

## Oil Pipeline Tariffs

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**FERC ICA Oil Tariff**

**FERC No. 1.1.0**  
Cancels FERC No. 1.0.0

# EPPING TRANSMISSION COMPANY, LLC

## LOCAL TARIFF

Containing

**RULES AND REGULATIONS  
GOVERNING THE TRANSPORTATION OF**

## CRUDE PETROLEUM

(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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[N] Issued on one days' notice under authority of 18 CFR 341.14. This tariff publication is conditionally accepted subject to refund pending a 30-day review period.

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

**ISSUED: February 18, 2016**

**EFFECTIVE: March 1, 2016**

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## 5. DEFINITIONS

“**Accounting Period**” means a period of one Month, commencing at [W]9~~7~~:00 a.m. Central Clock Time on the first day of each Month, and ending at [W]9~~7~~:00 a.m. Central Clock Time on the first day of the succeeding Month.

“**Adequate Assurances**” means the Adequate Assurances provided by the Shippers and accepted by the Carrier in accordance with these Rules and Regulations.

“**Affiliate**” means, with respect to a particular Person, any other Person who is Controlled by, under common Control with, or in Control of, such particular Person.

“**API Gravity**” or “**Gravity**” means Gravity determined in accordance with the ASTM Designation D-287-82 or the latest revision thereof.

“**Available Capacity**” means the capacity, as determined by Carrier in its sole discretion, available on Carrier’s System to transport Crude Petroleum.

“**Barrel**” means a liquid measure equal to forty-two (42) United States gallons.

“**Carrier**” means Epping Transmission Company, LLC.

“**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 or by contract.

“**Crude Petroleum**” or “**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, but not including liquid components of the gas stream that may drop out of or be separated from the gas stream during gas gathering or compression or natural gas liquids produced from the gas stream at natural gas processing plants.

[W]“**DeliveryDestination Point**” means each point on Carrier’s System identified [N] in Carrier’s tariff, FERC No. 2.0.0., or its successors, as a point where Carrier can deliver Crude Petroleum out of its System.

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

**“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”** means the quantity of Crude Petroleum including Working Stock needed to occupy the physical space within Carrier’s System.

**“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.

**“New Shipper”** means a Shipper that has not Tendered Crude Petroleum pursuant to the terms of this tariff within the twelve months immediately preceding a Nomination by such Shipper. An Affiliate of a Shipper that has tendered Crude Petroleum pursuant to the terms of this tariff within twelve Months prior to a Nomination shall not be considered a new Shipper.

**“Nomination”** (or **“Nominated,”** as appropriate) means a written designation by a Shipper to the Carrier of a stated quantity of Crude Petroleum for transportation from a specified [W]~~origin point~~Origin Point(s) to a specified [W]~~destination point~~Destination Point(s) over a period of one Month in accordance with these Rules and Regulations.

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

[W]~~“Receipt~~**Origin Point**” means each point on Carrier’s System identified [N] in Carrier’s tariff, FERC No. 2.0.0., or its successors, as a point where Carrier can accept Crude Petroleum into its System.

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

**“Shipper”** means a party that contracts with Carrier for transportation of Crude Petroleum, 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 or utilizes to provide services hereunder, and to which the Rules and Regulations stated herein apply.

**“Tender”** (or **“Tendered,”** as appropriate) means a volume of Crude Oil presented by a Shipper to the Carrier for movement by the Carrier in accordance with these Rules and Regulations and associated with a valid Nomination.

“**Working Stock**” means the volume of Crude Petroleum required by the Carrier for the efficient operation of Carrier’s System.

## **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 the 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 Petroleum 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) At any time, upon the request of Carrier, any prospective or existing Shipper shall provide information to Carrier that will allow 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 Petroleum under the terms of this Tariff, including the payment of transportation charges, equalization obligations and the value of the allowance oil and negative Shipper’s balance positions. Carrier shall not be obligated to accept Crude Petroleum for transportation from an existing or prospective Shipper if the Shipper or prospective Shipper fails to provide the requested information to Carrier within five (5) days of Carrier’s written request, or if Carrier’s review of the requested information reveals that the existing or prospective Shipper does not have the capacity to perform any financial obligations that could arise from the transportation of that Shipper’s Crude Petroleum under the terms of this Tariff, 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, Carrier, upon notice to Shipper, may 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 Carrier to be provided at the expense of Shipper:

- (1) prepayment in an amount equal to ninety (90) days of average payment obligation;
- (2) a letter of credit in favor of Carrier equal to ninety (90) days of average payment obligation in a form and from an institution acceptable to Carrier;
- (3) a guaranty in an amount sufficient to ensure payment in an amount equal to ninety (90) days of average payment obligation from a creditworthy entity acceptable to Carrier;
- or
- (4) such other enforceable collateral security in a form acceptable to the Carrier.

(together, “Adequate Assurances”).

(c) In the event that 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 Petroleum under the terms of this Tariff; or
- (3) Carrier otherwise determines that it is necessary to obtain Adequate Assurances from Shipper,

then Shipper shall provide Adequate Assurances for the payment of the charges and costs as provided for in this Tariff or otherwise lawfully due to Carrier relating to the transportation of Shipper’s Crude Petroleum by Carrier. For the purpose of this Tariff, those charges and costs shall include, but are not limited to, transportation charges, equalization obligations, negative Shipper’s balance positions and the allowance oil. Carrier shall not be obligated to accept Crude Petroleum for transportation from an existing or prospective Shipper if the Shipper or prospective Shipper fails to deliver the Adequate Assurances to Carrier within five (5) days of Shipper’s receipt of Carrier’s written request for such Adequate Assurances.

## **20. [W]NOMINATION, ~~MINIMUM QUANTITY~~**

Crude Petroleum will be transported by Carrier only under a Nomination accepted by Carrier. Such Nomination shall include the relevant details of transportation requested by Shipper, including volume, [W]~~origin point~~Origin Point(s), ~~destination point~~Destination Point(s) and the transportation rate requested (Incentive Rate or General Commodity Rate). Shippers must submit a separate Nomination for each Month.

Any Shipper desiring to nominate Crude Petroleum for transportation (either under the Incentive Rate or the General Commodity Rate) 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. 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.

On a capacity-available basis, Carrier has the right, but not the obligation, to accept a Nomination for transportation at the General Commodity Rate (i) after the 20<sup>th</sup> day of the Month preceding the Month during which transportation under the Nomination is to begin or (ii) during the Month which transportation under the Nomination is to begin. Such Nominations may be accepted only if they do not impair the movement of Crude Petroleum Nominated before the 20<sup>th</sup> day of the preceding Month. Nominations that would impair the movement of Crude Petroleum Nominated before the 20<sup>th</sup> day of the preceding Month may be modified and accepted by Carrier to fill capacity. Nominations for transportation at the Incentive Rate will not be accepted after the 20<sup>th</sup> day of the Month preceding the Month during which transportation under the Nomination is to begin.

## **[W]25. TENDERS AND QUANTITIES ACCEPTED**

Unless otherwise stated on a Tariff making reference to these Rules and Regulations, or waived by Carrier, Tenders for the transportation of Crude Petroleum shall be accepted into Carrier's System under these Rules and Regulations in quantities of not less than 15,000 Barrels (the "***Minimum Tender***"). At Carrier's discretion, such tenders shall be delivered to or otherwise made available to Carrier in the Monthly aggregate, at a daily rate, or in quantities and at times to be specified by Carrier for the efficient scheduling and operations of Carrier's System or to provide Crude Petroleum that is of similar quality and characteristics as is being transported from [W]~~Receipt~~Origin Point to ~~Delivery~~Destination Point.

Carrier shall not be obligated to accept Crude Petroleum for transportation during any Month unless the Shipper notifies the Carrier of the quantity of such Product which it desires to deliver at origin. If requested by Carrier, Shipper shall furnish Carrier with a schedule of the expected deliveries at origin and withdrawals at destination, setting forth Shipper's best estimate of daily rate of deliveries and withdrawals, and dates on which such deliveries and withdrawals shall commence. Acceptance of such schedule shall not constitute an obligation, legal or otherwise, on the part of Carrier to meet such schedule. Shipper shall establish its ability to meet the Minimum Tender to the satisfaction of Carrier before any duty of transportation shall arise.

## **[W]25 30. TITLE**

Carrier shall have the right to reject, on a not unduly discriminatory basis, any Crude Petroleum, 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. By nominating Crude Petroleum, Shipper warrants and guarantees that Shipper owns or controls the interest in the Crude Petroleum, and has the right to market said Crude Petroleum, free from all liens and adverse claims of title ("*Adverse Claims*"), excluding liens to secure payments of production taxes, severance taxes, and other taxes.

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 Petroleum 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.

### **[W]30 35. SPECIFICATIONS AS TO QUALITY RECEIVED**

(a) Carrier reserves the right to reject any Crude Petroleum offered for transportation other than good and merchantable Crude Petroleum of acceptable character which, when measured and tested by Carrier or Carrier's representative at the [W]ReceiptOrigin Point, meets all of the following specifications:

- (1) Readily susceptible to transportation through Carrier's existing facilities;
- (2) API Gravity between twenty-three (23) API and ninety (90) API at sixty degrees (60°) Fahrenheit;
- (3) Reid vapor pressure which does not exceed 103 Kilopascals;
- (4) Basic sediment, water and other impurities of one-half (1/2) of one (1) percent or less, with a maximum of three tenths (0.3) percent free water;
- (5) Hydrogen sulfide (H<sub>2</sub>S) content must be below 5 ppm and the method used to test H<sub>2</sub>S levels will be ATSM D5705-12 methodology; and
- (6) Sulfur content of two tenths (0.2) percent or less; and
- (7) the most restrictive specifications of connecting carriers at the [W]ReceiptDestination Point(s).

The presence of masking agents or contaminants in Crude Petroleum, including but not limited to chemicals such as chlorinated or oxygenated hydrocarbons or lead, shall be reason for Carrier to reject such Crude Petroleum. Such Crude Petroleum shall be deemed to have failed the above specifications.

(b) Carrier will monitor the quality of Crude Petroleum in its System and shall investigate suspected violations of its quality specifications. Monitoring may include Gravity and sulfur testing and may include simulated distillation and other testing to determine quality. Shipper may be required to furnish Carrier with a certificate setting forth the specifications of each

shipment of Crude Petroleum to be transported on Carrier's System. Carrier reserves the right to sample or test any such shipment prior to acceptance or during receipt, and in the event of variance between Shipper's certificate and Carrier's test, Carrier's test shall prevail.

(c) If Shipper delivers Crude Petroleum that does not conform to Carrier's quality specifications, Shipper will be responsible for all liability and costs incurred by Carrier, including without limitation, costs to treat, blend, or dispose of the non-conforming Crude Petroleum, and costs to remove any contamination from Carrier's Crude System. Carrier reserves the right to collect the aforementioned costs plus an additional 105 cents per Barrel penalty charge.

(d) As between Shipper and Carrier, Carrier shall have no liability to connecting carriers for failure of Shipper to deliver Nominated volumes of Crude Petroleum or otherwise comply with connecting carrier's tariff or other binding documentation, whether such failure is caused by Carrier's rejection of Shipper's Crude Petroleum as a result of quality deficiencies or otherwise.

#### **[W]35 40. SEGREGATION AND CHANGES IN QUALITY**

(a) Shipper acknowledges that any Crude Petroleum offered for transportation shall be subject to such changes in Gravity or quality while in transit as may result from the transportation thereof or the mixture of such Crude Petroleum with other Crude Petroleum in the pipelines or facilities of Carrier. Carrier shall not be liable to Shipper for changes in Gravity or quality of Shipper's Crude Petroleum which may occur from commingling or intermixing Shipper's Crude Petroleum with other Crude Petroleum in the same common stream while in transit. Carrier is not obligated to deliver to Shipper the identical Crude Petroleum Nominated or Tendered by Shipper. Carrier will deliver the grade of Crude Petroleum it is regularly transporting as a common mixed stream.

(b) Carrier shall have no responsibility in, or for, any revaluation or settlements which may be deemed appropriate by Shippers because of mixing or commingling of Crude Petroleum shipments between the receipt and delivery of such shipments by Carrier within the same common stream.

(c) Carrier shall not be liable for any consequential loss resulting from any variation in quality of Crude Petroleum while in its custody.

(d) Carrier makes no warranty as to merchantability, fitness for a particular purpose, or any other warranty or representation with respect to the grade or quality of Crude Petroleum transported under this tariff.

**[W]40 45. MIXTURES**

- (a) The Indirect Liquid Products of oil and gas wells will be not be accepted by Carrier.
- (b) Carrier shall be under no obligation to deliver the identical Crude Petroleum received but may make delivery out of common stock or out of Carrier's pipeline.

**[W]45 50. 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 Petroleum to be gathered and/or transported.

**[W]50 55. DUTY OF CARRIER**

Carrier shall transport Crude Petroleum with reasonable diligence, considering the quality of the Crude Petroleum, the distance of transportation, the safety of operation, and other material elements. Carrier cannot commit to delivering Crude Petroleum to a particular destination at a particular time [N], and the timing of such deliveries is wholly within Carrier's reasonable discretion. Because delivery of Crude Petroleum may not be ratable, volumes of Crude Petroleum delivered by Carrier to Shipper may not be equal to volumes of Crude Petroleum delivered by Shipper to Carrier during the same Nomination period.

**[W]55 60. GAUGING, TESTING AND DEDUCTIONS**

(a) Prior to or during receipt of Crude Petroleum Tendered by a Shipper, it shall be measured and tested by a representative of Carrier in accordance with generally accepted industry practices using the latest American Society for Testing and Materials or American Petroleum Institute ("**API**") test methods and the latest edition of API volume correction tables. At Carrier's option, the Crude Petroleum may be measured by metering or gauging. At Carrier's option, measurements and tests may be made on composite samples. The results of such gauging or metering and testing shall be final.

If tank gauges are used, quantities shall be computed from correctly compiled tank tables on a one hundred percent volume basis. Shipper may be present or represented at such gauging or metering and testing. A representative of Carrier shall have the right to enter upon the premises where such Crude Petroleum is received or delivered and have access to any and all tanks, storage receptacles or meters for the purpose of such gauging or metering and testing and to make any examination, inspection, measurement or test authorized by these regulations.

(b) Crude Petroleum 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 Petroleum, and the full amount of basic sediment, water and other impurities shall be deducted from the corrected volume.

(c) Each Shipper shall be allocated a pipeline loss allowance on a pro-rata basis to cover all actual normal course of business losses sustained on Carrier's System due to evaporation, measurement, and other losses in transit. This deduction, made on each Barrel received from the Shipper, shall not exceed one quarter of one percent (0.25%).

(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.

#### **[W]60 65. LINE FILL AND STORAGE**

(a) Each Shipper shall supply its quantity of Line Fill and Working Stock as determined from time to time by Carrier. Crude Petroleum provided by Shippers for this purpose shall be returned by Carrier to Shipper no later than sixty (60) days after: (1) Shipper has ceased Tendering shipments and has notified Carrier in writing of its intention to discontinue shipments in Carrier's System, and (2) Shipper balances have been reconciled between Shipper and Carrier. Carrier may require payment of all outstanding transportation and other charges on the volumes to be cleared from Carrier's System, and any unpaid accounts receivable, before final delivery will be made.

(b) Carrier may utilize working tanks required in the process of transporting Crude Petroleum, but has no other tankage and, therefore, does not have facilities for rendering, nor does it offer, a storage service.

#### **[W]65 70. FLOW RATES**

Carrier will normally take full stream receipts at [W]~~Receipt~~Origin Point(s) and will make full stream Deliveries of Crude Petroleum at [W]~~Delivery~~Destination Point(s) at flow rates and volumes compatible with the Carrier's System operations. Shipper shall deliver, or cause to be delivered, Crude Petroleum at flow rates and volumes as specified by Carrier.

#### **[W]70 75. RECEIPT AND DELIVERY FACILITIES REQUIRED**

Carrier will accept Crude Petroleum for transportation only when Shipper has provided or contracted with Carrier for the necessary facilities for delivering Crude Petroleum into the

System at the point of origin at a pressure, volume and flow rate compatible with System hydraulics at the [W]~~proposed Receipt~~Origin Point, and has made the necessary arrangements for shipment beyond the [W]~~Delivery~~Destination Point or has provided the necessary facilities for receiving said Crude Petroleum as it arrives at the [W]~~Delivery~~Destination Point. Carrier shall not be responsible for fees, charges or cost associated with transfer, conveying, or delivering Crude Petroleum beyond the [W]~~Delivery~~Destination Point of its System.

#### **[W]75 80. OTHER CONTRACTS**

Other contracts may be required of a Shipper, in accordance with the applicable 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 the applicable Tariff and these Rules and Regulations, the applicable Tariff and these Rules and Regulations control.

#### **[W]80 85. INTRASYSTEM TRANSFERS**

Intrasystem transfers or changes of custody or ownership of Crude Petroleum will not be permitted, and Carrier will not recognize or record any such transfers or changes.

#### **[W]85 90. CHARGE FOR FEES INCURRED BY CARRIER**

In addition to all other charges accruing on Crude Petroleum 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, including, but not limited to, 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 as soon as reasonably possible after the assessment of such charge. If such per Barrel charge is not expressly stated in a FERC tariff at the time it is incurred or invoiced, such omission shall not relieve Shipper of its payment obligation pursuant to this paragraph.

#### **[W]90 95. APPLICATION OF RATES & CHARGES**

(a) Crude Petroleum received for transportation shall be subject to the rates in effect on the date of receipt of such Crude Petroleum, 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.

(b) In the event that a Shipper Tenders less than 95% of its Nominated volume for transportation under the Incentive Rate, in addition to the rates charged pursuant to part (a), above, Carrier shall assess the Incentive Rate for all Barrels Tendered. In addition, Carrier shall assess the Incentive Rate for any deficiency between actual volumes Tendered and 95% of the Shipper's Nominated volumes ("***Deficiency Fee***"). Carrier shall not assess a Deficiency Fee to the extent Shipper's Nominated volumes have been reduced because of an event of Carrier's Force Majeure, as defined in these Rules and Regulations, or an Interruption or Curtailment, as defined in these Rules and Regulations, but such relief shall only apply to the extent or duration of such event of Force Majeure or Interruption or Curtailment.

~~[C](e) Application of Rates for Intermediate Points. For Crude Petroleum shipments accepted for transportation from any origin not named in this tariff, that is intermediate to the origin and destination between which the rate is published herein, through such unnamed point, Carrier will apply to such unnamed origin the rate published from the origin specified herein, and shall apply the Incentive Rate or the General Commodity Rate for such shipments, as applicable, based on Nomination. For Crude Petroleum shipments accepted for transportation to any destination not named in this tariff, that is intermediate to the origin and destination between which the rate is published herein, through such unnamed point, Carrier will apply to such unnamed destination the rate published to the destination specified herein. Carrier will file a tariff publication applicable to the transportation movement within thirty (30) days of the start of the service if the intermediate point is to be used on a continuous basis for more than thirty (30) days.~~

#### **[W]95 100. PAYMENT OF TRANSPORTATION RATES AND OTHER CHARGES**

(a) Shipper shall pay the transportation rate and all other charges. Carrier shall have a lien and security interest on all Crude Petroleum accepted for transportation to cover payment of all charges, including late charges, as provided in these Rules and Regulations, and may refuse to make delivery of the Crude Petroleum until all charges have been paid.

(b) After delivery of Shipper's Crude Petroleum has commenced on Carrier's System, Carrier will mail a settlement statement to Shipper on or before the tenth (10<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 [W]~~Receipt~~Origin Points and volumes redelivered to the [W]~~Delivery~~Destination Points, net of the pipeline loss allowance;
- (2) An itemization of the transportation fee in accordance with Carrier's tariff, FERC No. 2.0.0, as amended from time to time.

(c) Carrier will provide Shipper an invoice for each of the settlement statements by the tenth (10<sup>th</sup>) day of the Month following service. Shipper will pay, or cause to be paid, the settlement statements' undisputed amounts in full by the twenty-fifth (25<sup>th</sup>) day of the Month following service. Past due amounts will accrue interest from the due date until paid in full at the rate equal to the lower of (1) the then-effective prime rate of interest published under "Money Rates" by the Wall Street Journal multiplied by 125%; or (2) the maximum applicable lawful interest rate. Shipper shall remain responsible for the payment of all undisputed amounts due under these Rules and Regulations. 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 Petroleum 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 and other lawful charges, expenses of notice, advertisement, sale and other necessary expenses, and expenses of caring for and maintaining the Crude Petroleum, 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, 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.

#### **[W]100 105. 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. 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 pursuant to this Item, Carrier shall curtail transportation service and prorate available capacity in accordance with these Rules and Regulations.

#### **[W]105 110. PRORATIONING/ALLOCATION/APPORTIONMENT**

(a) When there shall be Nominated to Carrier, for transportation, more Crude Petroleum than can be immediately transported on a line segment, the transportation furnished by Carrier shall be apportioned among Shippers on an equitable basis as defined below.

(b) If (i) 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, Carrier receives nominations for shipment of Crude Petroleum in excess of Available Capacity on a line segment for the Month, or (ii) In the event of Force Majeure, as defined in these Rules and Regulations, or Interruption or Curtailment, as described in these Rules and Regulations reduces Available Capacity below Nominated volumes during the Month, Carrier shall maintain the Available Capacity for allocation as follows: 80% for Incentive Rate Nominations, 15% for General Commodity Rate Nominations, and 5% for New Shippers.

- (1) Carrier shall divide up to 80% of the Available Capacity by the total of all Incentive Rate Nominations and allocate on a pro rata basis based upon the 12-month shipping history of each applicable Shipper (for the first 12 months of Carrier's operations, allocations will be allocated pro rata based upon actual volumes shipped).
- (2) Carrier shall divide up to 15% of the Available Capacity by the total of all General Commodity Rate Nominations and allocate on a pro rata basis based upon the 12-month shipping history of each applicable Shipper (for the first 12 months of Carrier's operations, allocations will be allocated pro rata based upon actual volumes shipped).
- (3) Carrier shall divide up to 5% of the Available Capacity by the total of all New Shippers and allocate on a pro rata basis to each New Shipper.

(c) After the implementation of item (b) above, any unallocated Available Capacity shall be applied to outstanding nominations in the following order of priority: first to Incentive Rate Nominations, next to General Commodity Rate Nominations, and last to New Shippers.

(d) Carrier may reject any Nominations reasonably determined to be beyond the amount that the nominating party has readily accessible for shipment. If a Shipper is unable to Tender Crude Petroleum equal to the space allocated to it, Carrier may, in addition to other remedies available under this Tariff and on a non-discriminatory basis, reduce that Shipper's volumes for the succeeding Month by the amount of allocated throughput not utilized during the preceding Month if apportionment remains necessary.

#### **[W]410 115. LIABILITY OF CARRIER**

In addition to the liability as defined in SPECIFICATIONS AS TO QUALITY RECEIVED of these Rules and Regulations:



(a) Except where caused by the direct negligence of Carrier, Carrier shall not be liable to a Shipper for any delay, damage or loss resulting from any cause while Carrier is in possession or control of such Shipper's Crude Petroleum, including the breakdown of the facilities of Carrier. Notwithstanding anything to the contrary contained herein, Carrier shall not be liable or responsible to any Shipper or such Shipper's affiliates for any indirect, consequential, incidental, or punitive damages, or for loss of profits or revenues incurred by such Shipper or its affiliates that arise in relation to the transportation of Crude Petroleum under this tariff, regardless of whether such claim arises under or results from contract, tort or strict liability.

(b) If damage or loss to Crude Petroleum results from any cause other than the direct negligence of Carrier while Carrier is in possession or control of such Crude Petroleum, then Carrier may apportion the cost of such damage or loss on a pro rata basis among all Shippers. Each Shipper's share of such cost shall be determined by Carrier based on the proportion of the volume of Shipper's Crude Petroleum in the possession of Carrier on the date of such loss to the total volume of Crude Petroleum in the possession of Carrier on the date of such loss. Carrier shall be obligated to deliver only that portion of the Crude Petroleum remaining after such deduction.

(c) As between Shipper and Carrier, Carrier shall have no liability to connecting carriers for failure of Shipper to deliver volumes of Crude Petroleum that fails to comply with the connecting carrier's tariff or other binding documentation.

#### **[W]45 120. LIABILITY OF SHIPPER**

(a) Shipper shall indemnify and hold Carrier harmless from any and all personal injuries, property damage (including full or partial loss of use of property), damages, claims, suits, costs and recoveries of every name and nature which may in any manner arise or grow out of breach of performance, warranty, or representation of the Shipper with respect to any shipment Tendered by such Shipper and transported by Carrier, or otherwise arising from the fault or negligence of Shipper; and in the event any suit or action shall be brought against Carrier to recover on account of such loss, damage, injury or destruction agreed to be borne by Shipper, Shipper shall appear and defend any such suit or action and pay any judgment that may be obtained against Carrier.

(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 Petroleum that meets the quality specifications set forth herein.

#### **[W]420 125. FORCE MAJEURE**

(a) The term “Force Majeure,” as used herein and for all purposes relating hereto, shall mean acts of God, strikes, and future valid orders of court, or any law, statute, ordinance or regulation promulgated by any governmental or regulatory authority having proper jurisdiction, acts of the public enemy, wars, riots, blockages, insurrections, including inability or delays in obtaining materials, equipment, supplies, labor and services, epidemics, landslides, lightning, earthquakes, fires, storm, floods, washouts, inclement weather which necessitates extraordinary measures and expense to maintain operations, explosions, breakage or accident to machinery or lines of pipe, freezing of pipelines, the shutting in of facilities for the making of repairs, alterations or maintenance to pipelines or plants, interruption or suspension of the receipt of Crude Oil deliveries by Carrier due to the declaration of Force Majeure by third party transporters, or any other cause whether of the kind herein enumerated or otherwise, not within the commercially reasonable control of the Party claiming Force Majeure.

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

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

(c) A Party that fails to perform any obligation under a Tariff where such failure is caused by an event of Force Majeure shall promptly notify the other Party in writing of its claimed Force Majeure, providing reasonable details of the event and the expected resolution and end of such event, and shall remedy the cause of the Force Majeure insofar as it is reasonably able to do so, provided that the terms of the settlement of any strike, lockout or other industrial disturbance shall be wholly in the discretion of the Party claiming suspension of its obligations hereunder by reason thereof.

(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.

**[W]125 130. CLAIMS, SUITS, AND TIME FOR FILING**

As a condition precedent to recovery, claims must be filed in writing with the Carrier within nine (9) Months after delivery of the Crude Petroleum, 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.

Explanation of Reference Marks	
[C]	Canceled
[N]	New
[W]	Change in Wording Only