (Refer to Item 22.)

Rule 3. "Barrel" defined. For the purpose of these sections, a "barrel" of crude petroleum is declared to be 42 gallons of 231 cubic inches per gallon at 60 degrees Fahrenheit.

Rule 4. Oil involved in litigation, etc. -- indemnity against loss. When any oil offered for transportation is involved in litigation, or the ownership is in dispute, or when the oil appears to be encumbered by lien or charge of any kind, the pipeline may require of shippers an indemnity bond to protect it against all loss. (Refer to Item 31.)

Rule 5. Storage. Each pipeline shall provide, without additional charge, sufficient storage, such as is incident and necessary to the transportation of oil, including storage at destination or so near thereto as to be available for prompt delivery to destination point, for five days from the date of order of delivery at destination. (Refer to Item 45.)

Rule 6. Identity of oil, maintenance of oil. A pipeline may deliver to consignee either the identical oil received for transportation, subject to such consequences of mixing with other oil as are incident to the usual pipeline transportation, or it may make delivery from its common stock at destination; provided, if this last be done, the delivery shall be of substantially like kind and market value. (Refer to Item 23.)

Rule 7. Minimum quantity to be received. A pipeline shall not be required to receive less than one tank car-load of oil when oil is offered for loading into tank cars at destination of the pipeline; When oil is offered for transportation for other than tank car delivery, a pipeline shall not be required to receive less than 500 barrels. (Refer to Item 24.)

Rule 8. Gathering charges. Tariffs to be filed by a pipeline shall specify separately the charges for gathering of the oil, for transportation, and for delivery. (Refer to Section III.)

Rule 9. Measuring, testing, and deductions (Reference Special Order Number 20-63,098 Effective June 18, 1973). (Refer to Item 27)

(A) Except as provided in subparagraph (B) of this paragraph, all crude oil tendered to a pipeline shall be gauged and tested by a representative of the pipeline prior to its receipt by the pipeline. The shipper may be present or represented at the gauging or testing. Quantities shall be computed from correctly compiled tank tables showing 100% of the full capacity of the tanks.

(B) As an alternative to the method of measurement provided in subparagraph (A) of this paragraph, crude oil and condensate may be measured and tested, before transfer of custody to the initial transporter, by:

(i) lease automatic custody transfer (LACT) equipment, provided such equipment is installed and operated in accordance with the latest revision of American Petroleum Institute (API) Manual of Petroleum Measurement Standards, Chapter 6.1. or;

(ii) any device or method, approved by the commission or its delegate, which yields accurate measurements of crude oil or condensate.

(C) Adjustments to the quantities determined by the methods described in subparagraphs (A) or (B) of this paragraph shall be made for temperature from the nearest whole number degree to the basis of 60 degrees Fahrenheit and to the nearest 5/10 API degree gravity in accordance with the volume correction Tables 5A and 6A contained in API Standard 2540. American Society for Testing Materials 01250, Institute of Petroleum 200, first edition, August, 1980. A pipeline may deduct the basic sediment, water, and other impurities as shown by the centrifugal or other test agreed upon by the shipper and pipeline; and 1.0% for evaporation and loss during transportation. The net balance shall be the quantity deliverable by the pipeline. In allowing the deductions, it is not the intention of the commission to affect any tax or royalty obligations imposed by the laws of Texas on any producer or shipper of crude oil.

(D) A transfer of custody of crude between transporters is subject to measurement as agreed upon by the transporters.

Rule 10. Delivery and demurrage. Each pipeline shall transport oil with reasonable diligence, considering the quality of the oil, the distance of transportation, and other material elements, but at any time after receipt of a consignment of oil, upon 24 hours' notice to the consignee, may offer oil for delivery from its common stock at the point of destination, conformable to Rule 6 of this section, at a rate not exceeding 10,000 barrels per day of 24 hours. Computation of time of storage (as provided for in Rule 5 of this section) shall begin at the expiration of such notice. At the expiration of the time allowed in Rule 5 of this section for storage at destination, a pipeline may assess a demurrage charge on oil offered for delivery and remaining undelivered, at a rate for the first 10 days of \$.001 per barrel; and thereafter at a rate of \$.0075 per barrel, for each day of 24 hours or fractional part thereof. (Refer to Item 29.)

Rule 11. Unpaid Charges, lien for and sale to cover. A pipeline shall have a lien on all oil to cover charges for transportation, including demurrage, and it may withhold delivery of oil until the charges are paid. If the charges shall remain unpaid for more than five days after notice of readiness to deliver, the pipeline may sell the oil at public auction at the general office of the pipeline on any day not a legal holiday. The date for the sale shall be not less than 48 hours after publication of notice in a daily newspaper of general circulation published in the city where the general office of the pipeline is located. The notice shall give the time and place of the sale, and the quantity of the oil to be sold. From the proceeds of the sale, the pipeline may deduct all charges lawfully accruing, including demurrage, and all expenses of the sale. The net balance shall be paid to the person lawfully entitled thereto. (Refer to Item 34.)

Rule 12. Notice of claim. Notice of claims for loss, damage, or delay in connection with the shipment of oil must be made in writing to the pipeline within 91 days after the damage, loss, or delay occurred. If the claim is for failure to make delivery, the claim must be made within 91 days after a reasonable time for delivery has elapsed. (Refer to Item 39.)

Rule 13. Telephone-telegraph line--shipper to use. If a pipeline maintains a private telegraph or telephone line, a shipper may use it without extra charge, for messages incident to shipments. However, a pipeline shall not be held liable for failure to deliver any messages away from its office or for delay in transmission or for interruption of service.

Rule 14. Contracts of transportation. When a consignment of oil is accepted, the pipeline shall give the shipper a run ticket, and shall give the shipper a statement that shows the amount of oil received for transportation, the points of origin and destination, corrections made for temperature, deductions made for impurities, and the rate for such transportation.

Rule 15. Shipper's tanks, Etc. -- inspection. When a shipment of oil has been offered for transportation the pipeline shall have the right to go upon the premises where the oil is produced or stored, and have access to any and all tanks or storage receptacles for the purpose of making any examination, inspection, or test authorized by this section.

Rule 16. Offers in excess of facilities. If oil is offered to any pipeline for transportation in excess of the amount that can be immediately transported, the transportation furnished by the pipeline shall be apportioned among all shippers in proportion to the amounts offered by each; but no offer for transportation shall be considered beyond the amount which the person requesting the shipment then has ready for shipment by the pipeline. The pipeline shall be considered as a shipper of oil

produced or purchased by itself and held for shipment through its line, and its oil shall be entitled to participate in such apportionment. (Refer to Item 26.)

Rule 17. Interchange of tonnage. Pipelines shall provide the necessary connections and facilities for the exchange of tonnage at every locality reached by two or more pipelines, when the commission finds that a necessity exists for connection, and under such regulations as said commission may determine in each case.

Rule 18. Receipt and delivery -- necessary facilities for. Each pipeline shall install and maintain facilities for the receipt and delivery of marketable crude petroleum of shippers at any point on its line if the commission finds that a necessity exists therefor, and under regulations by the commission. (Refer to Item 28.)

Rule 19. Reports of loss from fires, lightning, and leakage.

(A) Each pipeline shall immediately notify the commission district office, electronically or by telephone, of each fire that occurs at any oil tank owned or controlled by the pipeline, or of any tank struck by lightning. Each pipeline shall in like manner report each break or leak in any of its tanks or pipelines from which more than five barrels escape. Each pipeline shall file the required information with the commission in accordance with the appropriate commission form within 30 days from the date of the spill or leak.

(B) No risk of fire, storm, flood, or act of God, and no risk resulting from riots, insurrection, rebellion, war, or act of the public enemy, or from quarantine or authority of law or any order, requisition or necessity of the government of the United States in time of war, shall be borne by a pipeline, nor shall any liability accrue to it from any damage thereby occasioned. If loss of any crude oil from any such causes occurs after the oil has been received for transportation, and before it has been delivered to the consignee, the shipper shall bear a loss in such proportion as the amount of his shipment is to all of the oil held in transportation by the pipeline at the time of such loss, and the shipper shall be entitled to have delivered only such portion of his shipment as may remain after a deduction of his due proportion of such loss, but in such even the shipper shall be required to pay charges only on the quantity of oil delivered. This section shall not apply if the loss occurs because of negligence of the pipeline. (Refer to Items 37 and 38.)

(C) Common carrier pipelines shall mail (return receipt requested) or hand deliver to landowners (persons who have legal title to the property in question) and residents (persons whose mailing address is the property in question) of land upon which a spill or leak has occurred, all spill or leak reports required by the commission for that particular spill or leak within 30 days of filing the required reports with the commission. Registration with the commission by landowners and residents for the purpose of receiving spill or leak reports shall be required every five years, with renewal registration starting January 1, 1999. If a landowner or resident is not registered with the commission, the common carrier is not required to furnish such reports to the resident or landowner.

**SECTION II
RULES AND REGULATIONS**

20. DEFINITIONS

“Adequate Assurance of Performance” has the meaning set forth in Item 35.B.

“Adverse Claims” has the meaning set forth in Item 31.B.

“Affiliate” means, with respect to any person or entity, any person or entity that directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, such person or entity. For this purpose, “control” means the direct or indirect ownership of fifty percent (50%) or more of the outstanding capital stock or other equity interests having voting power.

“A.P.I.” means the American Petroleum Institute.

“Applicable Law” means all applicable: laws, statutes, directives, codes, ordinances, rules (including the rules of any securities exchange), regulations and municipal by-laws; and judicial, arbitral, administrative, ministerial, departmental or regulatory judgments, orders, decisions, rulings or awards, consent orders, consent decrees and policies of any Governmental Authority.

“ASTM” means the American Society for Testing Materials.

“Barrel” means a liquid measure equal to 42 U.S. gallons.

“Base Period” means the 12-calendar month period, beginning 13-months prior to the Proration Month and excluding the month preceding the Proration Month.

“Base Shipments” means the average monthly movements by a Regular Shipper during the Base Period divided by total average movements of all Regular Shippers during the Base Period. The resulting percentage equals the percent of Non-Firm Capacity that a Regular Shipper is entitled to during the Proration Month.

“Carrier” means Pinnacle TransPecos Midstream, LLC.

“Change in Law” means the adoption, amendment, enactment, implementation, issuance, modification, promulgation, or repeal of any Applicable Law or any material change in the interpretation of any Applicable Law by any Governmental Authority that causes Carrier to incur additional expenses in order to operate the System in compliance with such Applicable Law.

“Change in Law Event” means the occurrence of a Change in Law that necessitates the expenditure of Compliance Costs.

“COGA” means an effective crude oil gathering agreement between a Committed Shipper and Carrier.

“Committed Shipper” means a producer that has made an acreage dedication or well dedication, as applicable, to Carrier’s System pursuant to a COGA.

“Compliance Costs” means expenses incurred by Carrier as a result of a Change in Law Event, including capital expenditures, irrespective of whether such expenses are to be incurred as a one-time expenditure or periodically for an extended period.

“Consignee” means the Person to whom a Shipper has ordered the delivery of Crude Oil.

“Consignor” means the Person from whom a Shipper has ordered the receipt of Crude Oil.

“Crude Oil” means the mixture of hydrocarbons that exist in natural underground reservoirs after passing through surface separation and well site treatment facilities and remain liquid at atmospheric pressure, and temperature that meet the Quality Specifications set forth in Item 22.A.

“Declaring Party” means the Party experiencing an event of Force Majeure.

“Delivery Point” means the delivery points(s) on Carrier’s System where Crude Oil is delivered to Shipper or Consignor, as such points are specified in Section III of this tariff.

“Downstream Facilities” means those pipelines and other facilities directly connected to the System at or downstream of any Delivery Point.

“Excess Line Fill” has the meaning set forth in Item 30.B.

“Final Nomination Deadline” has the meaning set forth in Item 25.B.

“Firm Capacity” means the System Capacity that is not subject to proration during normal operating conditions.

“Force Majeure” means any cause or interrelated causes not reasonably within the control of the Declaring Party and which is not able to be prevented or overcome by the exercise of reasonable diligence of the Declaring Party. To the extent they satisfy the foregoing definition, examples of Force Majeure may include: any acts of God; strikes, lockouts or other labor disputes or disturbances (the settlement of strikes, lockouts or labor disputes being entirely within the Declaring Party’s discretion); acts of the public enemy, sabotage, terrorism, wars, blockades; insurrections, riots and other civil disturbances; epidemics; landslides, floods, lightning, earthquakes, fires, tornadoes, hurricanes, or other severe or extreme weather events, and warnings for any of the foregoing which may necessitate the precautionary shut-down of wells, plants, pipelines, gathering systems, loading facilities, refineries, terminals or any portion thereof, or other related facilities; arrests and restraints of governments (either federal, state, civil or military); explosions, breakage or accidents to equipment, machinery, plants or any portion thereof, or lines of pipe, or the unscheduled maintenance, repairs or alterations to any of the foregoing, freezing of lines of pipe, partial or complete failure of wells irrespective of whether such wells or lines are operated by a Party; unscheduled maintenance of the facilities used by a Party or its Affiliates to perform their obligations under this Agreement; constraints on or physical disruption to Downstream Facilities that are directly connected to a Party’s facilities used herein; refusal or other failure to accept Product by persons owning or operating Downstream Facilities that are directly connected to a Party’s facilities used herein; inability to secure permits or access rights after the exercise of diligent efforts, which are required for the Declaring Party’s performance hereunder; electric power shortages or outages; the necessity for compliance with any court order, or any Applicable Law promulgated or amended by a Governmental Authority having or asserting

proper jurisdiction after the effective date of a COGA or the effective date of the relevant tariff, as applicable; and other causes of a similar nature not reasonably within the control of the Declaring Party. Force Majeure also includes any event of force majeure occurring with respect to the facilities or services of the Declaring Party's Affiliates or service providers providing a service or providing any equipment, goods, supplies or other items necessary to the performance of the Declaring Party's obligations hereunder, in each case only to the extent not reasonably within the control of the Declaring Party's Affiliates and which is not able to be prevented or overcome by the exercise of reasonable diligence of the Declaring Party or the Declaring Party's Affiliates. Notwithstanding anything to the contrary set forth in a COGA or this tariff, as applicable, none of the following shall, under any circumstance, constitute a Force Majeure event: (i) the lack of financial resources, or the inability of a Party to secure funds or make payments as required by its COGA or this tariff, as applicable, absent the other Party's breach of its COGA or this tariff which has a material effect on such Party, (ii) adverse market, financial or other economic conditions including changes in market conditions that either directly or indirectly affect the demand for or price of Product, or (iii) availability of more attractive markets for Product or gathering services for gathering the Product.

"Governmental Authority" or "Governmental Authorities" means any governmental, administrative or regulatory entity, authority, commission, board, agency, instrumentality, bureau or political subdivision, and any court, tribunal or judicial or arbitral body (whether national, federal, state or local or, in the case of an arbitral body, whether governmental, public or private), having jurisdiction over any Party.

"LACT" means a lease automatic custody transfer unit.

"Line Fill" has the meaning set forth in Item 30.A.

"Maximum Daily Quantity" means the amount of Firm Capacity that a Committed Shipper shall be entitled to receive, on a Barrel-per-day basis, during the term of such Committed Shipper's COGA.

"Minimum Credit Rating" has the meaning set forth in Item 35.B(5).

"New Shipper" is any Uncommitted Shipper that does not qualify as a Regular Shipper.

"Nomination," "Nominate," or "Nominated" means an offer by a Shipper to Carrier of a stated quantity of Crude Oil for transportation from a specified Receipt Point or points to a specified Delivery Point or points in accordance with this tariff.

"Non-Firm Capacity" means System capacity that is not reserved for Committed Shippers pursuant to Item 26 and therefore is available to allocate to Uncommitted Shippers pursuant to Item 26.

"Notification" has the meaning set forth in Item 30.C(3).

"Off-Spec Crude Oil" has the meaning set forth in Item 22.D.

"Party" shall refer to either Shipper or Carrier, individually, and "Parties" shall refer to Carrier and Shipper, collectively.

"Pipeline Loss Allowance" has the meaning set forth in Item 41.

“Proration Month” means the month for which capacity is to be allocated under Item 26.

“Quality Bank” has the meaning set forth in Item 23.C.

“Quality Specifications” has the meaning set forth in Item 22.A.

“Receipt Point” means the receipt/inception point(s) where Crude Oil is received into the System, as such points are specified in Section III of this tariff.

“Reid Vapor Pressure” means the vapor pressure of Crude Oil at 100 degrees Fahrenheit as determined by the latest edition of ASTM D6377 (RVPE): Standard Test Method for Determination of Vapor Pressure of Crude Oil.

“Regular Shipper” means an Uncommitted Shipper that has a record of shipment on the System during each month of the Base Period.

“Shipper” means a party that contracts with Carrier for transportation of Crude Oil in accordance with this tariff and any other applicable tariffs of Carrier.

“System” means that portion of Carrier’s pipeline system, including all appurtenances thereto, related to the provision of gathering and transportation services provided by Carrier pursuant to this tariff.

“System Capacity” means the operational capacity of the System at any applicable point in time.

“Tender” or “Tendered” means delivery by Shipper to Carrier of a stated quantity of Crude Oil for transportation from a specified Receipt Point to a specified Delivery Point on the System in accordance with this tariff.

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

“Unremoved Crude Oil” means Crude Oil that Shipper fails to arrange for receipt of, or refuses to receive, upon Carrier’s delivery at the Nominated Delivery Point.

21. COMMODITY

Carrier is engaged in the transportation on the System of Crude Oil meeting the applicable Quality Specifications set forth in Item 22 and will not accept any other commodity for transportation under this tariff.

22. QUALITY SPECIFICATIONS

A. Carrier reserves the right to reject any Crude Oil that has (1) a Reid Vapor Pressure in excess of nine pounds per square inch, (2) an A.P.I. Gravity less than 30 degrees or greater than 55.0 degrees, or (3) an H2S content in excess of 10 ppm. In addition, Carrier reserves the right to reject any Crude Oil that has a sulfur content in excess of the following:

- For Crude Oil with an A.P.I. Gravity between 30.0 and 38.0 degrees, the maximum sulfur content is 2.5 percent

- For Crude Oil with an A.P.I. Gravity between 38.1 and 44.0 degrees, the maximum sulfur content is 0.40 percent
- For Crude Oil with an A.P.I. Gravity between 44.1 and 50.0 degrees, the maximum sulfur content is 0.40 percent
- For Crude Oil with an A.P.I. Gravity between 50.1 and 55.0 degrees, the maximum sulfur content is 0.10 percent

In addition to the above, all Crude Oil Tendered for transportation on Carrier's System shall meet the most stringent quality specifications required by any third party pipeline at the Delivery Point where Shipper's Crude Oil is being delivered from Carrier's System, as such quality specifications from time to time exist. Thus, if a third party pipeline connected at a Delivery Point has more stringent quality specifications than those required in this Item 22.A, the more stringent quality specifications of the third party pipeline shall apply. The quality requirements set forth in this Item 22.A are referred to herein as the "**Quality Specifications.**" In the event that the Quality Specifications required by any third party pipeline at any Delivery Point changes, Carrier shall promptly provide Shipper with written notice thereof. Carrier reserves the right to reject any Crude Oil that does not meet the Quality Specifications set forth herein.

- B. By Tendering Crude Oil on the System under this tariff, Shipper acknowledges and agrees that the Quality Specifications of any pipeline to which the System connects at a Delivery Point are subject to change from time to time, and Carrier makes no representation regarding the duration of any particular quality specification of any pipeline to which the System connects at a Delivery Point.
- C. Shipper, at its sole cost and risk, shall perform applicable tests to ensure that the Crude Oil it Tenders to Carrier for transportation on the System conforms to the applicable Quality Specifications. Carrier may witness such testing from time to time, as specified in subpart (D) below. Carrier may also require Shipper to furnish a certificate setting forth in detail the specifications of each shipment of Crude Oil offered for transportation hereunder.
- D. Carrier or its representative may test all Crude Oil Tendered for transportation on Carrier's System for compliance with the applicable Quality Specifications. All such tests shall be performed by Carrier, but Shipper, Consignor, or Consignee may be present or represented at the testing provided such witnessing does not unreasonably interfere with Carrier's operation of the System. Carrier shall provide reasonable advance notice of any such testing (other than the continuous monitoring of the System) to Shipper. All tests performed by Carrier shall be determinative unless Shipper, Consignor, or Consignee submits to Carrier, within 60 days of the date of the test, appropriate documentation contesting the test. In the event of variance between Carrier's test results and Shipper's test results or the specifications contained in a certificate provided by Shipper pursuant to Item 22.C, Carrier's test results shall prevail (absent error demonstrated by Shipper).
- E. Subject to Item 22(F) below, if Shipper delivers Crude Oil that does not conform to the applicable Quality Specifications ("**Off-Spec Crude Oil**"), Shipper shall be

responsible for all liability and costs incurred by Carrier with respect to the Off-Spec Crude Oil, including without limitation, costs to dispose of the Off-Spec Crude Oil and costs to remove any contamination from the System. Moreover, any Shipper who has delivered Off-Spec Crude Oil that, when commingled as a common stream, results in the common stream not meeting the Quality Specifications, shall be liable for damages caused to other Shippers' Crude Oil to the extent that such Shipper's delivery of Off-Spec Crude Oil results in other Shippers receiving Crude Oil that does not meet the Quality Specifications. In the event that, based on Carrier's own testing, it is determined that Shippers are or have been delivering Crude Oil into Carrier's System that does not meet the Quality Specifications, then Carrier may add an off-spec penalty provision to this tariff in order to discourage deliveries of Crude Oil to Carrier's System that violate the Quality Specifications.

- F. If, after providing written notice to Shipper or Carrier otherwise gaining actual documented knowledge that Shipper's Crude Oil tendered or to be tendered for shipment on the System will or does not meet the applicable Quality Specifications, Carrier continues to knowingly accept such volumes of Off-Spec Crude Oil, Carrier will be responsible for all liability and costs to remove any contamination from the System to the extent caused by Shipper's Off-Spec Crude Oil failing to meet the Quality Specifications for the reason, and to the same degree, specified in Carrier's notice or for which Carrier had actual documented knowledge. For clarity, this provision shall not apply to the extent Carrier did not provide written notice to Shipper or Carrier did not otherwise gain actual documented knowledge that Shipper's Crude Oil tendered or to be tendered for shipment on the System will not or does not meet the applicable Quality Specifications. Moreover, this provision shall only apply with respect to the specific volumes of Shipper's Crude Oil that were identified in Carrier's written notice or that Carrier otherwise had actual documented knowledge would not meet the applicable Quality Specifications, yet Carrier continues to knowingly accept such specific volumes of Off-Spec Crude Oil for transportation on the System.

23. VARIATIONS IN QUALITY AND GRAVITY

- A. Carrier shall not be liable to Shipper for changes in gravity or quality of Shipper's Crude Oil that may occur from commingling or intermixing Shipper's Crude Oil with other Crude Oil in the same common stream while in transit. Carrier is not obligated to deliver to Shipper the identical Crude Oil Nominated and Tendered by Shipper; Carrier will deliver the grade of Crude Oil that meets the same Quality Specifications as the Crude Oil Tendered by Shipper for transportation on the System.
- B. Carrier shall have no responsibility in, or for, any revaluation or settlements which may be deemed appropriate by Shippers and/or Consignees because of mixing or commingling of Crude Oil shipments between the receipt and delivery of such shipments by Carrier within the same common stream.
- C. Any pipeline to which the System is connected at a Delivery Point may currently or in the future establish a quality bank or gravity bank to take into account the

impact of transporting different grades or types of crude oil as a common stream (“**Quality Bank**”). In the event such a Quality Bank is established, on a monthly basis all of the payments received or required by Carrier as a result of the operation of the Quality Bank will be passed through or assessed to Shipper in a manner consistent with the varying quality of Crude Oil delivered by each Shipper into the System.

- D. Carrier shall not be required to transport Crude Oil except with reasonable diligence, considering the quality of the Crude Oil, the distance of transportation and other material elements. Carrier cannot commit to delivering Crude Oil to a particular destination, at a particular time.

24. **MINIMUM TENDER**

Nominations for the transportation of Crude Oil will be accepted into Carrier’s System in volumes of not less than 500 Barrels per day in aggregate 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 Points to the Delivery Points; except that Carrier may accept a lower Nomination of Crude Oil so long as operating conditions permit such acceptance.

25. **NOMINATIONS AND SCHEDULING**

- A. Crude Oil for shipment through Carrier’s System will be received only on properly executed Nominations from Shipper showing the Receipt Point at which the Crude Oil is to be received, the Delivery Point at which the Crude Oil is to be delivered, Consignee (if any), and the amount of Crude Oil to be transported. Carrier may refuse to accept Crude Oil for transportation unless satisfactory evidence is furnished that Shipper or Consignor has made adequate provisions for prompt receipt of all volumes at the Delivery Point.
- B. Any Shipper desiring to Nominate Crude Oil for transportation shall make a Nomination to Carrier in writing on or before the Final Nomination Deadline. The “**Final Nomination Deadline**” is 5:00 p.m. Central Time on the 15th day (excluding Carrier holidays) of the month preceding the month during which the transportation under the Nomination is to begin. Nominations or changes to Nominations received after the Final Nomination Deadline will not be accepted from the Final Nomination Deadline date to the first day of the following month. After the first day of the month, changes will be accepted only in writing and only if space is available and the additional or changed Nominations do not impair the movement of Crude Oil Nominated prior to the Final Nomination Deadline.
- C. Carrier, in its sole discretion and as operating conditions dictate, may permit Shipper to change Delivery Points if requested by Shipper, in writing, before such shipment arrives at its original Nominated Delivery Point. Any such change will be subject to the rates applicable from the Receipt Point to the Delivery Point to which Shipper’s product is ultimately delivered.

- D. Carrier may refuse to accept Crude Oil for transportation under this tariff (i) where Shipper, Consignor, or Consignee is (1) not in material compliance with this tariff or (2) in material breach of a COGA if applicable, or (ii) where Shipper, Consignor, or Consignee is not in material compliance with all Applicable Law regulating shipments of Crude Oil.
- E. All Crude Oil accepted for transportation will be transported at such time and in such quantity as scheduled by Carrier.
- F. Carrier will use commercially reasonable efforts to communicate any material differences between the quantity of Shipper's Crude Oil received at the applicable Receipt Points and the quantity of Shipper's Crude Oil delivered for Shipper's account at the Delivery Points so as to permit Shipper to adjust its Nomination in order to minimize any imbalance, but Carrier shall have no liability for failing to do so. An exact daily balancing of receipts and deliveries may not be possible due to the inability of the Parties to control precisely such receipts and deliveries and Carrier shall have no liability to Shipper for any internal imbalances or errors in deliveries. If on any day Shipper's Crude Oil received at the Receipt Points is greater or less than the aggregate quantity of Shipper's Crude Oil being concurrently accepted by Shipper or the downstream pipeline, as applicable, at the Delivery Points, Carrier shall have the right to adjust the receipt of Shipper's Crude Oil at the Receipt Points and/or adjust the Shipper's confirmed Nomination to the extent necessary to avoid or reduce any imbalance. Any imbalance remaining at the end of any month shall be eliminated by the Parties as soon as practicable.

26. PRORATIONING PROCEDURES

- A. ***When System Capacity will be prorated.*** When Carrier receives more Nominations in a month for transportation of Crude Oil on Carrier's System than Carrier is able to transport, Carrier shall allocate the System Capacity under the provisions of this Item 26.
- B. ***Allocation to Committed Shippers.*** Subject to Item 26.B(1) below, each Committed Shipper shall be exempt from the proration procedures set forth in this Rule 26 up to, but not to exceed, the level of its Maximum Daily Quantity. If a Committed Shipper's Nomination during a Proration Month is in excess of its Maximum Daily Quantity, then any such excess volumes shall be subject to allocation pursuant to Item 26.E below.
 - (1) If an event of Force Majeure or other operational issue causes System Capacity to be reduced for the Proration Month, the allocation of System Capacity to each Committed Shipper under this Item 26.B shall be reduced by the same percentage as the reduction in System Capacity that is caused by the Force Majeure event or operational issue. If an event of Force Majeure or other operational issue causes a service disruption on only a portion of Carrier's System or at a particular Receipt Point or Delivery Point, Carrier shall continue to provide full operational service with respect to the unaffected portions of Carrier's System and to the unaffected Receipt Points and Delivery Points. Carrier will reduce the allocations of System

Capacity to each Committed Shipper affected by such Force Majeure event by the same percentage as the reduction in capacity of the affected portion of the System or the reduction in receipt or delivery capability of the affected Receipt Point or Delivery Point, respectively and as applicable.

C. ***Allocation to Uncommitted Shippers.***

(1) Non-Firm Capacity on Carrier's System shall be allocated among Uncommitted Shippers in the following manner:

- i. Up to 5 percent of Non-Firm Capacity will be reserved for New Shippers. Each New Shipper will be allocated an amount of capacity in the Proration Month that is (1) equal to its Nomination, if the total Nominations of all New Shippers is less than or equal to 5 percent of the Non-Firm Capacity or (2) its pro rata share, in accordance with its Nomination, of 5 percent of the Non-Firm Capacity, if the total Nominations by all New Shippers is greater than 5 percent of the Non-Firm Capacity.
- ii. Any remaining Non-Firm Capacity following the allocation process described in Item 26.D(1)(i) will be allocated among Regular Shippers based on their Base Shipment calculations.

E. ***Remaining System Capacity.*** In the event a Shipper is allocated more capacity than its Nominated volume under Item 26.B or Item 26.C, the excess of its allocation over its Nominated volume will be re-allocated first among Committed Shippers that have unmet Nominations in proportion to their Maximum Daily Quantities, and then to Regular Shippers that have unmet Nominations in proportion to their Base Shipments. Any remaining capacity will then be allocated among New Shippers on a pro rata basis according to their Nominations.

F. ***Basis for Allocation; Notification.*** When prorationing of System Capacity is in effect:

- (1) Carrier shall allocate System Capacity on a monthly basis; and
- (2) Carrier will use reasonable efforts to notify each Shipper of its allocation not later than the first working day of the Proration Month.

G. ***Reallocation of Unused Allocated System Capacity.*** If a Shipper does not use the portion of System Capacity allocated to it under this Item 26 at the times and in the amounts designated by Carrier, Carrier shall have the sole right to allocate Shipper's unused portion of System Capacity to Committed Shippers on a pro rata basis according to the level of their Nominations.

H. ***Failure to Use Allocated System Capacity.*** During a Proration Month, if a Shipper fails to deliver to Carrier at least ninety-five percent (95%) of its final confirmed Nomination for transportation on the System, then Carrier will charge Shipper an amount equal to the applicable tariff rate multiplied by the Nominated volume that

was not received by Carrier. Moreover, a Shipper that fails to use all of the System Capacity allocated to it during a Proration Month may have its allocation of System Capacity reduced in the subsequent Proration Month by an amount equal to the positive difference between Shipper's allocated amount of capacity during the preceding Proration Month and the amount of capacity that Shipper used during such Proration Month.

- I. ***Transfer of Allocated System Capacity.*** Shipper's allocation of System Capacity may be transferred as an incident of the bona fide sale of the Shipper's business or to a successor to the Shipper's business by the operation of law, such as an executor or trustee in bankruptcy.

27. MEASUREMENT

- A. If Carrier furnishes, installs, operates, or maintains LACTs at a Receipt Point, it will do so with suitable measurement equipment for the accurate measurement of the volume of Shipper's Crude Oil delivered by Shipper to Carrier at the Receipt Point. Quantities, quality and gravities of Shipper's Crude Oil shall be determined in accordance with generally accepted industry practices in effect at the time, using the latest ASTM or A.P.I. test methods and the latest edition of A.P.I. volume correction tables. Corrections shall be made for temperature to correct from actual observed temperatures to 60 degrees Fahrenheit, and to correct actual pressures to 14.696 psia.
- B. Unless otherwise dictated by a COGA, for any LACT operated by Carrier, Carrier shall verify the calibration of such LACTs and make any necessary adjustments according to the following schedule: (1) on a quarterly basis for any LACT with an average volume of less than or equal to 49,999 barrels of Crude Oil per month, (2) on a monthly basis for any LACT with an average volume between 50,000 barrels and 250,000 barrels per month, and (3) on a weekly basis for any LACT with an average volume of 250,001 barrels or greater.

28. FACILITIES FURNISHED

- A. Carrier will provide such facilities at Receipt Points and at the Delivery Points as it deems necessary for the operation of the System or as agreed to with Shipper. Unless otherwise dictated under a COGA, Carrier will not provide tankage, storage facilities, treating facilities, or receiving, loading, or unloading facilities at either the Receipt Points or the Delivery Points that Carrier deems are unnecessary.
- B. Shipments will be accepted for transportation hereunder only if: (1) Shipper has provided facilities satisfactory to Carrier capable of delivering shipments at the Receipt Points at pressures and pumping rates required by Carrier, and (2) Shipper is capable of receiving shipments at the Delivery Points at pressures and pumping rates required by Carrier, if applicable. If Shipper's Crude Oil is to be delivered into a third party pipeline connected at a Delivery Point, Shipper must have capacity

on such third party pipeline that is at least equal to the amount of Shipper's Nomination for transportation on the System.

29. NOTICE OF ARRIVAL, DELIVERY AT DESTINATION

- A. After a shipment of Crude Oil has had time to arrive at Shipper's Nominated Delivery Point and on twenty-four (24) hours' notice to Shipper or Consignee, Carrier may begin delivery of such Crude Oil to Shipper or Consignee at Carrier's current rate of pumping. Shipper shall timely remove its Crude Oil, or cause such Crude Oil to be removed, from the System following transportation to a Nominated Delivery Point. If Shipper or Consignee is unable or refuses to receive said shipment, Carrier may assess a demurrage charge of one cent per Barrel for each day (or fractional part thereof) commencing twenty-four (24) hours following Carrier's written notification described above and Shipper's failure to promptly accept such Crude Oil. In addition to such demurrage charge, Carrier shall also have the right to curtail the amount of Crude Oil it will accept from Shipper until such Unremoved Crude Oil is removed.
- B. In addition to such demurrage charge, after thirty (30) days have elapsed after Carrier provide written notification to Shipper pursuant to Item 29.A above and Shipper has failed to receive its Unremoved Product, Carrier reserves the right if deemed necessary to clear Carrier's System to make whatever arrangements for disposition of such Unremoved Crude Oil that are appropriate, which includes selling the Unremoved Crude Oil at a private sale for the best price reasonably obtainable less any deductions for quality adjustments. Carrier may be a purchaser at such sale. The proceeds of any sale shall be applied in the following order: (1) to the reasonable expenses of holding, preparing for sale, selling, and transporting the Crude Oil, and to the extent allowed by Applicable Law, reasonable attorneys' fees and legal expenses incurred by Carrier; and (2) to the satisfaction of Shipper's indebtedness including interest herein provided from the date payment is due. The balance of the proceeds of the sale remaining, if any, shall be paid to Shipper or, if there is a dispute or claim as to entitlement, held for whoever may be lawfully entitled thereto. Carrier will have a claim for and against Shipper with respect to any deficiency arising from the debt due to Carrier from Shipper and the proceeds of any sale after reduction as set forth above. Shipper shall indemnify Carrier for all losses associated with Unremoved Crude Oil and Carrier's disposition of the Unremoved Crude Oil. Carrier shall have no liability to Shipper associated with Shipper's Unremoved Crude Oil or Carrier's disposition of Unremoved Crude Oil except as set forth herein.

30. LINE FILL REQUIREMENTS

- A. Carrier shall require Shipper to supply, and Shipper shall supply, Crude Oil for line fill in amounts and at times requested by Carrier that are necessary for operation of Carrier's System ("Line Fill").
- B. In the event a Shipper's Line Fill balance drops below its required share of the volume of Crude Oil necessary for operation of Carrier's System, Carrier will notify Shipper of the amount of Line Fill that Shipper owes and Shipper shall supply such

Line Fill to Carrier before Carrier is obligated to accept Shipper's Nominations or Tenders or make deliveries or shipments on behalf of Shipper. Any notice to Shipper of additional Line Fill requirements under this Item 30.B shall provide adequate time for Shipper to make the required Nominations under Item 25. Subject to the provisions of Item 34, in the event Shipper's Line Fill balance is above its share of the volume of Crude Oil necessary for Line Fill ("**Excess Line Fill**"), then Carrier shall notify Shipper of such Excess Line Fill amount and will return such Excess Line Fill to Shipper upon written request by Shipper to Carrier and following a reasonable period of time to allow for administrative and operational requirements associated with the withdrawal of such Excess Line Fill. If Shipper fails to comply with any of its obligations to provide Line Fill, Carrier shall be entitled to supply Shipper's share of Line Fill and Shipper shall reimburse Carrier for the cost thereof on demand.

- C. Subject to the provisions of Item 34, Line Fill furnished by Shipper may be withdrawn from Carrier's System under two circumstances (i) if Shipper intends to discontinue shipments on Carrier's System for the foreseeable future and/or, (ii) if Shipper is "no longer shipping" on Carrier's System, as described in Item 13(C)(2) below. Line Fill furnished by a Shipper may be withdrawn from Carrier's System only pursuant to the terms of this Item 30.C.
- (1) If Shipper intends to discontinue shipments on Carrier's System for the foreseeable future, Shipper shall provide written notification to Carrier that it intends to discontinue shipments on the System. Carrier will then provide written notice to Shipper as provided for in Item 30.C(3).
 - (2) A Shipper that makes no shipments on the System over a continuous six (6)-month period shall be deemed to be "no longer shipping." When Carrier identifies that a Shipper is "no longer shipping," Carrier will provide written notice to Shipper that it is considered to be "no longer shipping" on Carrier's System as provided for in Item 30.C(3).
 - (3) Carrier will issue written notice (the "**Notification**") to Shipper that according to the Carrier's books, Carrier is holding a certain volume of Crude Oil on its books in Shipper's name. Shipper will be advised in such letter that Shipper will have thirty (30) days effective with the date of the Notification to provide written direction regarding the disposal of Shipper's Crude Oil. If at the end of this thirty (30)-day period, Carrier has received no written direction, Carrier will assume title to the Crude Oil being held on its books in Shipper's name, free and clear of any and all liens, claims or encumbrances, and Shipper expressly agrees and consents to transfer title to Carrier as set forth herein.
 - (4) Carrier's return of Line Fill is contingent upon Shipper's inventory balances and all outstanding amounts, whether due under this tariff, a COGA, or any other agreement, having been reconciled between Shipper and Carrier and Shipper having paid in full any amounts owed to Carrier following such reconciliation. Carrier shall have a reasonable period of time to complete

administrative and operational requirements incident to Shipper's withdrawal of Line Fill.

- D. Subpart C of this Item 30 shall not apply to a Committed Shipper during the term of such Committed Shipper's COGA. However, following the expiration of a Committed Shipper's COGA, such Committed Shipper's Line Fill shall be returned to Committed Shipper pursuant to the provisions set forth in subpart C of this Item 30.

31. TITLE

- A. Title to all of Shipper's Crude Oil, including Line Fill, shall at all times remain with Shipper.
- B. By Tendering Crude Oil under this tariff, Shipper warrants that it has title to the Crude Oil delivered to the System, and that all such Crude Oil is owned by Shipper, or to its knowledge Shipper has the right to market such 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 or the lien created hereunder in favor of Carrier. Shipper shall indemnify Carrier and save it harmless from all suits, actions, debts, accounts, damages, costs, Losses, and expenses (including reasonable attorneys' fees) arising from or out of Adverse Claims, whether meritorious or not, of any and all persons, firms, or entities to Shipper's Crude Oil or to royalties, overriding royalties, license fees, or charges thereon.
- C. Shipper shall have the sole and exclusive obligation and liability for the payment of all persons due any proceeds derived from Shipper's Crude Oil delivered under this tariff, including royalties, overriding royalties, and similar interests, in accordance with the agreements creating those rights to proceeds. In no event will Carrier have any obligation to those persons due any of those proceeds of production attributable to Shipper's Crude Oil.
- D. Carrier shall under no circumstances become liable for taxes levied against or with respect to Shipper's Crude Oil, unless designated to remit those taxes on behalf of Shipper by any duly constituted jurisdictional agency having authority to impose such obligations on Carrier, in which event the amount of those taxes remitted on Shipper's behalf shall be reimbursed by Shipper upon receipt of invoice, with corresponding documentation from Carrier setting forth such payments.
- E. Carrier may require of Shipper satisfactory evidence of its perfected and unencumbered title of any Crude Oil Tendered for shipment on the System. Carrier shall have the right to reject any Crude Oil, when Tendered for transportation, that is subject to an Adverse Claim.

32. RATES APPLICABLE

Crude Oil accepted for transportation shall be subject to the applicable rates and charges in effect on the date of receipt by Carrier that are applicable to Shipper's shipments, irrespective of the date of the Nomination. The applicable rates are set forth in Section III herein. Transportation and all

other lawful charges shall be collected on the basis of the quantities of Crude Oil delivered to the Delivery Points, less any deductions provided for in this tariff.

33. RATES APPLICABLE FROM INTERMEDIATE POINTS

Shipments accepted for transportation from or to any point on Carrier's System not named in this tariff, but which is intermediate to a point where rates are published, will be assessed the rate in effect from or to the next more distant point published in this tariff. Continuous use of intermediate point rate application under this Item 33 for more than 30 days requires establishment of a rate for the transportation service.

34. PAYMENT OF CHARGES

- A. Carrier will invoice Shipper for transportation rates, fees, and charges, and any other amounts accruing on Crude Oil transported by Carrier on the System. Carrier shall calculate and assess any payments Shipper owes to Carrier under a COGA in accordance with the provisions of the COGA.
- B. After delivery of Shipper's Crude Oil has commenced on the System, Carrier shall provide a settlement statement to Shipper on or before the 10th day of the month following the month of deliveries under this tariff. Such statement shall include at least the following information: (1) volume of Crude Oil delivered by Shipper to the Receipt Points and the volume of Crude Oil re-delivered at the Delivery Points, net of the Pipeline Loss Allowance, (2) the Pipeline Loss Allowance for the month, and (3) an itemization of the rates, fees and charges applicable to the transportation of Shipper's Crude Oil during the month.
- C. Shipper shall pay, or cause to be paid, the settlement statement amount in full by the date specified in such settlement statement. If Shipper, in good faith, disputes the amount of any such invoice or any part thereof, Shipper will pay the undisputed amount in accordance with the immediately preceding sentence and will notify Carrier of such dispute upon payment of the undisputed amount. The Parties shall thereafter endeavor in good faith to resolve the dispute. Past due amounts shall accrue interest from the due date until paid in full at the rate equal to the lower of (1) 12 percent per annum, or (2) the maximum applicable lawful interest rate. Shipper shall remain responsible for the payment of all amounts due under this tariff and the COGA, as applicable. If any then due undisputed payments remain unpaid, and if such remain unpaid for thirty (30) days after notice is given to Shipper of such unpaid amounts, Carrier shall have the right to: (i) refuse to provide Shipper access to the System or provide services pursuant to this tariff, including delivery of any of Shipper's Crude Oil in Carrier's possession to Shipper, (ii) offset the current and future amounts owed by Shipper under this tariff or a COGA against any amounts Carrier owes to Shipper or against any of Shipper's Crude Oil in the System, (iii) sell Shipper's Line Fill, and (iv) exercise any other rights and remedies granted under this tariff, a COGA, or that are existing under Applicable Law.
- D. Carrier shall have a lien on all Crude Oil delivered to and in the possession of Carrier to secure the payment of any and all charges and fees owed to Carrier by Shipper, whether under this tariff, a COGA if applicable, or any other agreement,

including but not limited to, transportation fees, penalties, interest and late payment charges. Such lien shall extend to all Crude Oil in Carrier's possession beginning with Shipper's first receipt of transportation or other services from Carrier. Shipper agrees to execute such additional documents as may be reasonably necessary to perfect or evidence such lien. If a bill of lading is required under Applicable Law for such a lien to arise, acceptance of the Nomination will be deemed to be the bill of lading for all Crude Oil subject to such Nomination. The lien provided herein shall be in addition to any lien or security interest provided by this tariff or Applicable Law.

35. FINANCIAL ASSURANCES

- A. Subject to the provisions of the COGA, if applicable, if Carrier has grounds for insecurity (as determined in Carrier's sole discretion) regarding the performance by Shipper for any obligation under this tariff, whether or not then due (including, without limitation, a material change in the creditworthiness of Shipper), Carrier may elect, in its sole discretion, to require Shipper to provide Adequate Assurance of Performance, as defined below.
- B. As used in this Item 35, "**Adequate Assurance of Performance**" means all or any combination of the following:
- (1) A guaranty in favor of Carrier of all of Shipper's payment and performance obligations to Carrier under this tariff or a COGA, as applicable, in form and substance reasonably acceptable to Carrier, from a guarantor that (i) is credit rated at or above the Minimum Credit Rating, and (ii) either is a direct or indirect parent of Shipper at the time such guaranty is delivered to Carrier or is otherwise acceptable to Carrier in its reasonable discretion;
 - (2) An irrevocable standby letter of credit from a major U.S. commercial bank or a U.S. branch of a major foreign commercial bank, in either case, with credit rated at or above the Minimum Credit Rating, or its successor in favor of Carrier in an amount equal to the total payments due by Shipper to Carrier under this tariff of the COGA, as applicable, over the 60 days immediately preceding the establishment of such account. The form and terms of the letter of credit and the financial institution issuing the letter of credit shall be subject to Carrier's approval, in its reasonable discretion, but such letter of credit shall, without limitation, allow Carrier to demand full or partial payment thereunder in the event of (i) a Shipper default under this tariff or a COGA, as applicable, (2) Carrier experiences losses or is entitled to damages in connection with or arising out of this tariff or a COGA, or the termination of a COGA, as applicable, or (3) Shipper does not deliver to Carrier a new letter of credit or extension satisfying the requirements of this clause at least 60 days prior to the expiration of such letter of credit;
 - (3) Such other credit arrangements as shall be acceptable to Shipper and approved by Carrier, in Carrier's reasonable discretion.

- (4) For purposes of this Item 35, "**Minimum Credit Rating**" means the senior unsecured debt ratings for an entity, being at least BBB- as to Standard and Poor's or Fitch Ratings Ltd (or their successors) or at least Baa3 as to Moody's Investor Service (or its successors).

- C. In the event a Shipper fails to comply with any obligation in Item 35.B, subject to the provisions of a COGA, Carrier shall not be obligated to provide such Shipper with access to Carrier's System or to provide transportation services pursuant to this tariff until such requirement is fully met.

36. CHARGE FOR FUND COMPENSATION

In addition to all other charges to Shipper accruing on Crude Oil accepted for transportation, a per Barrel charge will be assessed and collected by Carrier in the amount of any tax, fee, or other charge levied against Carrier in connection with regulation changes by any Governmental Authority for the purpose of creating a fund for the prevention, containment, clean up, and/or removal of spills and/or the reimbursement of persons sustaining a loss therefrom or any program where Carrier is acting as a collecting agent. Such charge will be included in the appropriate tariff filed with the Railroad Commission of Texas.

37. LIABILITY OF SHIPPER

As a condition to Carrier's acceptance of Crude Oil for transportation on Carrier's System, each Shipper agrees to protect and indemnify Carrier against claims or actions for injury and/or death of any and all persons whomever and for damage to property of or any other loss sustained by Carrier, Shipper, Consignor, Consignee and/or any third party, resulting from or arising out of (1) any breach of or failure to adhere to any provision of Carrier's tariff(s) by such Shipper or any of its Consignors, Consignees, or any of their agents, employees or representatives and (2) the negligent act(s) or failure(s) to act of such Shipper or any of its Consignors, Consignees, or any of their agents, employees or representatives in connection with delivery or receipt of Crude Oil.

38. LIABILITY OF CARRIER

- A. Subject to Applicable Law, Carrier, while in possession of Crude Oil herein described, shall not be liable for, and Shipper hereby waives any claims against Carrier for, any loss thereof, damage thereto, or delay caused by Force Majeure, the act of Shipper itself, a Governmental Authority, the nature of the goods, or resulting from any other causes, unless such loss, damage, or delay is due to the negligence or willful misconduct of Carrier. Carrier shall not be liable for, and Shipper hereby waives any claims against Carrier for, any loss or damage to Crude Oil prior to the delivery of Crude Oil to Carrier at the inlet flange of the LACT located at the applicable Receipt Point and after delivery of Crude Oil at the Delivery Points.
- B. In case of loss or damage of any Crude Oil from any such causes that are not due to the negligence or willful misconduct of Carrier, after it has been received for transportation at the Receipt Points and before the same has been delivered to Shipper or on Shipper's behalf at the Delivery Point, such loss will be charged proportionately to each Shipper in the ratio that its Crude Oil, or portion thereof, received and undelivered at the time the loss occurs, bears to the total of all Crude

Oil then in the custody of Carrier for transportation via the lines or other facilities in which the loss occurs. Carrier will be obligated to deliver only that portion of such Crude Oil remaining after deducting Shipper's portion of such loss determined as aforesaid. In the aforementioned instance, transportation charges will be assessed only on the quantity delivered.

- C. Carrier will not be liable for discoloration, contamination, or deterioration of the Crude Oil transported hereunder unless and to the extent such discoloration, contamination, or deterioration of Crude Oil transported results from the negligence or willful misconduct of Carrier. Carrier's liability to Shipper, Consignor, or Consignee for any claim of negligence, willful misconduct or other loss shall be limited to the value of the Crude Oil transported and related transportation charges. **IN NO EVENT SHALL CARRIER BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, OR PUNITIVE DAMAGES HEREUNDER.**
- D. Carrier operates under this tariff solely as a common carrier and not as an owner, manufacturer, or seller of the Crude Oil transported or stored hereunder. **EXCEPT AS OTHERWISE SET FORTH HEREIN, CARRIER EXPRESSLY DISCLAIMS ANY LIABILITY FOR ANY EXPRESS OR IMPLIED WARRANTY FOR CRUDE OIL TRANSPORTED HEREUNDER INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR INTENDED USE.**

39. CLAIMS, SUITS, AND TIME FOR FILING

As a condition precedent to recovery by Shipper for loss, damage, or delay in receipt or delivery of Shipper's Crude Oil for which Carrier may be responsible, Shipper's claim must be filed in writing with Carrier within nine (9) months after delivery of the affected Crude Oil, or in case of Carrier's failure to make delivery of Shipper's Crude Oil, then within nine (9) months after a reasonable time for delivery has elapsed; and suits shall be instituted against Carrier only within two (2) years and one (1) day from the day when notice in writing is given by Carrier to Shipper that Carrier has disallowed the claim or any part or parts thereof specified in the notice. Where claims are not filed or suits are not instituted by Shipper on such claims in accordance with the foregoing provisions, such claims will not be paid and Carrier will not be liable.

40. CONNECTIONS

Subject to any provision contained in a Committed Shipper's COGA, connections to Carrier's System will only be considered if made by formal written request to Carrier. All connections will be subject to design requirements necessary to protect the safety, security, integrity and efficient operation of Carrier's System in accordance with generally accepted industry standards and Carrier's connection agreement. Acceptance of any application for connection will be within the sole discretion of Carrier and will be subject to compliance with Governmental Authorities and industry regulations.

41. PIPELINE LOSS ALLOWANCE

The difference between (A) the sum of (1) the volume of Shipper's Crude Oil and all Crude Oil transported on the System, as measured at the Receipt Point LACTs and (2) the change in the

amount of Crude Oil in Carrier's storage facilities, and (B) the summation of the measurements provided by the interconnecting parties at the Delivery Points shall be considered as a pipeline loss allowance for all losses sustained on the System due to evaporation, shrinkage, flaring, measurement, interface losses and other ordinary course losses in transit subject to prudent operations ("**Pipeline Loss Allowance**"). Carrier shall be responsible to Uncommitted Shippers for the Pipeline Loss Allowance in excess of 0.20%; the limitations of the Pipeline Loss Allowance for Committed Shippers shall be governed by the COGA.

42. COMPLIANCE COSTS

Subject to the provisions of the COGAs, to the extent Carrier becomes obligated as a result of a Change in Law Event to bear Compliance Costs, Carrier shall have the right to increase the gathering rates or implement a surcharge or other charge in the applicable tariff to allow Carrier to recover such Compliance Costs. If Carrier implements such a charge pursuant to this Item 42, Carrier will seek to recover such Compliance Costs from all Shippers in a manner that is not unduly discriminatory or preferential.

43. STORAGE OF PRODUCT

Carrier does not provide storage for Crude Oil, except storage incidental to transportation on Carrier's System. Carrier has the right to coordinate with Downstream Facilities to ensure that Shipper has arranged for receipt of its Nominated amount of Crude Oil at the Delivery Point and Shipper agrees to permit such coordination.

**SECTION III
RATES**

(Rates in Dollars per Barrel)

From	To	Rate	
LACT Receipt Points in Area A (Note 1)	Plains 285 North Station	1-12,000 Barrels per day	\$1.404676
		12,001 to 20,000 Barrels per day	\$1.196576
		20,001+ Barrels per day	\$0.93645
LACT Receipt Points in Area B (Note 2)	Plains 285 North Station	\$0.86624	
	Oryx Orla Station		
LACT Receipt Points in Area C (Note 3)	Plains 285 North Station	\$0.7300	
	Oryx Orla Station		
Area D (Note 4)	Plains 285 North Station	\$0.5500	
	Oryx Orla Station		

Notes:

1. "Area A" includes LACTs located in Culberson County, Texas. The specific LACT Units within Area A shall be made available upon request.
2. "Area B" includes LACTs located in Culberson County, Texas. The specific LACT Units within Area B shall be made available upon request.
3. "Area C" includes LACTs located in Reeves County, Texas. The specific LACT Units within Area C shall be made available upon request.
4. "Area D" is comprised of the Sierra Grande Terminal located in Culberson County, Texas.