

PART 7  
GENERAL TERMS AND CONDITIONS INDEX

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GENERAL TERMS AND CONDITIONS

1. INTRODUCTORY STATEMENT

Except where expressly stated otherwise, the General Terms and Conditions of this Tariff shall apply to all Natural Gas service rendered by Transporter under any Transportation Service Agreement, including service under Rate Schedule FT and Rate Schedule IT.

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10. MEASUREMENT

The volume and the Total Heating Value of the Gas delivered to Transporter at the Receipt Point(s) and made available to or on behalf of Shipper at the Delivery Point(s) shall be determined as follows:

- 10.1 Unit of Measurement. The unit of Gas, for the purpose of measurement, shall be one Mcf.
- 10.2 Heating Value Per Cubic Foot. The Total Heating Value of the Gas per Cubic Foot shall be determined for any Month by taking the weighted average of the heating values as recorded each day by a calorimeter or as determined by chromatographic analysis of a sample of Gas collected daily during the Month, or any other method mutually agreed upon by Shipper and Transporter.
- 10.3 Determination of Dekatherms Delivered. The dekatherms delivered shall be determined by multiplying the Mcf delivered by the ratio of the Btu per Cubic Foot delivered to 1,000. For purposes of this determination, the specific gravity and heating value shall be determined at approximately the same time.
- 10.4 Determination of Temperature. The temperature of the Gas passing through each meter shall be determined for any day by the continuous use of a recording thermometer so installed that it may properly record the temperature of the Gas flowing through each meter. The arithmetical average of the temperature recorded each day shall be used in computing Gas quantities.
- 10.5 Specific Gravity. The specific gravity of the Gas shall be determined by the use of a recording gravitometer, which shall be checked at least once each Month, or any other method mutually agreed upon by Shipper and Transporter.
- 10.6 Deviation From Boyle's Law. The deviation of the Natural Gas from Boyle's Law shall be determined by the use of the table of formulas published by the American Gas Association Par Research Project NX-19 corrected for carbon dioxide and nitrogen, or any superseding applicable tables published by the American Gas Association. Determinations of the molecular percentage of N<sub>2</sub> and CO<sub>2</sub> in the Gas shall be made within 30 days after commencement of deliveries and at least quarterly thereafter. The molecular percentage of N<sub>2</sub> and CO<sub>2</sub> thus determined will be used to determine the supercompressibility factors during the ensuing period, with corrections for specific gravity, temperature and pressure.

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11. MEASURING EQUIPMENT

- 11.1 Measuring Station. Transporter will install, maintain and operate at or near the Delivery Point(s), a measuring station properly equipped with meters, and other necessary measuring equipment by which the volume of Natural Gas made available to or on behalf of Shipper shall be measured and determined in accordance with Section 9 of these General Terms and Conditions.
- (a) Orifice Meters. Orifice meters, if used, shall be installed, and Gas quantities computed, in accordance with American National Standard Bulletin ANSI/API 2530, Orifice Metering Of Natural Gas, dated June 1979, and any modification and amendments thereof, and shall include the use of flange connections and straightening vanes.
  - (b) Diaphragm or Turbine Meters. Diaphragm or turbine meters, if used, shall be installed, and Gas quantities computed, in accordance with generally accepted industry practices.
  - (c) Electronic Flow Computers. Electronic or other types of flow computers, if used, shall be installed, and quantities calculated in accordance with generally accepted industry practices.
  - (d) New Measurement Techniques. If at any time a new method or technique is developed with respect to Gas measurement or the determination of the factors used in such Gas measurement, such new method or technique may be substituted upon receipt of Commission authorization or in accordance with generally accepted industry practices.
- 11.2 Check Measuring Equipment. Shipper may install, maintain and operate, at its own expense, downstream of the Delivery Point, such check measuring equipment as desired, provided that such equipment shall be so installed as not to interfere with the operation of Transporter's measuring equipment.
- 11.3 Right to be Present. Transporter and Shipper shall have the right to have representatives present at the time of any installing, reading, cleaning, changing, repairing, inspecting, testing, calibrating, or adjusting done in connection with the other's measuring equipment used in measuring or checking the measurement of deliveries of Gas under any Transportation Service Agreement between Transporter and Shipper. Either party shall give the other reasonable advance notice of such activities with respect to meters. The records from such measuring equipment shall remain the property of their owner, but upon request each will submit to the other its records and charts, together with calculations therefore, for inspection and verification, subject to return within 30 days after receipt thereof.
- 11.4 Care Required. All installations of measuring equipment applying to or affecting deliveries of Gas shall be made in such a manner as to permit an accurate determination of the quantity of Gas delivered and ready verification of the accuracy of measurement. Reasonable care shall be exercised by both parties in the installation, maintenance and operation of pressure regulating equipment so as to prevent any inaccuracy in the determination of the volume of Gas delivered under any Transportation Service Agreement.
- 11.5 Calibration and Testing of Meters. The accuracy of Transporter's measuring equipment shall be verified by Transporter at reasonable intervals, and if requested, in the presence of representatives of Shipper, but Transporter shall not be required to verify the accuracy of such equipment more frequently than once in any 30 day period. In the event either party shall notify the other that it desires a special test of any measuring equipment the parties shall cooperate to secure a prompt verification of the accuracy of such equipment. The expense of any such special test, if called for, shall be borne by Shipper if the measuring equipment tested is found not to be in error by more than two percent.

If, upon testing, any measuring equipment, including recording calorimeters, is found to be in error by not more than two percent, previous recording of such equipment shall be considered accurate in computing deliveries of Gas, but such equipment shall be adjusted at once to record accurately as defined by the appropriate metering standards.

If, upon testing, any measuring equipment shall be found to be inaccurate by an

amount exceeding two percent, at a recording corresponding to the average hourly rate of flow for the period since the last preceding test, then any previous recordings of such equipment shall be corrected to zero error for any period which is known definitely but in case the period is not known or agreed upon, such correction shall be for a period extending over one-half of the time elapsed since the date of last test, not to exceed a period of 180 days.

11.6 Measurement Corrections.

- (a) Measurement data corrections should be processed within six (6) Months of the production Month, with a three (3) Month rebuttal period. This standard shall not apply in the case of deliberate omission or misrepresentation or mutual mistake of fact. Parties' other statutory or contractual rights will not otherwise be diminished by this standard.
- (b) For treatment of measurement prior period adjustments, treat the adjustment by taking it back to the production Month. A meter adjustment becomes a prior period adjustment after the fifth Business Day following the business Month.

11.7 Correction of Metering Errors - Failure of Meters. In the event a meter is out of service, or registering inaccurately, the volume of Gas delivered shall be determined:

- (a) by using the registration of any check meter or meters, if installed and accurately registering; or, in the absence of (a);
- (b) by correcting the error if the percentage of error is ascertainable by calibration, tests, or mathematical calculation; or in the absence of both (a) and (b), then;
- (c) by estimating the quantity of delivery by deliveries during periods under similar conditions when the meter was registering accurately.

11.8 Preservation of Metering Records. Transporter and Shipper shall each preserve for a period of one Year all test data, charts and other similar records created after June 1, 1996.

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12. BILLINGS AND PAYMENTS

12.1 Transportation Invoice.

(a) Transporter shall render a Transportation invoice in accordance with the measurements, computations and charges provided in this Tariff and the Transportation Service agreement between Transporter and Shipper.

(b) The imbalance statement should be rendered prior to or with the invoice, and the Transportation invoice should be prepared on or before the ninth Business Day after the end of the production Month. Rendered is defined as postmarked or time-stamped, and delivered to the designated site.

12.2 Monthly Payment.

(a) Shipper shall pay Transporter, at a bank designated by Transporter or as otherwise directed by Transporter, so that payment is received and Transporter has available funds therefrom on or before the 10<sup>th</sup> calendar day following receipt of Transporter's invoice, the full amount billed by Transporter to Shipper under Section 12.1 of the General Terms and Conditions of this Tariff for the immediately preceding Month.

(b) Shipper shall identify all invoice number(s) on all payments.

12.3 Estimated Statement. In the event that Transporter fails to render a statement to Shipper on or before the ninth Business Day of a Month and such failure is not due to the fault of Shipper, Shipper's payment date shall be extended one day for each day Transporter's statement is late; provided, however, that if for any reason Transporter is unable to render a statement on or before the ninth Business Day of a Month, Transporter may at its option render an estimated statement to Shipper, which statement shall contain Transporter's best estimate of the total amount payable to Transporter by Shipper under the Transportation Service agreement(s) between Transporter and Shipper for the preceding Month. Shipper shall pay to Transporter the full amount of such estimated statement within 10 calendar days of its receipt; provided, however, that Transporter shall render to Shipper a final statement no later than the 15<sup>th</sup> day of the Month in which such estimated statement is rendered, unless Transporter's failure to do so is the fault of Shipper, in which case Transporter shall render to Shipper a final statement as such time as Transporter is able to do so. Any difference between the estimated statement and the final statement shall be added to or deducted from, as appropriate, Transporter's next succeeding monthly statement to Shipper.

12.4 Disputed Billing

(a) If an invoice is in dispute, Shipper shall pay that portion not in dispute and provide documentation identifying the basis for dispute.

(b) Within 30 days after a demand made by Transporter, Shipper shall furnish good and sufficient surety bond, guaranteeing payment to Transporter of the amount ultimately found due upon bills after a final determination which may be reached either by agreement or judgment of the courts, as may be the case, then Transporter shall not be entitled to seek to suspend further delivery of Gas nor terminate the Transportation Service Agreement as outlined above unless and until default be made in the conditions of such bond.

12.5 Prior Period Adjustment.

(a) Prior period adjustment time limits should be six (6) Month from date of the initial Transportation invoice and seven (7) Months from date of initial sales invoices with a three (3) Month rebuttal period, excluding government-required rate changes. This standard shall not apply in the case of deliberate omission or misrepresentation or mutual mistake of fact. Parties' other statutory or contractual rights shall not otherwise be diminished by this standard.

12.6 Remedies For Nonpayment.

(a) Charge for Late Payment: Should Shipper fail to pay any or all of the amount of any bill as herein provided when such amount is due, Shipper shall pay a Charge for Late Payment which shall be included by Transporter on the next regular monthly bill rendered to Shipper.

Such charge for Late Payment shall be determined by multiplying (a) the unpaid portion of the bill by, (b) the ratio of the number of days from the due date to the date of actual payment

to 365, by (c) the applicable rate of interest calculated in accordance with Section 154.67 of the Commission's Regulations or any successor regulation.

(b) Suspension of Service: If such failure to pay continues for 30 days after payment is due, Transporter, in addition to any other remedy it may have under the Transportation Service Agreement, may suspend further Transportation of Gas until such amount is paid; provided, however, that Transporter shall notify Shipper in writing 20 days prior to such suspension that continued failure to pay will result in suspension of service.

(c) Termination of Contract: If such default continues for 30 days following the suspension of service Transporter may thereafter, in addition to any other remedy it may have under the Transportation Service Agreement, terminate said contract; provided, however, that Transporter shall notify Shipper in writing 20 days prior to such action that continued failure to pay will result in termination of said contract.

(d) Adjustment of Underpayment and/or Overpayment: If it shall be found that at any time or times Shipper has been overcharged or undercharged in any form whatsoever under the provisions of the Transportation Service Agreement and Shipper shall have actually paid the bill containing such overcharge or undercharge, then within 30 days after the final determination thereof, Transporter shall refund the amount of any such overcharge, and Shipper shall pay the amount of any such undercharge; provided, however, that interest calculated in accordance with Section 12.6(a) of the General Terms and Conditions of this Tariff shall apply to any undercharge not paid and to any overcharge not returned within 30 days from the date of Transporter's notification to Shipper of the amount of the undercharge or overcharge. In the event an error is discovered by Shipper in the amount billed in any statement rendered by Transporter, such error shall be adjusted within 30 days of the final determination.

#### 12.7 Annual Charge Adjustment Charge

(a) Purpose. The purpose of this Section 12.7 is to establish an Annual Charge Adjustment ("ACA") as permitted by Section 154.402 of the Commission's Regulations or any successor regulation to permit Transporter to recover from its Shippers all Total Annual Charge annual charges assessed it by the Commission under Part 382 of the Commission's regulations or any successor regulation.

(b) Applicable Rate Schedules: The ACA is applicable to all the Transporter's Rate Schedules.

(c) Filing Procedure. The ACA charge amount for the Transporter that posted on the Commission's website is incorporated by reference in this Tariff. Transporter's ACA charge shall be adjusted annually, effective October 1 of each year, to reflect changes, if any, in the ACA charge posted on the Commission's website for the Transporter.

(d) Basics of the Annual Charge Adjustment. The Rate Schedules specified in Section 12.7(b) of the General Terms and Conditions of this Tariff, shall include an increment for an Annual Charge Adjustment for costs specified in Section 12.7(a) of the General Terms and Conditions of this Tariff. Such adjustment shall be in the billable charge factor.

(e) Other Order No. 776 Requirements: The Transporter will not recover any ACA charges recorded in FERC Account 928 in a proceeding under subpart D of the Commission's regulations.

12.8 Right of Examination: Both Transporter and Shipper shall have the right to examine at any reasonable time the books, records and charts of the other to the extent necessary to verify the accuracy of any statement, chart, or computation made under or pursuant to the provisions of this Tariff or the Transportation Service agreement between Transporter and Shipper.

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13. POSSESSION OF GAS

- 13.1 Control and Possession. As between the parties to the Transportation Service Agreement, Transporter shall be deemed to be in control and possession of the Gas deliverable thereunder from the time it is delivered to Transporter at the Receipt Point(s) until it shall have been made available to or on behalf of Shipper at the Delivery Point(s). Prior to the time Gas is delivered to Transporter at the Receipt Point(s) and after such Gas is made available to or on behalf of Shipper at the Delivery Point(s), Shipper shall be deemed to be in control and possession thereof.
- 13.2 Responsibility. Shipper shall have no responsibility with respect to any Gas deliverable under the Transportation Service Agreement after it is delivered to Transporter at the Receipt Point(s) until it is made available to or on behalf of Shipper at the Delivery Point(s), or on account of anything which may be done, happen or arise with respect to such Gas after it is delivered to Transporter at the Receipt Point(s) and before it is made available to or on behalf of Shipper at the Delivery Point(s), and Transporter shall have no responsibility with respect to such Gas before it is delivered to Transporter at the Receipt Point(s) or after it is made available to or on behalf of Shipper at the Delivery Point(s) or on account of anything which may be done, happen or arise with respect to such Gas before it is delivered to Transporter at the Receipt Point(s) and after it is made available to or on behalf of Shipper at the Delivery Point(s).
- 13.3 Right to Commingle. From the time Gas is delivered to Transporter at the Receipt Point(s), Transporter shall have the unqualified right to commingle such Gas with other Gas in Transporter's Natural Gas transmission system.



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14. WARRANTY OF TITLE TO GAS

Shipper warrants that it will at the time of delivery of the Gas to Transporter have good and merchantable title to all of the Gas subject only to security interests, liens and encumbrances that would not prevent Shipper from tendering the Gas for Transportation hereunder or receiving redelivery of the Gas from Transporter. Title to the Gas received by Transporter for Shipper's account hereunder shall remain with Shipper during Transportation of the Gas by Transporter. Shipper agrees to indemnify and save Transporter harmless from all suits, actions, debts, accounts, damages, costs, losses and expenses arising out of adverse claims of any and all persons to the Gas other than claims arising solely through acts of Transporter. Shipper agrees to indemnify Transporter and save it harmless from all suits, actions, debts, accounts, damages, costs, losses and expenses arising from or out of claims of any or all persons to the said Gas or to royalties, taxes, license fees or charges thereon resulting from breach of this warranty.

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15. OPERATING INFORMATION

- 15.1 Shipper to Provide Information. Shipper shall endeavor to provide Transporter with all information and material in the possession of or reasonably accessible to Shipper and required by Transporter to calculate and verify Shipper's Input Quantity and the quantity of Gas taken by Shipper at the Delivery Point(s) each day and to calculate and verify the gross heating value, the quality specifications, and the components of both Shipper's Input Quantity and the quantities of Gas taken by Shipper at the Delivery Point(s) each day.
- 15.2 Good Faith Estimates. At Transporter's request, Shipper will furnish to Transporter good faith estimates of the daily, monthly and annual quantities of Natural Gas which Shipper desires Transporter to transport for Shipper for at least two Years in advance. Such estimates will be used for planning purposes and will not substitute for the nomination procedures contained in this Tariff.

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16. OTHER OPERATING CONDITIONS

- 16.1 Minimum Quantity Meterable. In no event shall Transporter be required to accept a request for Transportation Service for a quantity of Gas which Transporter cannot meter with reasonable accuracy at the Receipt or Delivery Points for which Shipper is requesting service. If Shipper's request for Transportation Service involves a quantity which Transporter cannot meter with reasonable accuracy at the requested Receipt or Delivery Points, Transporter will promptly inform Shipper and advise Shipper of the minimum quantity that can be metered with reasonable accuracy at the proposed Receipt and Delivery Points.
- 16.2 Coordination With Other Parties. Shipper shall make all necessary arrangements with other parties at or upstream of the Receipt Point(s) where Natural Gas is delivered to Transporter by Shipper or for Shipper's account, which arrangements shall be compatible with Transporter's system operations and coordinated with Transporter's dispatchers. To the extent Shipper's upstream transporter refuses to deliver scheduled quantities on behalf of Shipper, or Shipper's downstream transporter refuses to receive scheduled quantities on behalf of Shipper, Transporter shall not be obligated to transport such quantities for Shipper's account.
- 16.3 Facilities to be in Place Prior to Request. Transporter shall not be required to render Transportation Service on behalf of Shipper in the event that all facilities necessary to render such service do not exist at the time such service is requested.
- 16.4 Shipper to Comply With All Terms. Transporter shall not be required to render Transportation Service on behalf of any Shipper which on any day fails to comply with any or all of the terms of the Transportation Service Agreement(s) between Transporter and Shipper.
- 16.5 Complaint Resolution. This Section describes Transporter's compliance with the requirements of 18 C.F.R. Section 250.16(b)(1). Transporter will attempt to resolve any complaints by Shippers or potential Shippers without the necessity of a written complaint. To this end, Shippers are encouraged to attempt to resolve disputes informally with their designated service representatives.

A formal complaint concerning any Transportation Services offered by Transporter must specifically state that it is a complaint under 18 C.F.R. Section 250.16(b)(1) or any successor regulation and should be directed in writing to Patrick Joyce, Black Hills Shoshone Pipeline, LLC, 1301 West 24<sup>th</sup> Street, Cheyenne, WY 82001. Transporter will respond initially within 48 hours and in writing within 30 days to complaints by Shippers and potential Shippers.

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17. DISCRETIONARY WAIVER

Transporter may waive any of its rights hereunder or any obligations of Shipper on a basis that is not unduly discriminatory.

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18. LIABILITY AND REMEDIES

18.1 Relief from Liability.

- (a) Neither Transporter nor Shipper shall be liable in damages to the other for any act, omission or circumstances occasioned by or in consequence of any event constituting force majeure and, except as otherwise provide in Section 18.2 of the General Terms and Conditions of this Tariff, the obligations of Transporter and Shipper shall be excused during the period thereof to the extent affected by such events of force majeure. The term "force majeure" shall mean acts of God, strikes, lockouts, acts of the public enemy, wars, blockades, insurrections, riots, epidemics, landslides, lightening, earthquakes, fires, storms, floods, washouts, arrest and restraints of rulers and peoples, civil disturbances, explosions, breakage or accident to pipeline facilities, the binding order of any court or governmental authority which has been resisted in good faith by all reasonable legal means, and any cause, whether by of the kind herein enumerated, or otherwise, and whether caused or occasioned by or happening on account of the act or omission of one of the parties to the Transportation Service Agreement between the Transporter and Shipper or some person or concern not party thereto, which is not within the control of the party claiming excuse and which by the exercise of due diligence such party is unable to prevent or overcome. A failure to settle or prevent any strike or other controversy with employees or with anyone purporting or seeking to represent employees shall not be considered to be a matter within the control of the party claiming excuse. Under no circumstances will lack of finances be construed to constitute force majeure.
- (b) Transporter shall not be liable in damages to Shipper for any interruption, curtailment, impairment or reduction in service due to routine scheduled maintenance, maintenance required by applicable regulations or good engineering practice, or construction pursuant to a certificate of public convenience and necessity duly issued by the Commission, provided that Transporter shall exercise reasonable efforts to schedule such maintenance or construction so as to minimize the impact on all Shippers taken as a group.

18.2 Liabilities Not Relieved. Such causes or contingencies affecting the performance of said Transportation Service Agreement by either party, however, shall not relieve it of liability in the event of its concurring negligence or in the event of its failure to use due diligence to remedy the situation and remove the cause in an adequate manner and with all reasonable dispatch.

- (a) In the event that Transporter cannot make deliveries of the quantity of gas to which a Shipper has firm entitlements on any day under a Transportation Service Agreement, other than for an event of force majeure as defined in Section 18.1, and Shipper has nominated gas which is confirmed for delivery from a primary receipt point to a primary delivery point in the Service Agreement, Transporter shall provide a reservation charge credit for the quantity of gas that was confirmed by Shipper's supplier or upstream pipeline, net of applicable retentions for L&U, but not delivered; provided, however, Transporter shall not be relieved of the obligation to provide a credit for failure to confirm a nomination for reasons within its control. The quantity of gas for which a reservation charge credit may be paid shall be determined as follows:
- (1) when Transporter has given notice of the unavailability of service at least twenty-four (24) hours prior to the 11:30 a.m. deadline for nominations under this tariff, the lesser of the applicable MDQ or the average daily quantities nominated and confirmed from Shipper's primary receipt point to the Shipper's primary delivery point during the most recent seven (7) days preceding the date service became unavailable, during which service was available less the quantity measured as delivered at Shipper's primary delivery point and allocated to Shippers; OR
- (2) when Transporter has not given notice as discussed in 18.2 (a)(1), the lesser of the applicable MDQ or the quantity Shipper nominated in accordance with this tariff, and which has been confirmed by Shipper's supplier or upstream pipeline, for the day, less the quantity measured as delivered at Shipper's primary delivery point and allocated to Shipper.

- (b) Exceptions and Clarification to Reservation Charge Crediting: Transporter shall

not be obligated to provide a reservation charge credit with respect to quantities:

- (1) nominated by Shipper and subsequently delivered by Transporter at another primary or secondary delivery point during the day; provided that Shipper will not be obligated to submit nominations to another delivery point;
  - (2) that Transporter is unable to schedule at a primary receipt or delivery point due to the allocation of capacity to a Shipper that was properly scheduled in an earlier nomination cycle that is not subject to reduction or "bumping" in the current;
  - (3) that Transporter delivered at the primary delivery point but was not allocated to Shipper because other shippers without primary firm priority at the point were ranked higher than Shipper under the applicable allocation method for the point;
  - (4) that Transporter is unable to schedule or deliver due to a failure or inadequacy of supply, transportation or market upstream or downstream of Transporter's system, provided that this clause (4) shall not apply when Transporter's inability to deliver gas is due to the incidence of force majeure, as defined in Section 18.1 of the General Terms and Conditions, affecting Transporter and an upstream or downstream pipeline;
  - (5) that Transporter does not accept at a primary receipt point in accordance with the gas quality standards in Section 9 of the General Terms and Conditions of this Tariff;
  - (6) that Shipper elected not to receive at a primary delivery point, except when Shipper refused to accept deliveries because of Transporter's failure to meet its obligations under this Tariff; or
  - (7) not delivered at a primary delivery point due to scheduled work on Transporter's facilities if Transporter and Shipper have mutually coordinated the timing of the scheduled work and the work is performed in accordance with that schedule.
- (c) Calculation of the Credit When the Curtailment is Due to Force Majeure. When Transporter's inability to provide firm service is due to an incident of force majeure, as defined in Section 18.1 of the General Terms and Conditions, the Transporter shall provide Shippers with 100% reservation charge credits, for each day that service is curtailed, commencing on the eleventh day of the curtailment due to a force majeure event and continuing until service is no longer curtailed due to a force majeure event.
- (d) Calculation of the Credit When Curtailment is Not Due to Force Majeure. When Transporter's inability to provide firm service is due to Transporter's scheduling of necessary maintenance and repair of facilities, the tie-in of new facilities, or other causes, excepting circumstances of force majeure addressed in Section 18.1, the reservation charge credit for the day shall be computed by multiplying the quantity of gas to which the credit applies by the contractual reservation rate, expressed as a daily rate. A daily rate is derived by multiplying the reservation rate by 12 (months) and then dividing by 365 (days).
- (e) Any reservation charge credit will be reflected on the Shipper's monthly invoice and will be applied first to any balances owed by Shipper.
- (f) For capacity release transactions, reservation charge credits applicable to the Replacement Shipper shall be determined as if the Replacement Shipper were the Releasing Shipper, provided that the contractual reservation rate utilized in calculating any applicable credits shall be the lower of the rate paid by the Replacement Shipper or the rate paid by the Releasing Shipper to the Transporter. If the Replacement Shipper is paying a volumetric rate, no reservation charge credit will be provided. Credits due to a Releasing Shipper by reason of payments by a Replacement Shipper shall be calculated without regard to any reservation charge credit provided to the Replacement Shipper under Section 18.2. Under no circumstances shall the total of reservation charge credits exceed the reservation charge Shipper would have paid absent a capacity release or segmentation by Shipper.



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19. DEFAULT

If either Transporter or Shipper shall fail to perform any of the material covenants or obligations imposed upon it by the Transportation Service Agreement, subject to the applicable provisions of this Tariff, then in such event the other party may at its option terminate said contract by proceeding as follows. The party not in default shall cause a written notice to be served on the party in default stating specifically the cause for terminating the contract and declaring it to be the intention of the party giving the notice to terminate the same; thereupon the party in default shall have 30 days after the service of the aforesaid notice in which to remedy or remove the cause or causes stated in the notice for terminating the contract, and if within said period of 30 days the party in default does so remove and remedy said cause or causes, then such notice shall be withdrawn and the contract shall continue in full force and effect. In case the party in default does not so remedy and remove the cause or causes within said period of 30 days, the contract shall terminate; provided, however, that no termination shall occur if the party in default has initiated action to cure such material default but, despite its best efforts, has been unable to complete cure within such thirty day period and is continuing its action to complete cure in good faith beyond the end of the 30 day period. The termination or cancellation of any Transportation Service Agreement shall be pursuant to the provisions of this Section, shall be without prejudice to the right of Transporter to collect any amounts then due to it for Transportation Services rendered prior to the time of cancellation, and shall be without prejudice to the right of Shipper to receive any Transportation Services which have not been rendered but for which Shipper has paid prior to the time of cancellation, and without waiver of any remedy to which the party not in default may be entitled for violations of the Transportation Service Agreement.



## GENERAL TERMS AND CONDITIONS

### 2. DEFINITIONS

Except where another meaning is expressly stated, the following terms shall have the following meanings when used in this Tariff and in any Transportation Service Agreement incorporating this Tariff:

2.1 FT Rate Schedule. The term "FT Rate Schedule" or the term "Rate Schedule FT" shall mean the FT Rate Schedule of this Tariff, as may be revised from time to time, or any superseding rate schedule(s).

2.2 IT Rate Schedule. The term "IT Rate Schedule" or the term "Rate Schedule IT" shall mean the IT Rate Schedule of this Tariff, as may be revised from time to time, or any superseding rate schedule(s).

2.3 Transporter. The term "Transporter" shall mean Black Hills Shoshone Pipeline, LLC or its successors or assignees.

2.4 Shipper and Shipper's Agent.

(a) The term "Shipper" shall mean any entity seeking or subscribing to Transportation Service on Transporter's system pursuant to the terms and conditions of this Tariff.

(b) The term "Shipper's Agent" or the term "Agent" shall mean any party Shipper may contract with for purposes of administering Shipper's Transportation Service Agreement with Transporter. An Agent has only those rights designated in writing by such Shipper to Transporter.

2.5 FERC or Commission. The term "FERC" or "Commission" shall mean the Federal Energy Regulatory Commission or any successor agency having jurisdiction over this Tariff.

2.6 Gas Day. The term "Gas Day" shall mean 9:00 A.M. to 9:00 A.M. Central Clock Time (CCT) (7:00 A.M. to 7:00 A.M. Pacific Clock Time (PCT)).

2.7 Month. The term "Month" shall mean the period beginning at 9:00 A.M. CCT (7:00 A.M. PCT) on the first day of the calendar month and ending at 9:00 A.M. CCT (7:00 A.M. PCT) on the first day of the next succeeding calendar month.

2.8 Year. The term "Year" shall mean any period of 12 consecutive Months.

2.9 Contract Year. The term "Contract Year" with respect to the first "Contract Year" shall mean the period commencing on the date deliveries first commence under a Transportation Service Agreement and ending at 9:00 A.M. CCT (7:00 A.M. PCT) on the following November 1, and with respect to any succeeding "Contract Year" shall mean the period of 12 consecutive Months from the end of the preceding Contract Year to 9:00 A.M. CCT (7:00 A.M. PCT) on the next succeeding November 1.

2.10 Commencement Date. The term "Commencement Date" shall be the date on which Transportation Service begins, as mutually agreed by Shipper and Transporter as set forth in a Transportation Service Agreement, or in the case where facilities are required to be constructed by Transporter to enable service to Shipper, the date on which the facilities required to enable Transporter to render Transportation Service to Shipper are constructed, installed and made operational, as set forth in Transporter's written notice to Shipper, which shall be given not less than five days prior to the date on which the Transportation Service shall begin, unless Shipper and Transporter mutually agree to a shorter notice period.

2.11 Cubic Foot. The reporting basis for Gas volumes as cubic foot at standard conditions of 14.73 psia, 60 degrees F, and dry. For Gas volumes reported in cubic meters, the standard conditions are 101.325 kPa, 15 degrees C, and dry.

2.12 Mcf. The term "Mcf" shall mean 1,000 cubic feet of Gas. The term "MMcf" shall mean one million (1,000,000) cubic feet of Gas.

2.13 Total Heating Value. The term "Total Heating Value," when applied to a Cubic Foot of Gas, means the number of British thermal units produced by the combustion in a recording calorimeter, with air of the same temperature and pressure as the Gas, when the products of combustion are cooled to the initial temperature of the Gas and air, and when the water formed by combustion is condensed to the liquid state.

2.14 Gas. The term "Gas" or the term "Natural Gas" shall mean natural gas of the quality

specified in Section 9 of these General Terms and Conditions.

2.15 System Capacity. The term "System Capacity" for purposes of scheduling receipts and deliveries shall mean the capacity available for Transportation on Transporter's system that shall be determined by Transporter, to the best of its ability, by performing a computer simulation of the system, taking into account nominated Scheduled Input, Scheduled Equivalent, and Equivalent Quantities, the available facilities, the Gas characteristics and the line pack gain or loss required for that day.

2.16 Delivery and Receipt Points.

(a) The term "Delivery Point" shall mean a point at which Shipper or Shipper's Agent is authorized by the Transportation Service Agreement to take Gas from Transporter.

(b) The term "Receipt Point" shall mean a point at which Shipper or Shipper's Agent is authorized to deliver Natural Gas to Transporter.

2.17 Business Day. The term "Business Day" shall mean Monday through Friday, excluding Federal Banking Holidays for transactions in the U.S., and similar holidays for transactions occurring in Canada and Mexico.

2.18 Service Day. The term "Service Day" shall mean the day during which Shipper receives Transportation Service pursuant to a nomination in accordance with Section 4 of the General Terms and Conditions of this Tariff.

2.19 Electronic Communication. The term "Electronic Communication" shall mean the transmission of information via facsimile, email, Transporter's Public Internet, or other mutually agreed communication methodologies used to transmit and receive information, including communication by telephone.

2.20 Negotiated Rate. The term "Negotiated Rate" shall mean a rate or rate formula for computing a rate for service under a single rate schedule under which, for some portion of the contract term, one or more of the individual rate components may exceed the maximum charge, or be less than the minimum charge, for such component of the applicable tariff rate as set forth in Transporter's Schedule of Rates. A Negotiated Rate must be mutually agreed upon by Transporter and Shipper, and may be based on a rate design other than straight fixed-variable.

2.21 Input Quantities.

(a) The term "Input Quantity" for each Gas Day at a Receipt Point shall be the quantity of Natural Gas which is delivered to Transporter at the Receipt Point by or on behalf of Shipper.

(b) The term "Maximum Input Quantity" for a Receipt Point shall be the maximum quantity of Natural Gas per Gas Day which a Shipper under the FT Rate Schedule is entitled to request Transporter to receive on a firm basis at a Receipt Point for Transportation under Shipper's Transportation Service Agreement (subject to adjustment for the L & U Percentage) as set forth in the Transportation Service Agreement between Shipper and Transporter.

(c) The term "Scheduled Input Quantity" for a Receipt Point shall be the Input Quantity which is nominated by Shipper and scheduled by Transporter for Transportation Service through such Receipt Point on a given Gas Day in accordance with Section 4 of these General Terms and Conditions.

2.22 Equivalent Quantities.

(a) The term "Equivalent Quantity" shall be that quantity of Natural Gas to be made available on any Gas Day to or on behalf of Shipper at one or more Delivery Point(s), which quantity shall be the thermal equivalent of the sum of the Input Quantities delivered to Transporter at all Receipt Point(s) by or on behalf of Shipper on that Gas Day, adjusted for the L & U Percentage.

(b) The term "Maximum Equivalent Quantity" shall be the maximum quantity which Shipper may request Transporter to make available at each Delivery Point, as set forth in the Transportation Service Agreement between Shipper and Transporter.

(c) The term "Scheduled Equivalent Quantity" for a Delivery Point shall be the portion of the Equivalent Quantity (not to exceed the Maximum Equivalent Quantity) which is nominated by Shipper and scheduled by Transporter for Transportation Service through such Delivery Point on a given Gas Day in accordance with Section 4 of the General Terms and Conditions of this Tariff, or such other quantity as determined through application of said Section 4.

2.23 Maximum Daily Quantity. The term "Maximum Daily Quantity" or "MDQ" shall be the maximum

quantity of Gas that Shipper may provide to Transporter for redelivery at all Delivery Points on any day, as set forth in the Transportation Service Agreement between Shipper and Transporter.

2.24 Lost and Unaccounted for Gas ("L & U"). L & U consists of line losses and other unaccounted-for Gas in the operation of Transporter's system. L & U shall be furnished in-kind by Shippers at each applicable Receipt Point.

2.25 L & U Percentage. The L & U Percentage shall be stated on the Statement of Rates for Rate Schedule FT and Rate Schedule IT and shall apply to all transactions under Rate Schedules FT and IT. The L & U Percentage shall be recomputed annually, using the following procedures:

(a) The L & U Percentage shall be based on the previous calendar year. Revisions to the L & U Percentage shall be filed by no later than 30 days prior to the effective date of the revised L & U Percentage and shall become effective on April 1 of each Year.

(b) The total actual monthly L & U quantities experienced over the previous calendar year ("Actual L & U") shall be divided by the total system throughput for the previous calendar year (as adjusted for any known and measurable changes for the 12-Month period beginning on the effective date of the filing). The resulting percentage shall be rounded to the nearest 0.1% ("Actual L & U Percentage").

(c) The total L & U quantities received from Shippers pursuant to the L & U Percentage charged during the previous calendar year shall be subtracted from the Actual L & U to determine the L & U True-Up Volume. The L & U True-Up Volume shall be divided by the total system throughput for the previous calendar year (as adjusted for any known and measurable changes for the 12-Month period beginning on the effective date of the filing). The resulting percentage shall be rounded to the nearest 0.1% ("L & U True-Up Adjustment").

(d) The L & U True-Up Adjustment shall be added to the Actual L & U Percentage to determine the L & U Percentage.

2.26 Nomination. The level of information required to define a nomination for communications purposes is a line item containing all defined components.

2.27 Intra-day Nomination. The term "Intra-day Nomination" is a nomination submitted after the nomination deadline whose effective time is no earlier than the beginning of the Gas Day and runs through the end of that Gas Day.

2.28 Data Elements. All trading partners should accept all NAESB standard elements. Usage should be characterized as either mandatory, conditional, sender's option, business conditional, and mutually agreeable.

Mandatory (M) means the data element (information) must be supplied in the transaction.

Conditional (C) means that the presence of data in a field is determined by the presence or lack of data in another field within the transmittal or related data sets.

Sender's Option (SO) means that this element is optional for the sender to send and, if sent, the receiver should receive and process.

Business Conditional (BC) means the data element is based on current variations in business practice. The business practice will be described herein, with an example. Over time, NAESB expects that as business practices are standardized, elements will move out of this category. Business Conditional elements which are not supported/required by the receiver will be acknowledged in the response document with a warning message code indicating that the data element was ignored by the receiver.

Mutually Agreeable (MA) means that the data element is mutually agreed to between trading partners. It must be presented to NAESB for technical implementation. It does not, by its definition, create a NAESB standard business practice. Usage of this element in no way can be mandated for inclusion by either trading partner in order to achieve a level of service.

2.29 NAESB. The term "NAESB" shall mean the North American Energy Standards Board, which promulgates business practices and electronic communications standards that are required by the Commission regulations under 18 C.F.R. Section 284.12. NAESB Standards, Definitions and Data Sets are adopted by Transporter as dictated in Section 35 of the General Terms and Conditions.

GENERAL TERMS AND CONDITIONS

20. NONWAIVER OF FUTURE DEFAULT

No waiver by either Transporter or Shipper of any one or more defaults by the other in the performance of any provisions of a Transportation Service Agreement, the General Terms and Conditions of this Tariff, or the applicable rate schedule, shall operate or be construed as a waiver of any future default or defaults, whether of a like or of a different character.

GENERAL TERMS AND CONDITIONS

21. NOTICES AND COMMUNICATION

Any communication, notice, request, demand, statement or bill provided for in this Tariff or in a Transportation Service Agreement, or any notice which either Transporter or Shipper may desire to give to the other, shall be in writing and shall be considered as duly presented, rendered, or delivered express mail service, shall be considered as duly presented one day after mailing; or, if prepaid registered or ordinary mail, shall be considered as duly presented five days after mailing. The material so sent shall be addressed to the pertinent party at the address set forth in the Transportation Service Agreement, or at such other address as either party may designate in writing.

GENERAL TERMS AND CONDITIONS

22. RELATIONSHIP WITH AFFILIATES

- 22.1 Request for Transportation Service. The specific information and format required from a Shipper for a valid request for Transportation Service is described in Section 3 of these General Terms and Conditions. In addition, for transactions in which an affiliate is involved, the specific affiliation of the requester with Transporter must be included.
- 22.2 Comparability of Service. Transporter shall provide service on a basis that is equal in quality for all Gas supplies transported whether shipped by an affiliate of Transporter or by another Shipper.

GENERAL TERMS AND CONDITIONS

23. INDEMNIFICATION

Shipper agrees to indemnify and hold Transporter harmless against all claims by third parties, including but not limited to other Shippers, caused by Shipper's violation of Shipper's Transportation Service Agreement, the applicable rate schedule, or the General Terms and Conditions of this Tariff.

GENERAL TERMS AND CONDITIONS

24. SCHEDULES AND CONTRACTS

This Tariff, including these General Terms and Conditions, and the respective obligations of the parties under the Transportation Service Agreement(s) are subject to valid laws, orders, rules and regulations of duly constituted authorities having jurisdiction and are subject to change from time to time by addition, amendment or substitution as provided by such valid laws, orders, rules and regulations.



GENERAL TERMS AND CONDITIONS

25. CAPACITY RELEASE

This Section sets forth the terms and conditions that are applicable to the release of firm entitlements under various services that are provided pursuant to this Section 25.

25.1 Procedure. Capacity released shall be subject to the terms and conditions of this Section 25.1.

- (a) Eligibility. Any Shipper ("Releasing Shipper") under Rate Schedule FT of this Tariff, shall be entitled, subject to the terms and conditions of this Section 25.1, to release any or all of its firm Transportation entitlements held under a Transportation Service Agreement but only to the extent that the capacity so released is acquired by another Shipper ("Replacement Shipper") pursuant to the provisions of this Section 25.1. If a shipper wants to release all or part of its capacity, including index-based releases, the shipper shall submit a release request via facsimile (or other Electronic Communication acceptable to Transporter). If a releasing shipper desires to make an index-based release, it should contact Transporter in advance of the initial release with requested price index references that are representative of receipt and delivery points on Transporter's system for fixed-price transactions with next-day or next-month delivery obligations. Consistent with NAESB 5.3.65, Transporter will review with the releasing shipper the request and the steps needed to support the index. Transporter will not unreasonably withhold agreement to such a proposed request. Upon receipt and processing of such release, Transporter will post a notice on its Public Internet with the details of the offer and the deadline to submit bids, if applicable. Any such release shall result in a temporary suspension of the Releasing Shipper's right to use the released firm entitlements. In the case of segmented capacity releases, for the MDQ released, the upstream segment Shipper shall be permitted to nominate as a Secondary Point all points both upstream of the break point and in the same direction as the Releasing Shipper's Primary Route, and the downstream segment Shipper shall be permitted to nominate as a Secondary Point all points both downstream of the break point and in the same direction as the Releasing Shipper's Primary Route, provided that the nominations of the Releasing and Replacement Shippers do not result in an overlap with another capacity release transaction.
- (b) Released Capacity shall be made available on a basis that is not unduly discriminatory, and any Replacement Shipper shall be entitled to acquire Releasing Shipper's capacity subject to the terms and conditions under this Section 25.1 provided the Replacement Shipper meets all provisions governing eligibility under this Tariff in a timely manner. A Replacement Shipper shall be entitled to release acquired capacity to another Replacement Shipper, subject to the requirement that the original Replacement Shipper satisfies all of the provisions of this Section 25.1 as if such Replacement Shipper were a Releasing Shipper, and the new Replacement Shipper meets all provisions governing eligibility under this Tariff in a timely manner, provided, however, that a Replacement Shipper that acquired released capacity through a volumetric bid shall not be entitled to re-release that capacity.
- (c) Term. Any release under this Section 25.1 shall be for a minimum period of one day, and shall not exceed the expiration of the initial term of the Transportation Service Agreement that is released.
- (d) Recall Rights.
  - (1) Releasing Shippers may, to the extent permitted as a condition of the capacity release, recall released capacity:
    - (i) Timely Recall Notification: (a) A Releasing Shipper recalling capacity shall provide notice of such recall to Transporter and the first Replacement Shipper no later than 8:00 a.m. on the day that Timely Nominations are due; (b) Transporter shall provide notification of such recall to all affected Replacement Shippers no later than 9:00 a.m. on the

- day that Timely Nominations are due (Central Clock Time);
- (ii) Early Evening Recall Notification: (a) A Releasing Shipper recalling capacity shall provide notice of such recall to Transporter and the first Replacement Shipper no later than 3:00 p.m. on the day that Evening Nominations are due; (b) Transporter shall provide notification of such recall to all affected Replacement Shippers no later than 4:00 p.m. on the day that Evening Nominations are due (Central Clock Time);
  - (iii) Evening Recall Notification: (a) A Releasing Shipper recalling capacity shall provide notice of such recall to Transporter and the first Replacement Shipper no later than 5:00 p.m. on the day that Evening Nominations are due; (b) Transporter shall provide notification of such recall to all affected Replacement Shippers no later than 6:00 p.m. on the day that Evening Nominations are due (Central Clock Time);
  - (iv) Intraday 1 Recall Notification: (a) A Releasing Shipper recalling capacity shall provide notice of such recall to Transporter and the first Replacement Shipper no later than 7:00 a.m. on the day that Intraday 1 Nominations are due; (b) Transporter shall provide notification of such recall to all affected Replacement Shippers no later than 8:00 a.m. on the day that Intraday 1 Nominations are due (Central Clock Time); and
  - (v) Intraday 2 Recall Notification: (a) A Releasing Shipper recalling capacity shall provide notice of such recall to the TSP and the first Replacement Shipper no later than 2:30 p.m. on the day that Intraday 2 Nominations are due; (b) Transporter shall provide notification of such recall to all affected Replacement Shippers no later than 3:30 p.m. on the day that Intraday 2 Nominations are due (Central Clock Time).

The Releasing Shipper shall make such recall effective by communicating the recall and submitting a nomination change to Transporter, pursuant to Section 4.0 of these General Terms and Conditions.

Upon notification of a recall, the MDQ of the Replacement Shipper(s) shall be reduced by the quantity of the recall, and its nominations adjusted as necessary. Transporter shall be entitled to rely upon such nomination change and not be held liable under any circumstances whatsoever in the event of any such recall. The terms and conditions of recall may include non-payment of reservation charges by the Replacement Shipper. Transporter shall notify the Releasing Shipper of Replacement Shipper's non-payment of reservation charges no later than five (5) Business Days after the date such payment was due pursuant to this Tariff.

- (2) Upon notification by Releasing Shipper to Transporter that such recall of Transportation entitlements is no longer in effect, the Replacement Shipper shall, if provided for in the agreement with the Releasing Shipper, be entitled to reput the release effective upon communication to Transporter of a nomination change.
  - (3) If released Transportation capacity is recalled by the Releasing Shipper, Transporter may, if requested by the Replacement Shipper, and subject to availability of capacity, continue service to the Replacement Shipper under Rate Schedule IT.
- (e) Bidding Period. Releasing Shipper may specify the date and time that bidding period starts and the date that the bidding period ends, provided, however, that the bidding period shall not commence any later than the time set forth in Section 25.1(f) of the General Terms and Conditions of this Tariff regarding the capacity release timeline.

Releasing Shipper's offer to release shall be posted for the bidding period; provided, however, that the Releasing Shipper shall have the right to withdraw such offer before the end of the bidding period where unanticipated circumstances so justify and a notice of withdrawal of the offer is posted or submitted in writing prior to the receipt of any valid bids for such capacity. A Releasing Shipper may request a later posting time for posting of such offer, and Transporter will support such request insofar as it comports with the Capacity Release timeline in Section 25.1(f) of the General Terms and Conditions of this Tariff.

- (f) The capacity release timeline applies to all parties involved in the capacity release process provided that: 1) all information provided by the parties to the transaction is valid and the acquiring shipper has been determined to be credit-worthy before the capacity release bid is tendered, 2) for index-based capacity release transactions, the releasing shipper has provided the capacity release service provider with sufficient instructions to evaluate the corresponding bid(s) according to the timeline, and 3) there are no special terms or conditions of the release. Further, the capacity release service provider may complete the capacity release process on a different timeline if the offer includes unfamiliar or unclear terms and conditions (e.g. designation of an index not supported by Transporter).

(i) For biddable releases (1 Year or less):

- (1) offers should be tendered by 12:00 p.m. on a Business Day;
- (2) open season ends no later than 1:00 p.m. on a Business Day (evaluation period begins at 1:00 p.m. during which contingency is eliminated, determination of best bid is made, and ties are broken);
- (3) evaluation period ends and award posting if no match required at 2:00 p.m.;
- (4) match or award is communicated by 2:00 p.m.;
- (5) match response by 2:30 p.m.;
- (6) where match required, award posting by 3:00 p.m.;
- (7) contract issued within one hour of award posting (with a new contract number, when applicable); nomination possible beginning at the next available nomination cycle for the effective date of the contract. (Central Clock Time).

(ii) For biddable releases (more than 1 Year):

- (1) offers should be tendered by 12:00 p.m. four Business Days before award;
- (2) open season ends no later than 1:00 p.m. on the Business Day before timely nominations are due (open season is three Business Days);
- (3) evaluation period begins at 1:00 p.m. during which contingency is eliminated, determination of best bid is made, and ties are broken;
- (4) evaluation period ends and award posting if no match required at 2:00 p.m.;
- (5) match or award is communicated by 2:00 p.m.;
- (6) match response by 2:30 p.m.;
- (7) where match required, award posting by 3:00 p.m.;
- (8) contract issued within one hour of award posting (with a new contract number, when applicable); nomination possible beginning at the next available nomination cycle for the effective date of the contract. (Central Clock Time).

(iii) For non-biddable releases:

Timely Cycle: Posting of prearranged deals not subject to bid are due by 10:30 a.m. on a Business Day.

Evening Cycle: Posting of prearranged deals not subject to bid are due by 5:00 p.m. on a Business Day.

Intra-day 1 Cycle: Posting of prearranged deals not subject to bid are due by 9:00 a.m. on a Business Day.

Intra-day 2 Cycle: Posting of prearranged deals not subject to bid are due by 4:00 p.m. on a Business Day.

For each cycle, contracts will be issued within one hour of award posting (with a new contract number, when applicable); nomination possible beginning at the next available nomination cycle for the effective date of the contract. (Central Clock Time).

- (g) Required Information for the Release of Capacity. The Releasing Shipper shall submit the following information, objectively stated and applicable to all potential Shippers on a non-discriminatory basis, to Transporter via Electronic Communication:
- (1) The Releasing Shipper's legal name, contract number and the name, title, address and phone and fax number of the individual who will authorize the release of capacity for the Releasing Shipper.
  - (2) Whether the capacity is biddable.
  - (3) The level of daily firm entitlements that the Releasing Shipper elects to release, expressed as a numeric quantity per day for Transportation and total release period quantity.
  - (4) The Primary Route(s) or segment within such Primary Route(s), and quantity to be released for such Primary Route.
  - (5) The requested effective date and the term of the release.
  - (6) The minimum acceptable period of release and minimum acceptable quantities (if any).
  - (7) The Releasing Shipper's maximum reservation rate (including any demand type surcharges, direct bills, or similar mechanisms), any minimum rate requirement, whether bids are to be submitted on a reservation or volumetric basis, and whether the bids should be stated in dollars and cents or percent of the maximum tariff rate. The maximum and minimum rates may separately identify surcharges and direct bills, or such amounts can be included in the total rate. The Releasing Shipper may specify a minimum reservation charge requirement that is in excess of the maximum tariff rate for the applicable service if the term of the proposed release is for one (1) Year or less and the release is to take effect on or before one (1) Year from the date on which Transporter is notified of the release.
  - (8) The Releasing Shipper's request (if at all) for Transporter to market actively the capacity to be released.
  - (9) The legal name of the Replacement Shipper that is designated in any pre-arranged release ("Pre-arranged Replacement Shipper").
  - (10) Whether the capacity is to be released on a recallable basis, and, if so, the terms and conditions of such recall, and whether the Releasing Shipper is authorized to repute the release if and when it notifies Transporter that the recall is no longer in effect; or whether the capacity is to be released on a permanent basis.
  - (11) Whether the capacity to be released is contingent on the release of other capacity, or on certain terms and conditions, and if so, the capacity, terms and/or conditions upon which the release is contingent.
  - (12) The terms and conditions under which Releasing Shipper will accept contingent bids, including bids that are contingent upon the Replacement Shipper acquiring Transportation on a pipeline interconnected to Transporter, the method for evaluating contingent bids, what level of proof is required by the contingent bidder to demonstrate that the contingency did not occur, and for what time period the next highest bidder will be obligated to acquire the capacity if the next winning contingent bidder declines the release.
  - (13) Whether Releasing Shipper requires bidders to post a deposit with

Transporter, not to exceed the amount required by Transporter pursuant to Section 3.1 of the General Terms and Conditions of this Tariff, to guard against frivolous bids. Deposits will be refunded to losing bidders at the time the capacity is awarded, and credited against the Replacement Shipper's invoices until fully utilized.

- (14) Whether Releasing Shipper will require Replacement Shipper to post a deposit, not to exceed the amount required by Transporter pursuant to Section 3.1 of the General Terms and Conditions of this Tariff, to guard against payment defaults if Transporter waives the deposit requirement contained in Section 3.1 of the General Terms and Conditions of this Tariff. Such deposit will be paid by the Replacement Shipper to Transporter at the time specified in Section 3.1 of the General Terms and Conditions of this Tariff, and will be credited against Replacement Shipper's invoices until fully utilized.
  - (15) Any other reasonable and not unduly discriminatory terms and conditions to accommodate the release, including provisions necessary to evaluate bids and tie breaking criteria, provided, however, that bid evaluations will be limited to highest rate, net revenue and present value.
  - (16) Any restriction on the use of higher rate Secondary Points, or any requirement that the Replacement Shipper reimburse the Releasing Shipper for any incremental charges assessed by Transporter pursuant to Section 7.1 of the General Terms and Conditions of this Tariff for use of Secondary Points by the Replacement Shipper.
  - (17) Whether the release is a Pre-Arranged Asset Manager Release as defined in 18 C.F.R. Section 284.8(h)(3), and the volumetric level of the Asset Manager's delivery or purchase obligation and the time period during which that obligation is in effect.
  - (18) Whether the release is a Pre-Arranged Release to a Marketer Participating in a State-Regulated Retail Access Program, as defined in 18 C.F.R. Section 284.8(h)(4).
  - (19) Any other additional information that Transporter deems necessary, from time to time, to effectuate release hereunder.
  - (20) Transporter shall not be liable for information provided to Transporter, including any such information that is provided via Electronic Communication, or with respect to the deposit required by the Replacement Shipper pursuant to Section 25.1(g)(14) of the General Terms and Conditions of this Tariff.
- (h) Open Bidding Process. Prospective Shippers wishing to acquire capacity, including index-based capacity, available for release ("Bidding Shipper") shall place a bid in writing or by Electronic Communication for the available capacity during the Posting Period. If such bid is not expressly labeled contingent, such bid shall be binding. The bid shall contain the following information:
- (1) The Bidding Shipper's legal name and the name, title, address and phone number of the individual who will authorize the acquisition of the available capacity.
  - (2) The level of daily firm entitlements that the Bidding Shipper requests and the minimum quantity it will accept.
  - (3) The requested effective date and the term of the acquisition.
  - (4) The Bidding Shipper's bid, addressing all criteria required by the Releasing Shipper.

The Bidding Shipper shall be entitled to withdraw its bid via Electronic Communication, prior to the end of the bidding period, if such withdrawal is not due to lower bids by other Shippers. Bidding Shipper cannot withdraw its bid after the Bidding Period ends. If Bidding Shipper withdraws its bid, it may not resubmit a lower bid. If Bidding Shipper submits a higher bid, lower bids previously submitted by Bidding Shipper will be automatically

eliminated. A Bidding Shipper may submit multiple bids where the term or quantity involved in each bid is different. Transporter shall post the Releasing Shipper's offer for release capacity, including index-based capacity, on its Public Internet. The posting of the offer will also include the maximum Commission-approved tariff reservation rate applicable to the capacity, the date and time by which bids must be submitted in accordance with the capacity release timetable, and the date and time the offer is posted. Transporter shall post all withdrawals of offer or bids on its Public Internet. All terms and conditions of completed capacity release transactions, including index-based releases, will be posted on the Public Internet, including the names of Releasing Shippers.

The maximum and/or minimum rates specified by a Releasing Shipper may exceed the maximum tariff rate for the applicable service if the term of the proposed release is one (1) Year or less as long as the release is to take effect on or before one (1) Year from the date on which Transporter is notified of the release. For bids for a term greater than one (1) Year, no bid shall exceed the maximum applicable Transportation rates, in addition to any and all applicable fees and surcharges, as specified in this Tariff. All valid bids (except bidder's name) will be posted by Transporter on its Public Internet.

- (i) Pre-Arranged Release. Releasing Shipper shall have the right to release capacity to a Pre-arranged Replacement Shipper, including a Replacement Shipper under either a Pre-Arranged Asset Manager Release or a Pre-Arranged Release to a Marketer Participating in a State-Regulated Retail Access Program, without posting an offer via Electronic Communication if: (1) the release is for a term of thirty-one (31) days or less for which the Releasing Shipper has obtained a Pre-arranged Replacement Shipper and the Releasing Shipper elects not to post such proposed capacity release for bidding; (2) a release with a term of more than one (1) Year for which the Releasing Shipper has obtained a Pre-arranged Replacement Shipper and the release is at maximum rates and meets all other terms and conditions of the release; (3) a Pre-Arranged Asset Manager Release; or (4) a Pre-Arranged Release to a Marketer Participating in a State-Regulated Retail Access Program. With the exception of Pre-Arranged Asset Manager Releases or Pre-Arranged Releases to a Marketer Participating in a State-Regulated Retail Access Program, any release with a term that is greater than thirty-one (31) days and less than or equal to one (1) Year must be posted for bidding, regardless of the proposed rate. If Releasing Shipper exercises such right, Releasing Shipper must notify Transporter prior to the nomination of the released entitlements, and the Replacement Shipper shall adhere to the contracting requirements pursuant to Section 25.2 of the General Terms and Conditions of this Tariff. Where applicable, the Releasing Shipper must identify the Pre-arranged Replacement Shipper as an "Asset Manager" as that term is defined in 18 C.F.R. Section 284.8(h)(3) or a "Marketer Participating in a State-Regulated Retail Access Program" as that term is defined in 18 C.F.R. 284.8(h)(4). Releasing Shipper will provide the information via Electronic Communication by 9:00 a.m. the day before the release transaction begins. The Replacement Shipper shall confirm the pre-arranged release by 9:30 a.m. and meet any eligibility requirements under this Section 25.
  - (i) A Pre-Arranged Release between a Releasing Shipper and an Asset Manager, as that term is defined in 18 C.F.R. Section 284.8(h)(3), shall be defined for purposes of this Section 25, as a "Pre-Arranged Asset Manager Release".
  - (ii) A Pre-Arranged Release between a Releasing Shipper and a Marketer Participating in a State-Regulated Retail Access Program, as that term is defined in 18 C.F.R. Section 284.8(h)(4), shall be defined for purposes of this Section 25, as a "Pre-Arranged Release to a Marketer Participating in a State-Regulated Retail Access Program".
  - (iii) Payments or other consideration exchanged between the Releasing Shipper and the Replacement Shipper in a Pre-Arranged Asset Manager Release are not subject to the maximum rate.
- (j) Matching Rights. A Pre-arranged Replacement Shipper shall have the right of first refusal for a time period as negotiated by the Releasing Shipper and the Pre-arranged Replacement Shipper ("Matching Period"). The Matching

Period will be one (1) hour following the time the Pre-arranged Replacement Shipper has been notified of the winning bid. In the event a bid is received that more closely meets the criteria specified by the Releasing Shipper, Transporter shall provide the Pre-arranged Replacement Shipper an opportunity during the Matching Period to match or exceed the bid that more closely meets the criteria specified by the Releasing Shipper. No later than 2:00 p.m., the Pre-arranged Replacement Shipper shall receive notification via Electronic Communication of the terms and conditions of the prevailing bid, and shall have the Matching Period to respond via Electronic Communication. Absent a response, the capacity shall be awarded to the prevailing Bidding Shipper no later than 3:00 p.m. Transporter will post notice of a pre-arranged release on Transporter's Public Internet no later than the first nomination after the transaction commences.

- (k) Awarding of Capacity Available for Release. Capacity for releases subject to bidding will be awarded no later than 3:00 p.m. The capacity available for release shall be awarded to the Bidding Shipper with the highest bid matching all terms and conditions provided by the Releasing Shipper. Potential Replacement or Pre-arranged Replacement Shippers may submit bids in excess of the maximum tariff rate for the applicable service if the term of the proposed release is one (1) Year or less as long as the release is to take effect on or before one (1) Year from the date on which Transporter is notified of the release. Such rate will be utilized in the determination of the highest bid.

In the case of multiple bid winners, the highest ranking bid will receive the entire maximum amount of capacity bid. The next highest bidder will receive the remainder of the offered capacity provided that the amount remaining is above the bidder's minimum acceptable quantity. Any remaining capacity will be given to the next highest bidder under the same provisions as above. This process will repeat until either all of the offered capacity is awarded or the remaining capacity falls below either the Releasing Shipper's minimum quantity, or all the remaining bidder's acceptable quantities. If bids are received that do not match all the terms and conditions provided by the Releasing Shipper, bids will be evaluated by the criteria provided by the Releasing Shipper. If no criteria are provided by the Releasing Shipper, the Bidding Shipper bidding the greatest NPV shall be awarded the capacity. If more than one such bid has an equal NPV, then the capacity shall be awarded on a first-come, first-served basis. The ultimate awarding of capacity will be provided subsequently by Transporter via Electronic Communication by 4:00 p.m. to the winning Replacement Shipper(s). Transporter shall post notice on Transporter's Public Internet that the capacity has been awarded. The notice will include the Replacement Shipper's name(s), the rate, reservation quantity, and term of the best bid. Unless the bidder was a contingent bidder and the contingency did not occur Transporter will tender a numbered agreement (unless Shipper has a Master Agreement) to the winning bidder by 10:00 a.m. of the day nominations are due and the winning bidder shall enter into an agreement with Transporter pursuant to Section 25.2 of the General Terms and Conditions of this Tariff.

- (l) Remaining Capacity. In the event that a Releasing Shipper does not release all of its firm entitlements, the Releasing Shipper shall remain responsible for the remaining entitlements and is entitled to utilize the remaining entitlements with the MDQ reduced accordingly by the released capacity quantities.
- (m) No Rollover. When a release of capacity for a period of thirty-one (31) days or less is not subject to the bidding requirements under this Section 25, Releasing Shipper may not rollover, extend, or in any way continue the capacity release, and may not consummate a release with the same Replacement Shipper that utilizes the same capacity or overlaps such capacity, without complying with the competitive bidding requirements of this Section 25, and may not re-release capacity to the same Replacement Shipper until twenty-eight (28) days after the first release period has ended. This restriction is not applicable to a Pre-Arranged Release to an Asset Manager or a Pre-Arranged Release to a Marketer Participating in a State-Regulated Retail Access Program. All other provisions of this Section shall apply.
- (n) Agreement For Multiple Capacity Release Transactions. In lieu of execution of individual agreement(s), Transporter and Replacement Shipper may execute

a Master Service Agreement for Capacity Release Transactions to cover multiple capacity release transactions.

25.2 Execution of Capacity Release Agreements.

- (a) Contractual Obligations. Unless Transporter and Replacement Shipper have a Master Service Agreement in effect pursuant to Section 25.1(n) of the General Terms and Conditions of this Tariff, Transporter shall execute an agreement upon receipt of a valid request for service from Replacement Shipper pursuant to Section 3 of these General Terms and Conditions. The agreement shall be executed prior to the commencement of the term of release. All Replacement Shippers shall be required to comply with the creditworthiness requirements of Section 3.5 of these General Terms and Conditions and to accept by a release all Transportation rights and obligations of the Releasing Shipper with respect to the capacity released, including nominations and Primary Routes. Unless otherwise agreed by Transporter, the Releasing Shipper shall remain fully liable to Transporter for all reservation charges, including reservation type surcharges and direct bills, that were due under the Releasing Shipper's agreement, unless Replacement Shipper has agreed to pay Transporter maximum rates, and to accept all obligations of the Releasing Shipper under the Releasing Shipper's agreement for the remaining term of such Releasing Shipper's agreement.
- (b) Billing. Pursuant to Section 12 of the General Terms and Conditions of this Tariff, Replacement Shipper shall be billed for all reservation type charges contained within its bid and all usage charges contained within its bid and all usage charges according to the applicable Rate Schedule. If Replacement Shipper nominates Secondary Receipt Point(s) or Secondary Delivery Point(s), such Shipper shall, in addition to the charges in the previous sentence, be billed the pro rata charge for each applicable day as follows:
  - (1) if the Secondary Point is within the Rate Segment where the Releasing Shipper's Primary Point is located, then the Replacement Shipper shall be billed, if applicable, the amount of reimbursement required to the Releasing Shipper in accordance with Section 25.1(g)(14) of the General Terms and Conditions of this Tariff; or
  - (2) if the Secondary Point is outside of the Rate Segment where the Releasing Shipper's Primary Point is located, then the Replacement Shipper shall be billed the incremental Rate Segment differential to the Secondary Point plus, if applicable, the amount of incremental Rate Segment differential to the Secondary Point plus, if applicable, the amount of reimbursement required to the Releasing Shipper in accordance with Section 25.1(g)(14) of these General Terms and Conditions.
- (c) Credits. Except as otherwise agreed to between Transporter and Releasing Shipper, Releasing Shipper shall receive a credit against its Monthly Reservation Charges equal to the amount of reservation charges contained within the Replacement Shipper's bid plus any amounts billed to Replacement Shipper pursuant to Section 25.2(b)(1) or Section 25.2(b)(2) of the General Terms and Conditions of this Tariff, as the case may be. Transporter and Shipper may, in connection with a Negotiated Rate agreement under a firm rate schedule, agree upon payment obligations and crediting mechanisms in the event of a capacity release that vary from, or are in addition to, those set forth in this Section 25.2, provided, however, that terms and conditions of service may not be negotiated.
- (d) Refunds. In the event the Commission orders refunds of any rates charged by Transporter and previously approved rates, Transporter must make corresponding refunds to the extent that a rate in excess of Transporter's applicable maximum rates has been paid.

25.3 Posting of Purchase Offers. Transporter shall allow a potential Replacement Shipper to post for at least thirty (30) days its offers to acquire released firm entitlements. The offer must contain the following information:

- (a) The potential Replacement Shipper's legal name and the name, title, address and phone number of the individual who will authorize the acquisition of the



available capacity.

- (b) The daily quantities of capacity which the Bidding Shipper requests.
  - (c) The Receipt Points and/or Delivery Points where capacity is requested, as applicable.
  - (d) The requested effective date and the term of the acquisition.
- 25.4 Marketing Fee. Transporter shall be entitled, upon Releasing Shipper's request, to market the capacity available for release actively on Releasing Shipper's behalf. Transporter and Releasing Shipper will negotiate the terms and conditions upon which Transporter will market the Releasing Shipper's capacity.
- 25.5 Transporter's Right to Suspend or Terminate a Capacity Release. Transporter may elect to suspend or terminate a Replacement Shipper's agreement upon written notice to Replacement Shipper, under the following conditions:
- (a) The Releasing Shipper, pursuant to Section 3 of the General Terms and Conditions of this Tariff, has failed to maintain creditworthiness in accordance with Section 3 of the General Terms and Conditions of this Tariff such that Transporter has provided notice that it will suspend and then terminate Releasing Shipper's Transportation Service Agreement; and
  - (b) The rate stated in the effective Replacement Shipper's agreement is less than the maximum Reservation Rate and Commodity Rate for the contracted for Service; and
  - (c) The Replacement Shipper has not, prior to the expiration of thirty (30) days, executed an amendment to such Replacement Shipper's agreement, agreeing to pay, beginning the first day after the end of the thirty day notice period and for the remainder of the term of the Replacement Shipper's agreement, the lesser of (1) the Releasing Shipper's contract rate, (2) the maximum tariff rate for the service, or (3) a mutually agreeable rate.

Should the Releasing Shipper cure its failure to maintain creditworthiness prior to termination, the Replacement Shipper's amendment to its contract will expire by its own terms without ever having gone into effect.

- 25.6 Recall of Released Capacity. Subject to the terms of the release, the Releasing Shipper may recall released capacity as provided below. Recalls of capacity release transactions shall be subject to Elapsed Prorata Capacity (EPC). EPC means that portion of the capacity that would have theoretically been available for use prior to the effective time of the intra-day recall based upon a cumulative uniform hourly use of the capacity. Reputting by the Releasing Shipper shall be as agreed upon by the Replacement Shipper and the Releasing Shipper. The deadline for notifying Transporter of a reput is 8:00 a.m. to allow for timely nominations to flow for the next Gas Day.

Releasing Shippers may, to the extent permitted as a condition of the capacity release, recall released capacity at each of the NAESB nomination grid cycles by providing notice to Transporter by the following times for each cycle:

(a) Timely Recall Notification:

- (i) A Releasing Shipper recalling capacity should provide notice to Transporter and the first Replacement Shipper of such recall no later than 8:00 a.m. on the day that Timely Nominations are due;
- (ii) Transporter should provide notification to all affected Replacement Shippers of such recall no later than 9:00 a.m. on the day that Timely Nominations are due (CCT);

(b) Early Evening Recall Notification:

- (i) A Releasing Shipper recalling capacity should provide notice to Transporter and the first Replacement Shipper of such recall no later than 3:00 p.m. on the day that Evening Nominations are due (CCT);
- (ii) Transporter should provide notification to all affected Replacement

Shippers of such recall no later than 4:00 p.m. on the day that Evening Nominations are due (CCT);

(c) Evening Recall Notification:

- (i) A Releasing Shipper recalling capacity should provide notice to Transporter and the first Replacement Shipper of such recall no later than 5:00 p.m. on the day that Evening Nominations are due (CCT);
- (ii) Transporter should provide notification to all affected Replacement Shippers of such recall no later than 6:00 p.m. on the day that Evening Nominations are due (CCT);

(d) Intra-day 1 Recall Notification:

- (i) A Releasing Shipper recalling capacity should provide notice to Transporter and the first Replacement Shipper of such recall no later than 7:00 a.m. on the day that Intra-day 1 Nominations are due (CCT);
- (ii) Transporter should provide notification to all affected Replacement Shippers of such recall no later than 8:00 a.m. on the day that Intra-day 1 Nominations are due (CCT);

(e) Intra-day 2 Recall Notification:

- (i) A Releasing Shipper recalling capacity should provide notice to Transporter and the first Replacement Shipper of such recall no later than 2:30 p.m. on the day that Intra-day 2 Nominations are due (CCT);
- (ii) Transporter should provide notification to all affected Replacement Shippers of such recall no later than 3:30 p.m. on the day that Intra-day 2 Nominations are due (CCT).

For recall notification provided to Transporter prior to the recall notification deadline specified above and received between 7:00 a.m. and 5:00 p.m., Transporter should provide notification to all affected Replacement Shippers no later than one hour after receipt of such recall notification.

For recall notification provided to Transporter after 5:00 p.m. and prior to 7:00 a.m., Transporter should provide notification to all affected Replacement Shippers no later than 8:00 a.m. after receipt of such recall notification (CCT).

When a Releasing Shipper with recall rights desires to recall its capacity during an intra-day cycle, Transporter's capacity release system will indicate to such Shipper the capacity available for recall based upon the EPC. Therefore, the Releasing Shipper's recall notification to Transporter would reflect the adjusted total released capacity entitlement.

Transporter shall not be obligated to deliver in excess of the total daily contract quantity of the release.

The amount of capacity allocated to the Replacement Shipper(s) should equal the original released capacity less the recalled capacity that is adjusted based upon the EPC.

When capacity is recalled, it may not be reput for the same Gas Day.

GENERAL TERMS AND CONDITIONS

26. PREGRANTED ABANDONMENT AND RIGHTS OF FIRST REFUSAL

- 26.1 Purpose. This Section 26 sets forth the specific terms and conditions applicable to Transporter's pregranted abandonment authority, the termination of Transporter's obligations under certain Transportation Service Agreements, and Shipper's Right of First Refusal.
- 26.2 Applicability. The Right of First Refusal provided pursuant to Section 26.5 of the General Terms and Conditions of this Tariff applies to Transportation Service Agreements executed between Transporter and any Shipper pursuant to the Rate Schedule FT, where the Transportation Service Agreement had a primary term of one Year or more and has terminated pursuant to the Transportation Service Agreement. In all other cases Transporter has unconditional pregranted abandonment authority upon the termination, expiration or cancellation of the applicable Transportation Service Agreement.
- 26.3 Definitions. For purposes of this Section 26, the following definitions will apply:
- (a) Existing Shipper. The term "Existing Shipper" shall mean the Shipper for which Transporter provides service under any executed Transportation Service Agreement subject to this Section 26.
  - (b) Offering Shipper. The term "Offering Shipper" shall mean any Shipper that submits a bid pursuant to Section 26.5 of the General Terms and Conditions of this Tariff for all or a portion of the capacity to be made available upon termination of the Transportation Service Agreement pursuant to this Section 26, provided that the Offering Shipper satisfies the provisions of this Tariff applicable to the credit evaluations set forth in Section 3 of these General Terms and Conditions.
  - (c) Notice of Election. The term "Notice of Election" shall mean the notice that an Existing Shipper provides Transporter, as prescribed in Section 26.5(b) of the General Terms and Conditions of this Tariff, that the Existing Shipper intends to exercise its Right of First Refusal upon termination of its Transportation Service Agreement.
  - (d) Bid Notification. The term "Bid Notification" shall mean the notification of a bid that an Offering Shipper submits to Transporter, as prescribed in Section 26.5(d) of the General Terms and Conditions of this Tariff, for all or a portion of the capacity available as a result of termination of a Transportation Service Agreement.
  - (e) Best Bid. The term "Best Bid" shall mean the bid that Transporter determines, on a nondiscriminatory, objective basis, is the best bid, as prescribed in Section 26.5(h) of the General Terms and Conditions of this Tariff, that Offering Shippers have offered for capacity available under the terminating Transportation Service Agreement.
  - (f) Competing Offer. The term "Competing Offer" shall mean the Best Bid that Transporter accepts and presents to an Existing Shipper for the Existing Shipper to match under the Bid Matching Procedure prescribed in Section 26.5(j) of the General Terms and Conditions of this Tariff.
- 26.4 Pregranted Abandonment of Transportation Service Agreement. Upon the expiration, cancellation or termination of a Transportation Service Agreement, Transporter has pregranted authority to abandon that service pursuant to Section 7(b) of the Natural Gas Act, and Transporter shall have no further obligation to render service under the Transportation Service Agreement unless the Existing Shipper exercises a Right of First Refusal as prescribed in Section 26.5 of the General Terms and Conditions of this Tariff.
- 26.5 Right of First Refusal.
- (a) Existing Shipper's Right of First Refusal. Upon expiration of a Transportation Service Agreement subject to this Section 26.5(a), and provided that the Existing Shipper meets the standards of Section 3.5 of these General Terms and Conditions, the Existing Shipper will have a "Right of First Refusal". The Existing Shipper may elect to retain all or a portion of the capacity subject to its Right of First Refusal. If the Existing

Shipper elects to retain only a portion of the available capacity, Transporter has pregranted authority to abandon the remaining service pursuant to Section 7(b) of the Natural Gas Act, and Transporter shall have no further obligation to render that remaining service under the Transportation Service Agreement. Upon receipt of a Notice of Election from an Existing Shipper, Transporter will post information relevant to the notice, as provided in Section 26.5(c) of the General Terms and Conditions of this Tariff. To the extent the Existing Shipper either satisfies the Bid Matching Procedure of Section 26.5(j) of the General Terms and Conditions of this Tariff or reaches mutual agreement with Transporter pursuant to Section 26.5(k) of the General Terms and Conditions of this Tariff, Transporter will continue service to the Existing Shipper upon execution of a Transportation Service Agreement containing the agreed-upon terms. If the Existing Shipper fails to satisfy the Bid Matching Procedure of Section 26.5(j) of the General Terms and Conditions of this Tariff, or if Transporter and the Existing Shipper fail to reach mutual agreement under 26.5(k) of the General Terms and Conditions of this Tariff, Transporter has pregranted authority to abandon the Existing Shipper's service pursuant to Section 7(b) of the Natural Gas Act, and Transporter shall have no further obligation to render service under the Existing Shipper's Transportation Service Agreement as of the date of termination of the Transportation Service Agreement.

- (b) Existing Shipper's Notice of Election to Exercise its Right of First Refusal. Any Existing Shipper that elects to exercise its Right of First Refusal upon termination of a Transportation Service Agreement shall provide Transporter with a Notice of Election in writing or via Transporter's Electronic Communication not later than 12 Months prior to the expiration of the term of the Transportation Service Agreement, or, in the case of a Transportation Service Agreement that expires pursuant to a notice provided by Transporter, within 60 days of such notice from Transporter.
- (c) Posting of Existing Shipper's Notice of Election. Within two days of receiving a Notice of Election, Transporter will post on its Public Internet the following information regarding the capacity subject to the Notice of Election:
  - (i) the Maximum Daily Quantity available under the terminating Transportation Service Agreement, stated in MMBtu's;
  - (ii) the Primary Receipt and Primary Delivery Point(s) at which capacity is available and the Maximum Input Quantities and Maximum Equivalent Quantities available at those points(s);
  - (iii) the date the capacity will be available; and
  - (iv) any other terms that may be relevant.
- (d) Open Season. Immediately upon posting the information relevant to an Existing Shipper's Notice of Election, Transporter will hold an open season for a period of not less than five days. During the open season, Offering Shipper(s) may submit a Bid Notification to Transporter in writing or via Electronic Communication.
- (e) Posting of Offering Shipper's Bid Notification. To constitute a valid bid, the Offering Shipper must satisfy the provisions of this Tariff applicable to requests for firm Gas Transportation Service and credit evaluations set forth in Section 3 of these General Terms and Conditions. Within one Business Day of Transporter's receipt of a Bid Notification, Transporter will evaluate the Bid Notification to determine whether it satisfies the terms of this Section 26 and will notify the Offering Shipper of any deficiencies. If no deficiencies exist, Transporter will post all information relevant to the Bid Notification on Transporter's Public Internet with all other Bid Notifications at end of the open season. Once Transporter posts the Offering Shipper's Bid Notification, the bid will be an offer to enter into a Transportation Service Agreement that remains open until
  - (i) Transporter accepts a bid; (ii) Transporter rejects all bids; or (iii) the Offering Shipper withdraws its Bid Notification in writing or via Electronic Communication, whichever occurs first.

- (f) Offering Shipper's Bid Notification. The Offering Shipper's Bid Notification shall include:
- (i) the Offering Shipper's legal name;
  - (ii) the Maximum Daily Quantity for which the Offering Shipper seeks Transportation Service, stated in MMBtu's and Mcf/d;
  - (iii) the Primary Receipt and Primary Delivery Points, along with the applicable Maximum Input Quantities and Maximum Equivalent Quantities;
  - (iv) the proposed commencement and termination dates for the service to be provided;
  - (v) the maximum rate the Offering Shipper is willing to pay for the Transportation Service; and
  - (vi) any other terms that may be relevant.
- (g) Offering Shipper's Bid Notification Deposit. Within ten days of posting of its Bid Notification the Offering Shipper shall tender a check made out to Transporter as a Bid Notification deposit which shall be equal to the prepayment that would be due in connection with a request for the same service pursuant to Section 3 of the General Terms and Conditions of this Tariff. Transporter will return the Offering Shipper's deposit plus interest at the rate prescribed by Section 154.67 (c) of the Commission's Regulations or any successor regulation if (i) Transporter rejects the Offering Shipper's bid; (ii) the Offering Shipper fails to meet all of provisions of this Tariff governing Shipper eligibility; (iii) pursuant to its Right of First Refusal, the Existing Shipper matches the Offering Shipper's bid; or (iv) the Offering Shipper withdraws the Bid Notification before the bid is rejected or before the Existing Shipper matches the bid, whichever occurs first. Transporter will refund the entire deposit plus interest at the rate prescribed by Section 154.67 (c) of the Commission's Regulations or any successor regulation within ten days of the event triggering the obligation to return. If Transporter executes a Transportation Service Agreement pursuant to agreed-upon terms with the Offering Shipper, Transporter shall credit the amount of the deposit to Shipper's invoice for the first Month of the requested Transportation Service. If, however, the Offering Shipper fails to execute a Transportation Service Agreement as provided in Section 26.5 (k) of the General Terms and Conditions of this Tariff, Transporter will retain the deposit as liquidated damages.
- (h) Transporter's Review of Offering Shippers' Bid. Transporter will review all Offering Shippers' bids on a nondiscriminatory, objective basis and determine the Best Bid within two weeks of the closing of the open season consistent with the following standards; provided, however, Transporter will not be obligated to accept any offer for Transportation Service at less than Transporter's maximum applicable rate:
- (i) The bid that offers the maximum rate for the longest term shall be the Best Bid, provided, however, that an Existing Shipper is not required to match a Competing Offer with a term greater than five (5) Years, or if no Offering Shipper offers the maximum rate;
  - (ii) The Best Bid will be the bid that provides the highest present value calculated by using the interest rate published by the Commission pursuant to 18 C.F.R. Section 154.67 or any successor regulation; and
  - (iii) If two or more bids offer the same highest present value, Transporter will prorate available capacity among the Offering Shippers.
- (i) Bid Matching Procedure. If Transporter accepts a Best Bid as a Competing Offer for purposes of this Bid Matching Procedure, Transporter will inform the Existing Shipper of the terms of the Competing Offer. Within 30 days of receiving the terms of the Competing Offer, the Existing Shipper must notify Transporter whether the Existing Shipper agrees to match the Competing Offer. Failure to notify Transporter within the 30 day period shall constitute an irrevocable waiver of the Existing Shipper's Right of First Refusal with respect to the Competing Offer. To match the Competing Offer,

the Existing Shipper must either (i) match the Competing Offer or (ii) match the rate contained in the Competing Offer for a period of at least five Years. If the Existing Shipper agrees to match the Competing Offer, Transporter will provide Transportation Service to the Existing Shipper upon execution of a Transportation Service Agreement containing the terms specified in the Competing Offer. If the Existing Shipper elects not to match the Competing Offer, Transporter has pregranted authority to abandon that service and Transporter shall have no further obligation to render service under the Existing Shipper's Transportation Service Agreement pursuant to Section 7 (b) of the Natural Gas Act. Transporter will provide Transportation Service to the Shipper that offered the Competing Offer upon execution of a Transportation Service Agreement containing the terms agreed upon in the Competing Offer. Transporter will post the terms of the accepted offer on its Public Internet.

- (j) Negotiation Procedures Between Transporter and Existing Shipper. Transporter must accept a bid as the Best Bid if there are any bids at the maximum rate. However, if no Shipper offers a competing bid or if there are only bids at less than the maximum rate and Transporter rejects all such bids, Transporter and the Existing Shipper may negotiate and mutually agree to terms and conditions applicable to a new Transportation Service Agreement. If Transporter and the Existing Shipper have not reached agreement on the terms and conditions for a new Transportation Service Agreement upon termination of the existing Transportation Service Agreement, Transporter must continue to provide service to the Existing Shipper only if that Shipper agrees to pay the maximum rate permitted under this Tariff for a term that the Existing Shipper elects; provided, however, that an Existing Shipper is not required to match a Competing Offer with a term greater than five (5) Years. Furthermore, the Existing Shipper must elect the length of the extended term 60 days prior to termination of the existing Transportation Service Agreement. If the Existing Shipper refuses pay the maximum authorized rate, Transporter has pregranted authority to abandon service and Transporter shall have no further obligation to render service under the Existing Shipper's Transportation Service Agreement pursuant to Section 7(b) of the Natural Gas Act.
- (k) Failure to Execute a Transportation Service Agreement. If the Offering Shipper fails to execute a Transportation Service Agreement according to the agreed upon terms 30 days from the date the Transportation Service Agreement is tendered to the Offering Shipper Transporter will continue to provide the Existing Shipper service at the maximum applicable rate and Transporter will hold a further open season as prescribed in Section 26.5(d) of the General Terms and Conditions of this Tariff. The Bid Notification and Bid Matching Procedure will be repeated.

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27. PUBLIC INTERNET

The Internet web site is Black Hills Shoshone Pipeline, LLC's HTML site accessible via the Internet's World Wide Web and located at <http://shoshone.blackhillscorp.com>.

GENERAL TERMS AND CONDITIONS

28. REVENUE CREDIT

- 28.1 Applicability. The credit available under this Section 28 shall apply to all Transportation Service Agreements under Rate Schedule FT.
- 28.2 Basis of the Credit. Revenues to which the credit under this Section 28 shall apply ("Eligible Revenues") shall be the revenues actually received by Transporter under the Rate Schedule IT that are not subject to refund and are attributable to commodity charges but not imbalance charges, scheduling penalties, unauthorized contract overrun penalties, ACA, or other charges. Starting with the effectiveness of this Tariff and the anniversary of the effective date every Year thereafter, Transporter shall first retain 100% of all IT Rate Schedule revenues until Transporter has received an amount of revenues equal to the annual amount of costs, if any, allocated by the Commission to service under Rate Schedule IT. Thereafter and for the remainder of the Year, Transporter shall credit to current Month invoices under the applicable rate schedules 90% of the Eligible Revenues received during the prior Month. Transporter shall retain the remainder of the Eligible Revenues not required to be credited or refunded.
- 28.3 Apportionment of Eligible Revenues. Eligible Revenues attributable to a Month shall be apportioned among all Rate Schedule FT Shippers by applying the following ratio for each customer: (a) the Shipper's total Maximum Transportation Quantities in effect during that Month under Rate Schedule FT, (b) divided by the summation of the total Maximum Transportation Quantity in effect during that Month for all Rate Schedule FT Shippers; provided, however, that no Shipper shall receive a credit under this Section 28 in excess of its Reservation Charges for that Month, with such excess being reallocated to the other Shippers in accordance with the above ratios.
- 28.4 Revenues Subject to Refund. In the event that any revenues obtained under Rate Schedule IT are collected subject to refund, and are ultimately not required to be refunded to Shippers under Rate Schedule IT, Transporter shall recalculate the revenue credits that would have been due to Shipper if Rate Schedule IT rate ultimately approved by the Commission had been in effect at the time of the revenue credit, and shall credit Shipper for the difference between revenues actually credited, and the recalculated revenue credit, plus interest at the rate prescribed by the Commission's Regulations.



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29. NEGOTIATED RATES

- 29.1 Availability. Notwithstanding anything to the contrary contained in this Tariff, including the provisions of the rate schedules contained herein, Transporter and Shipper may mutually agree to a Negotiated Rate under any Transportation Service Agreement, provided that Shipper has not acquired its capacity under the capacity release provisions of these General Terms and Conditions. If a portion of the capacity under any existing agreement is agreed to be priced at Negotiated Rates, the existing agreement must first be bifurcated, and the existing maximum or discounted tariff rates will continue to apply to the capacity not subject to the Negotiated Rates. As a recourse to Negotiated Rates, any Shipper may receive service at the applicable maximum tariff rates, including surcharges, for service under the rate schedule applicable to the Negotiated Rate.
- 29.2 Filing Requirement. No later than the first Business Day on or after service under a Negotiated Rate agreement commences, Transporter shall file with the Commission either the Negotiated Rate agreement or a Statement of Negotiated Rates stating the exact legal name of the Shipper, the Negotiated Rate, the rate schedule, the Receipt and Delivery Points, the contract quantities, and, where applicable, the exact formula underlying a Negotiated Rate for any Negotiated Rate Agreement. Such Statement of Negotiated Rates will contain a statement that the Negotiated Rate agreement does not deviate in any material aspect from the Form of Agreement in this Tariff for the applicable rate schedule.
- 29.3 Rate Treatment. Transporter shall have the right to seek in future general rate proceedings discount-type adjustments in the design of its rates related to Negotiated Rate agreements that were converted from pre-existing discount agreements to Negotiated Rate agreements, provided that the type of pre-existing service is not altered as a result of conversion to a Negotiated Rate. In those situations, Transporter may seek a discount-type adjustment based upon the greater of: (a) the Negotiated Rate revenues received or (b) the discounted tariff rate revenues which otherwise would have been received.
- 29.4 Limitations. This Section 29 does not authorize Transporter to negotiate terms and conditions of service.
- 29.5 Capacity Release. Negotiated Rates do not apply as the price cap for capacity release transactions. Further, except as expressly provided for in Section 25 of the General Terms and Conditions of this Tariff, capacity release bids must conform to Transporter's applicable tariff rates, as further described in these General Terms and Conditions.
- 29.6 Right of First Refusal. For purposes of exercising rights to continue service pursuant to these General Terms and Conditions, the highest rate that a Shipper must match if it desires to retain all or a portion of its capacity, is the applicable maximum tariff rate, including surcharges, for such service.
- 29.7 Accounting Treatment. Transporter shall maintain separate records for all revenues associated with Negotiated Rate transactions. Transactions related to Negotiated Rate agreements which originated as a pre-existing discounted service and were subsequently converted will be recorded separately from those originating as Negotiated Rate agreements. Transporter shall record each volume transported, billing determinant, rate component, surcharge, and the revenue associated with its Negotiated Rates so that this information can be filed, separately identified, and separately totaled, as part of and in the format of Statements G, I, and J in Transporter's next general rate change application.

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3. REQUESTS FOR SERVICE

3.1 Qualifications for Service. All Shippers requesting Transportation Service must provide the information required by this Section 3 of the General Terms and Conditions and must complete a Service Request Form as described in this Tariff. A Service Request Form is included as part of this Tariff. No request for service will be entered on Transporter's log, as required by Section 284.13 of the Commission's Regulations or any successor regulation, until a completed Service Request Form has been provided to and validated by Transporter, Shipper has provided the information specified in this Section 3 of the General Terms and Conditions, and Shipper has provided a prepayment equal to one Month's Reservation Charge (in the case of service under Rate Schedule FT) or 30 times the Maximum Daily Quantity requested times the maximum rate (in the case of service under Rate Schedule IT). No service shall be rendered until the availability provisions of the applicable rate schedule have been satisfied.

3.2 Information to be Included in Request for Service. Any request shall include the following:

- (a) Type of Service. A statement that Shipper is requesting firm reserved Transportation Service under Rate Schedule FT or interruptible Transportation Service under Rate Schedule IT as those services are defined in Section 2 of the General Terms and Conditions of this Tariff and in the applicable rate schedules.
- (b) Receipt/Delivery Point(s). In the case of service under Rate schedule FT, the Primary Receipt Point(s) and Primary Delivery Point(s) for the requested Transportation Service.
- (c) Gas Quantities. In the case of firm service, the Maximum Input Quantity for which Shipper requests Transportation Service at each Receipt Point(s) and the Maximum Equivalent Quantity for which Shipper requests Transportation Service at each Delivery Point(s), stated in MMBtu's per Gas Day. In the case of both firm and interruptible service, the Maximum Transportation Quantity and the estimated total quantities for which Shipper is requesting Transportation over the term of the Transportation Service Agreement stated in Dekatherms.
- (d) Term. The proposed commencement and termination dates of service.
- (e) Facilities. Identification and location of any facilities to be constructed or installed by any party which are necessary for receipt of Gas by Transporter or for delivery to or utilization of Gas by Shipper or direct or indirect customers of Shipper.

3.3 Credit Evaluation. In addition to the information outlined above, a prospective Shipper must provide the following information for credit evaluation:

- (a) a copy of Shipper's most recent audited financial statement;
- (b) a copy of Shipper's most recent 12 Month audited financial statement or Annual Report and, if applicable, 10-K form;
- (c) a list of Shipper's affiliates, including parents and subsidiaries, if applicable; and
- (d) such other information as Transporter may reasonably require to assess Shipper's creditworthiness including, but not limited to, Shipper's credit history with other providers of Natural Gas service.

In the event Shipper cannot provide the information specified in this Section, Shipper shall, if applicable, provide the requested information for its parent company. A prospective Shipper need not provide the information requested in this Section if the Shipper prepays for service, posts a letter of credit, or obtains a guarantee in accordance with Section 3.5 of the General Terms and Conditions of this Tariff.

3.4 Shipper's Creditworthiness. A Shipper will be considered creditworthy if it meets

the following conditions:

- (a) Shipper's long-term unsecured debt securities, at the time it enters into a Transportation Service Agreement (or a precedent agreement therefore) and throughout the term thereof, are rated BBB or better by Standard & Poor's Corporation or Baa2 by Moody's Investor Service; or
- (b) For a Shipper requesting service under Rate Schedule FT, the Shipper prepays for service or provides a letter of credit or surety bond for an amount equal to the sum of the Reservation Charge for a 12 Month period and the Commodity Charge applicable to the proposed Transportation Service (assuming 100 percent load factor usage) for a three Month period or for the duration of the contract, whichever is shorter, such letter of credit to be issued by a commercial bank or financial institution located in the United States whose long-term unsecured debt securities are rated A or better by Standard & Poor's Corporation, A or better by Dominion Bond Rating Service, or A2 or better by Moody's Investor Service, Inc.; or
- (c) For a Shipper requesting service under Rate schedule IT, the Shipper prepays for service or provides a letter of credit for an amount equal to the Commodity Charge applicable to the proposed Transportation Service multiplied by the Maximum Daily Quantity requested for a three Month period, such letter of credit to be issued by a commercial bank or financial institution located in the United States whose long-term unsecured debt securities are rated A or better by Standard & Poor's Corporation, A or better by Dominion Bond Rating Service, or A2 or better by Moody's Investor Service, Inc.; or
- (d) For a Shipper requesting service pursuant to Rate Schedule FT, the Shipper provides a guarantee or other form of security to secure payment of an amount equal to the sum of the Reservation Charge applicable to the proposed Transportation Service for a 12 Month period and the Commodity Charge applicable to the proposed Transportation Service (assuming 100 percent load factor usage) for a three Month period, such guarantee or other security to be provided by an entity which meets the creditworthiness standards set forth in (a) above; or
- (e) For a Shipper requesting service pursuant to Rate Schedule IT, the Shipper provides a guarantee or other form of security to secure payment of an amount equal to the Commodity Charge applicable to the proposed Transportation Service multiplied by the Maximum Daily Quantity requested for a three Month period, such guarantee or other security to be provided by an entity which meets the creditworthiness standards set forth in (a) above; or
- (f) Transporter determines, in its sole discretion reasonably exercised, that, based upon factors such as the quantity and character of service requested, Shipper's credit history with other providers of Natural Gas service, and any other factors that a reasonable party in Transporter's position might consider, Shipper represents a reasonable credit risk.

3.5 Commencement and Continuation of Service Subject to Creditworthiness. Transporter shall not be required to commence service on behalf of any Shipper who is insolvent unless the Shipper prepays or provides letters of credit or guarantees as provided in Sections 3.5(b) through (e) of the General Terms and Conditions of this Tariff. Transporter shall not be required to continue service to any person who has become insolvent (except where that term is used in reference to a Shipper against whom an involuntary petition in bankruptcy under 11 U.S.C. § 303 has been filed, but as to whom no order for relief has been entered), unless the Shipper provides adequate assurance of payment within 20 days of an event of insolvency, as that term is used in, and in the form prescribed by, 11 U.S.C. § 366, whether or not an order for relief has been entered under 11 U.S.C. § 301 or 303 and whether or not the Bankruptcy Act of 1978 applies to the Shipper.

For purposes of this Section 3, the insolvency of a Shipper shall be evidenced by any one or more of the following:

- (i) the publication or release of any financial statement showing current assets to be less than current liabilities;
- (ii) the filing of an involuntary petition in bankruptcy under 11 U.S.C. § 303;

- (iii) the entry of an order for relief under Title 11, United States Code;
  - (iv) the filing, by the Shipper, of any pleading before a court of competent jurisdiction seeking the arrangement, adjustment, or composition of the Shipper's debts, including an assignment for the benefit of creditors, or, in the alternative, the publication by the Shipper of a request for the composition of its debts or the assignment of its assets for the benefit of its creditors;
  - (v) the involuntary or voluntary appointment of a receiver, liquidator, assignee, or trustee for all or any substantial part of the Shipper's assets by a court of competent jurisdiction, or the sequestration of all or any substantial portion of the Shipper's assets (notwithstanding the foregoing, this subsection (v) shall not be operative unless the order or decree continues in effect, unstayed, for a period of 20 consecutive days); or
  - (vi) the filing of any pleading before a court of competent jurisdiction seeking the dissolution of the Shipper or the winding-up of its affairs or its liquidation.
- 3.6 Validation of Service Request. Transporter shall evaluate the information offered in support of a request for service to determine whether there is adequate capacity to fulfill the request for service (in the case of requests for service under Rate Schedule FT) and that the request for service is compatible with the operating conditions on Transporter's system. After validation of the information submitted by Shipper in support of a request for service, Transporter shall enter Shipper's request in Transporter's log, as required by Section 284.13 of the Commission's Regulations or any successor regulation.
- 3.7 Transportation Service Agreement to be Executed. Within 30 days after Transporter accepts and validates a completed request for service under Section 3.7 of the General Terms and Conditions of this Tariff, Transporter shall tender to Shipper a Transportation Service Agreement. In the event the Transportation Service Agreement is not executed by Shipper and returned within 30 days after Transporter tenders such contract to Shipper, Shipper's request for Transportation shall be null and void.
- 3.8 Disposition of Prepayment. In the event Shipper's request for service is rejected by Transporter or withdrawn by Shipper prior to Transporter having tendered a Transportation Service Agreement, Shipper's prepayment shall be refunded with interest at the rate prescribed by Section 154.67(c) of the Commission's Regulations or any successor regulation. In the event Shipper executes a Transportation Service Agreement, Shipper's prepayment shall be offset against the initial charges under the Transportation Service Agreement. In the event Shipper is tendered a Transportation Service Agreement and fails to execute and return it within 30 days, Transporter shall retain Shipper's prepayment.

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30. NON-CONFORMING AGREEMENTS

None at this time.

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31. DISCOUNTED RATES

From time to time Shipper and Transporter may agree in writing on a level of discount of the otherwise applicable rates and charges in addition to a basic discount from the stated maximum rates. For example, Transporter may provide a specific discounted rate:

- (1) to certain specified quantities under the Transportation Service Agreement;
- (2) if specified quantity levels are actually achieved or with respect to quantities below a specified level;
- (3) to production reserves committed by the Shipper;
- (4) during specified time periods;
- (5) to specified points of receipt, points of delivery, supply areas, Transportation paths or defined geographical areas; or
- (6) in a specified relationship to the quantities actually transported (i.e., that the rates shall be adjusted in a specified relationship to quantities actually transported).

In all circumstances, the discounted rate shall be between the maximum rate and the minimum rate applicable to the service provided.

In addition, the discount agreement may include a provision that if one rate component which was at or below the applicable Maximum Rate at the time the discount agreement was executed subsequently exceeds the applicable Maximum Rate due to a change in Transporter's Maximum Rates so that such rate component must be adjusted downward to equal the new applicable Maximum Rate, then other rate components may be adjusted upward to achieve the agreed overall rate, as long as none of the resulting rate components exceeds the Maximum Rate applicable to that rate component. Such changes to rate components shall be applied prospectively, commencing with the date a Commission Order accepts revised rates. However, nothing contained herein shall be construed to alter a refund obligation under applicable law for any period during which rates that had been charged under a discount agreement exceeded rates, which ultimately are found to be just and reasonable.

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32. OFF-SYSTEM CAPACITY

From time to time, Transporter may enter into Transportation and/or storage agreements with other interstate and intrastate pipeline and storage providers ("off-system capacity"). In the event that Transporter acquires off-system capacity, Transporter will use such capacity for operational reasons or to render service for its Shippers. In the event that Transporter uses off-system capacity to render service for its Shippers, it will only render service to Shippers on the acquired capacity pursuant to this Tariff and subject to Transporter's approved rates, as such tariff and rates may change from time to time. For purposes of transactions entered into subject to this Section, the "Shipper must have title" requirement is waived.

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33. CONSTRUCTION OF LATERALS

Transporter may waive from time to time, at its discretion, all or a portion of the facility cost reimbursement requirement set forth in Section 3.3 of Rate Schedules FT and IT if Shipper provides Transporter adequate assurance of Transportation revenue to make construction of the facilities economical to Transporter and if Shipper meets industry standard creditworthiness requirements. All requests for waiver shall be handled by Transporter in a manner which is not unduly discriminatory.



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34. OPERATIONAL FLOW ORDERS

34.1 General. For purposes of this Section 34, the term "Shipper" shall also include any customer receiving service under any Rate Schedule contained in this Tariff. Transporter, in its discretion, shall have the right to issue OFOs when in its judgment it is necessary to maintain or restore the operational integrity of Transporter's system. Transporter will not be required to issue an OFO:

- (a) to deliver Gas to any Shipper that has not tendered Equivalent Quantities of Gas to Transporter's system; or
- (b) to any other pipeline in order to obtain access to quantities of Gas, except to the extent that such quantities of Gas are being transported by such pipeline for the account of a Shipper or Transporter; or
- (c) to be a supplier of last resort for any Shipper that has insufficient Gas supply.

Transporter shall not be required to respond to any OFO that it receives from another interstate pipeline that is not currently providing equivalent quantities and pressures of Gas to Transporter, unless Transporter is a shipper on that pipeline.

34.2 Forms of OFOs. An OFO may:

- (a) direct any Shipper to increase quantities tendered or taken, or increase pressures at a Receipt Point, in accordance with Section 34.4 of the General Terms and Conditions of this Tariff; or
- (b) utilize such services as may be available under an OFO performance contract in accordance with Sections 34.5 and 34.6 of the General Terms and Conditions of this Tariff; or
- (c) implement verbal arrangements with other transporters; or
- (d) enable Transporter to take or require any other actions as may be deemed necessary by Transporter in its judgment in order to maintain the operational integrity of Transporter's Pipeline System.

34.3 OFO Operational Conditions. OFOs may be issued in any of the following circumstances:

- (a) to alleviate conditions that threaten the operational integrity of Transporter's Pipeline System; or
- (b) to maintain minimum necessary pressures for pipeline operations; or
- (c) to ensure adequate Gas supplies in Transporter's system to inject Gas into the mainline or to provide line pack; or
- (d) to maintain Transporter's system in balance for the foregoing purposes.

The OFO will remain in effect until the operational condition requiring its issuance has been remedied.

34.4 OFOs to Increase Quantities.

- (a) Transporter may issue an effective OFO to any Shipper under Rate Schedules FT or IT to increase quantities tendered to Transporter at Shipper's Primary Receipt Point, up to the Shipper's Primary Receipt Point MDQ. Shipper will be required to comply with such OFO within twenty-four (24) hours prior notice.
- (b) Transporter shall develop a rotating schedule of Shippers at major Receipt Points to establish the priority of the Shipper that will receive an OFO in the event Transporter requires additional supplies. For the purpose of this Section 34.4(b), a major Receipt Point shall exist where the sum of Primary Receipt Point MDQs for all of Transporter's firm Rate Schedules is greater

than one hundred (100) MDth per day.

- 34.5 OFO Supply Contracts. Transporter may enter into a supply contract, on such terms and conditions as it may deem appropriate, with any supplier of Gas, which supply contract will authorize Transporter to purchase supplies pursuant to an OFO.
- 34.6 OFO Performance Contracts. Transporter may enter into performance contracts, on such terms and conditions as it may deem appropriate, with Shippers that are either end users, local distribution companies, or any other parties receiving firm deliveries from Transporter, which performance contracts will authorize Transporter to interrupt deliveries to Shipper while maintaining its receipts to Transporter, which interrupted quantities will be purchased by Transporter under the provisions of such performance contracts.
- 34.7 OFO Notice, Contents and Procedures. Transporter shall issue an OFO as expeditiously as is reasonably practicable in the circumstances, utilizing Electronic Communication. Each OFO will contain the following provisions:
- (a) time and date of issuance;
  - (b) time that the OFO is considered to be effective (if no time is specified, the OFO shall be effective immediately);
  - (c) duration of the OFO (if none is specified, the OFO will be effective until further notice);
  - (d) the party or parties receiving the OFO;
  - (e) the quantity of Gas required to remedy the operational condition requiring the issuance of the OFO; and
  - (f) any other terms Transporter may reasonably require to ensure the effectiveness of the OFO.
- 34.8 Failure to Comply with OFO. If Shipper (or Shipper's Gas seller, supplier, Agent, or the producer and/or operator as the circumstances may require) fails to comply with the terms of an OFO, for any reason other than force majeure on an upstream pipeline, such Shipper shall be: (a) liable for any damages including, but not limited to direct, consequential, exemplary or punitive damages incurred by Transporter or any other affected party as a result of such failure; and (b) subject to a penalty of twenty-five dollars (\$25.00) for each MMBtu of Gas associated with the quantity of Gas that does not comply with such OFO. Notwithstanding anything to the contrary in this Section 34.8, if Shipper is required to make a nomination pursuant to an OFO, unless critical circumstances dictate otherwise, no damages and/or penalties will be assessed unless Shipper is given the opportunity to correct the circumstances giving rise to the OFO.
- 34.9 Reimbursement. If Transporter receives Gas pursuant to an OFO issued under Section 34.4 of the General Terms and Conditions of this Tariff, then Transporter shall pay the full commodity rate applicable to the primary Gas purchaser, whether higher or lower than Transporter's Cashout price. If Transporter receives Gas pursuant to an OFO issued under Sections 34.5 and 34.6 of the General Terms and Conditions of this Tariff, Transporter shall pay the recipient of the OFO for such quantity of Gas at the applicable contract price.
- Notwithstanding the foregoing, any party supplying Gas to Transporter under Sections 34.4, 34.5, and 34.6 of the General Terms and Conditions of this Tariff shall have the right to receive such imbalance in kind, delivered to such recipient by no later than the Month subsequent to the Month in which the OFO was issued.
- 34.10 Transporter Cost Recovery for OFO. Transporter shall direct bill pipeline transmission charges incurred as a result of an OFO to all firm Shippers on a system-wide basis.
- 34.11 Transporter Liability for OFOs. Transporter shall not be liable to any person for any costs, damages or other liability associated with the issuance of, or the failure to issue, any OFOs, other than such costs to be paid by Transporter according to Section 34.9 of the General Terms and Conditions of this Tariff; provided, however, Transporter shall be liable for acts of negligence or undue discrimination, such standards to be judged in light of the emergency conditions

under which OFOs are issued.

- 34.12 Transporter's Scheduling Authority. Transporter shall have the right to act as a scheduling agent for a Shipper's account if (a) the Shipper refuses to schedule Gas receipts as specified by an OFO issued pursuant to Section 34.4(a) of the General Terms and Conditions of this Tariff; or (b) if Transporter requires additional quantities in less than the twenty-four (24) hour notice period normally required for an OFO, and the Shipper has refused a verbal request to schedule the required quantity of Gas.

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35. NAESB COMPLIANCE

Transporter has adopted the Business Practices and Electronic Communications Standards, NAESB WGQ Version 2.0, which are required by the Commission in 18 CFR Section 284.12 (a), as indicated below. Standards without accompanying identification or notations are incorporated by reference. Standards that are not incorporated by reference are identified along with the tariff record in which they are located. Standards for which waivers or extensions of time have been granted are also identified.

(a) Standards not incorporated by Reference and their Location in the Tariff:

NAESB Standard	Tariff Record
1.3.2(i-v)	Scheduling of Receipts and Deliveries
4.0(a)(1)-(4)	
5.3.2	Capacity Release, 25.1(e); 25.1(f)

(b) Standards Incorporated by Reference:

- (1) General: (version 2.0)
  - Principles: 0.1.1, 0.1.2, 0.1.3
  - Standards: 0.3.1 through 0.3.10, 0.3.16, 0.3.17
- (2) Gas/Electric Operational Communications:
  - Definitions: 0.2.1 through 0.2.4.
  - Communications Standards: 0.3.11 through 0.3.15
- (3) Operating Capacity and Unsubscribed (version 2.0):
  - Standards: 0.3.1 through 0.3.22
  - Data Sets: 0.4.1 through 0.4.3
- (4) Nominations Related Standards:
  - Principles: 1.1.1 through 1.1.7, 1.1.9 through 1.1.18, 1.1.20 through 1.1.22
  - Definitions: 1.2.1 through 1.2.6, 1.2.8 through 1.2.19
  - Standards: 1.3.1, 1.3.2(vi), 1.3.3 through 1.3.9, 1.3.11, 1.3.13 through 1.3.77, 1.3.79 through 1.3.80.
  - Datasets: 1.4.1 through 1.4.7
- (5) Flowing Gas Related Standards (version 2.0)
  - Principles: 2.1.1 through 2.1.6
  - Definitions: 2.2.1 through 2.2.5,
  - Standards: 2.3.1 through 2.3.23, 2.3.25 through 2.3.35, 2.3.40 through 2.3.65
  - Data Sets: 2.4.1 through 2.4.18
- (6) Invoicing Related Standards (version 2.0):
  - Principles: 3.1.1, 3.1.2
  - Definitions: 3.2.1
  - Standards: 3.3.1 through 3.3.26
  - Data Sets: 3.4.1 through 3.4.4
- (7) Quadrant Electronic Delivery Mechanism Related Standards (version 2.0):
  - Principles: 4.1.2 through 4.1.4, 4.1.6, 4.1.7, 4.1.10, 4.1.12, 4.1.13, 4.1.15 through 4.1.24, 4.1.26 through 4.1.40
  - Definitions: 4.2.1 through 4.2.20, 4.3.5, 4.3.16 through 4.3.18, 4.3.20
  - Standards: 4.3.24, 4.3.26 through 4.3.36, 4.3.38 through 4.3.42, 4.3.44, 4.3.45, 4.3.47, 4.3.48, 4.3.50, 4.3.79 through 4.3.87, 4.3.89 through 4.3.102
- (8) Capacity Release Standards (version 2.0):
  - Principles: 5.1.1 through 5.1.3
  - Definitions: 5.2.1 through 5.2.5
  - Standards: 5.3.1, 5.3.3 through 5.3.5, 5.3.7 through 5.3.9, 5.3.11, 5.3.13 through 5.3.16, 5.3.18 through 5.3.29, 5.3.35 through 5.3.42, 5.3.44 through 5.3.47, 5.3.49, 5.3.51 through 5.3.53, 5.3.55

through 5.3.60, 5.3.62 through 5.3.72  
Data Sets: 5.4.14 through 5.4.17, 5.4.20 through 5.4.27

- (9) Internet Electronic Transport Related Standards (version 2.0):  
Principles: 10.1.1 through 10.1.13  
Definitions: 10.2.1 through 10.2.38

- (c) Standards for which a Waiver or Extension of Time to Comply has been granted in  
Docket No. RP11-1631:
- (1) EDM Standards: 4.3.1 through 4.3.3, 4.3.22, 4.3.23, 4.3.25, 4.3.43,  
4.3.46, 4.3.49, 4.3.51 through 4.3.62, 4.3.65 through 4.3.70, 4.3.72  
through 4.3.76 and 4.3.78
  - (2) Capacity Release Standards: 5.3.10, 5.3.12, 5.3.31 through 5.3.34,  
5.3.48, 5.3.50, 5.3.54
  - (3) Internet Electronic Transport: 10.3.1, 10.3.3 through 10.3.12, 10.3.14  
through 10.3.27

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4. NOMINATIONS, SCHEDULING, AND SEGMENTATION

4.0 Transporter shall accept nominations twenty-four (24) hours a day via Electronic Communication. All nominations submitted to and accepted by Transporter must contain, at a minimum, the mandatory data elements included in the NAESB standards and any additional elements included in the NAESB standards and any additional business-conditional or mutually agreeable data elements. In addition, nominations must be stated in MMBtu's, and specify a begin and end date, which dates must be for a minimum period of one (1) day, and must be within the term of Shipper's Transportation Service Agreement. At the end of each day, Transporter should provide the final scheduled quantities for the just completed day. With respect to the implementation of this process via NAESB Standards Version 2.0 scheduled quantity related standards, Transporter should send an end of day scheduled quantity document, provided that receivers of the end of day scheduled quantity documents can waive this requirement.

- (a) All new or revised nominations must be communicated via Electronic Communication unless otherwise mutually agreed, and must be submitted in accordance with the standard nomination timelines set forth below. A revised nomination supersedes the previous nomination in effect, but only for the days specified in such revised nomination, after which the previous nomination once again takes effect until its end date or until superseded by another new or revised nomination, whichever is earlier. For the purpose of this Section 4, "provide" shall mean, for transmittals pursuant to NAESB Standard 1.3.2 (Version 1.9), receipt at the designated site, and for purposes of other forms of transmittal, it shall mean send or post.

The standard nomination timelines are as follows:

(1) The Timely Nomination Cycle:

(All times are CCT on the day prior to the Service Day).

11:30 a.m. Latest time that nominations may leave control of the nominating party;

11:45 a.m. Receipt of nominations by Transporter (including from Title Transfer Tracking Service Providers (TTTSPs));

12:00 p.m. Transporter sends quick response;

3:30 p.m. Receipt of completed confirmations by Transporter from upstream and downstream connected parties;

4:30 p.m. Receipt of scheduled quantities by Shipper and point operator. Scheduled quantities resulting from the Timely Nomination

Cycle shall be effective at 9:00 a.m. CCT on the next Service Day.

(2) The Evening Nomination Cycle:

(All times are CCT on the day prior to the Service Day).

6:00 p.m. Latest time that nominations may leave control of the nominating party;

6:15 p.m. Receipt of nominations by Transporter (including from TTTSPs);

6:30 p.m. Transporter sends quick response;

9:00 p.m. Receipt of completed confirmations by Transporter from upstream and downstream connected parties;

10:00 p.m. Transporter to provide scheduled quantities to affected Shippers and point operators, and to provide scheduled quantities to bumped parties.

Scheduled quantities resulting from the Evening Nomination Cycle that does not cause another service requester to receive notice that it is being bumped shall be effective at 9:00 a.m. CCT on the next Service Day; and when an Evening Nomination causes another service requester to receive notice it is being bumped, the scheduled quantities shall be effective at 9:00 a.m.

CCT on the next Service Day.

(3) The Intra-day 1 Nomination Cycle:  
(All times are CCT on the Service Day).

10:00 a.m. Latest time that nominations may leave control of the nominating party;

10:15 a.m. Receipt of nominations by Transporter (including from TTTSPs);

10:30 a.m. Transporter sends quick response;

1:00 p.m. Receipt of completed confirmations by Transporter from upstream and downstream connected parties;

2:00 p.m. Transporter to provide scheduled quantities to affected Shippers and point operators, and to provide scheduled quantities to bumped parties.

Scheduled quantities resulting from the Intra-day 1 Nomination Cycle shall be effective at 5:00 p.m. CCT on the same Service Day.

(4) The Intra-day 2 Nomination Cycle:  
(All times are CCT on the Service Day).

5:00 p.m. Latest time that nominations may leave control of the nominating party;

5:15 p.m. Receipt of nominations by Transporter (including from TTTSPs);

5:30 p.m. Transporter sends quick response;

8:00 p.m. Receipt of completed confirmations by Transporter from upstream and downstream connected parties;

9:00 p.m. Transporter to provide scheduled quantities to affected Shippers and point operators.

Scheduled quantities resulting from the Intra-day 2 Nomination Cycle shall be effective at 9:00 p.m. CCT on the same Service Day. Bumping is not allowed during the Intra-day 2 Nomination Cycle.

- (b) Gas which is nominated for delivery to a Headstation may be transferred to another party at the same Headstation, provided that both the transferor and transferee are Shippers, the transfer is made from similar pools, i.e., transmission to transmission or gathering to gathering, and the transfer is effectuated pursuant to a valid nomination in accordance with this Section 4 of the General Terms and Conditions, where the applicable Headstation is designated as both the Receipt Point and the Delivery Point.
- (c) Shipper shall also include in its nomination the desired order of priority of receipts and deliveries under each Transportation Service Agreement and Transporter may rely thereon (or in the absence of such information, upon Transporter's judgment) if Transporter takes action to change receipts and/or deliveries.
- (d) If a Shipper completes and resubmits an otherwise incomplete nomination, the first nomination cycle that occurs where the Shipper's complete nomination meets the deadline for nominations to leave a Shipper's control will apply to the Shipper's nomination.
- (e) Variations by Shipper of actual deliveries to Transporter from the nominated deliveries at the Receipt Point(s) shall be kept to a minimum. In addition, variations by Shipper of actual receipts from Transporter from the nominated receipts at the Delivery Point(s) shall be kept to a minimum. If the nominated quantity cannot be delivered or received at uniform daily rates, provisions cannot be delivered or received at uniform daily rates, provisions to deliver the Gas at a non-uniform rate must be made with Transporter prior to Gas flowing.
- (f) Any nomination that is submitted and validated by Electronic Communication shall be considered valid. If the nomination of Transporter's Use is

inaccurate by five (5) MMBtu's or more, the nomination will not be considered valid.

- (g) Any Shipper may designate an Agent, which may be Transporter, to nominate and schedule Transportation Service on Shipper's behalf. Shipper shall notify Transporter, in writing, of the designated Agent. An Agent who has been designated to nominate and schedule Transportation Service for more than one Shipper may provide aggregate nomination(s) for multiple Shippers. Transporter is authorized to rely on nominations and scheduling information provided by Shipper's Agent. By designating an Agent, Shipper agrees to indemnify and save Transporter harmless from all suits, actions, debts, accounts, damages, costs, losses and expenses arising in any way from Shipper's Agent's actions on behalf of Shipper, or Transporter's reliance upon the information provided to Transporter by Shipper's Agent; provided, however, that such indemnification will not excuse Transporter from liability for actions taken when Transporter is acting as Agent.

#### 4.1 Implementation of Intra-day Nominations.

- (a) Subject to the deadlines in this Section 4, Intra-day Nominations may be nominated twenty-four (24) hours a day and will be processed in the same manner as other nominations. However, the nomination deadline and effective time of Intra-day Nominations specified in this Section 4 will not apply to OFO-related Intra-day Nominations.
- (b) Subject to upstream and downstream operators' confirmations Transporter's operating conditions, an Intra-day Nomination submitted pursuant to one of the deadlines set forth in Section 4.1(a) of the General Terms and Conditions of this Tariff, can be used to request increases or decreases in total flow, changes to Receipt Points, or changes to Delivery Points, of scheduled Gas. Transporter will not accept a reduced Intra-day Nomination for any quantity deemed already delivered based on an Elapsed Prorated scheduled quantity.
- (c) Transporter shall allow Shipper to alter the order of priority of receipts and deliveries, upon which Transporter shall rely in taking actions to adjust receipts and/or deliveries, provided that such changes are submitted via Electronic Communication in accordance with the nomination deadlines set forth in Section 4 of the General Terms and Conditions of this Tariff. If Shipper adds a new nomination at a Receipt Point or Delivery Point under its Transportation Service Agreement during the Service Day, provided that any of such additions is not performed simultaneously with a change in priorities that accommodates the new receipt or delivery, Transporter shall place such addition as the last in priority to be affected by any changes.
- (d) Notice. For purposes of providing notice of any nomination changes (including where an interruptible Shipper's nomination is bumped by a firm Shipper's Intra-day Nomination to a Shipper and/or Shipper's Agent, Transporter shall use Electronic Communication. With respect to changes initiated by Transporter, if a Shipper so elects, such Shipper may provide a telephone number and Transporter will contact Shipper at such phone number by means of Electronic Communication to alert Shipper that a change has been made. Such Shipper shall then be responsible for reviewing its account to obtain details of such change.
- (e) Daily Scheduling Penalties. Transporter will not impose any daily scheduling penalties as a result of nomination changes notified under Section 4.1(d) of the General Terms and Conditions of this Tariff, if the Shipper can demonstrate that it made a good faith attempt to accept Electronic Communication, and such Electronic Communication could not be accepted through no fault of Shipper, such as an event of force majeure affecting Shipper's facilities. In addition, where an interruptible Shipper's nomination is bumped by a firm Shipper's Intra-day Nomination, Transporter will, in noncritical situations, waive any daily scheduling penalty for such bumped interruptible Shipper.

#### 4.2 Nominations. Nominations for Transportation of Gas must be received by 12:00 P.M. one Business Day prior to the commencement of service. During all extreme operating conditions, late nominations will be accepted if the Transporter is able to confirm and schedule the nominated volumes with the interconnecting pipeline(s). Nominations must be placed in a manner specified by the Transporter and transmitted



electronically to Transporter. Nominations submitted after the deadline or nominations not submitted in the manner specified by the Transporter may be rejected at the sole discretion of the Transporter. If the Transporter is unable to confirm the nomination, Shipper will be notified as soon as the problem is identified by Transporter. Any discrepancy in nominations that cannot be resolved shall result in Shipper receiving the lesser of the nominated volume or the volume confirmed with the interconnecting party. Transporter shall have the right to require nomination changes that ensure net receipts and deliveries match. Nominations will be scheduled in the following order: 1) Firm Transportation Service at Primary Point(s) of Receipt, 2) Firm Transportation Service at Secondary Point(s) of Receipt, 3) Interruptible Transportation at all Point(s) of Receipt, 4) Imbalance Resolution Gas. If it becomes necessary to allocate within specific classes as noted above, Shippers will be allocated a proportionate share of the Receipt Point capacity as follows:

<u>Shippers nominated volume</u>	x	Receipt Point	=	Allocated
Volume		Capacity to		
Total nominated volume to be allocated		be allocated		

A confirmed nomination at Point(s) of Receipt with an operational balancing agreement will result in the confirmed nomination being allocated to the Shipper's account. At Point(s) of Receipt without an operational balancing agreement, volumes will be allocated on the basis of actual metered volumes using a predetermined allocation if more than one Shipper is nominating at the applicable Point of Receipt. The Transporter reserves the right to reject any nomination not within the Transporter's ability to monitor.

(a) Bumping.

Transporter will give scheduling priority to firm nominations submitted during the Evening Nomination and Intra-day 1 Nomination Cycles over previously nominated and scheduled volumes for interruptible services. The elapsed-prorated-scheduled quantity process will apply to those nominations bumped in the Intra-day 1 Nomination Cycle.

Interruptible Shippers that are bumped will be provided a notice of bumping along with a notice stating whether penalties shall apply on the day their volumes are reduced. Bumping notice statements will be provided in the same manner as OFO notices. In addition, bumping notice statements will be sent through email or direct notification to a Shipper's URL address. Transporter will waive non-critical penalties for bumped Shippers on the day of the bump.

(b) Balancing Nominations.

Shipper or Shipper's Agent will nominate to Transporter the quantity of Natural Gas in MMBtu's to be used to balance Receiving Party imbalances and/or Shipper imbalances, and will schedule such balancing Gas in accordance with Transporter's nomination procedures, subject to available capacity. To the extent capacity is unavailable to meet all imbalance makeup requests, Transporter will allocate available capacity pro rata based on balancing nominations.

(c) Authorized Overrun Nominations.

- (1) Overrun quantities should be requested on a separate transaction.
- (2) Shipper will nominate to Transporter the quantity of Natural Gas subject to the L & U Percentage in MMBtu's to be scheduled and transported in excess of such Shipper's rights to throughput capacity or Receipt or Delivery Point capacity. Such Authorized Overrun Nominations will be scheduled in accordance with Transporter's Nomination procedures, subject to available capacity. To the extent capacity is unavailable to meet all Authorized Overrun Nomination requests, authorized overrun service will be treated as interruptible, and interruption of authorized overrun service will be consistent with Section 4.2 of the General Terms and Conditions of this Tariff.

4.3 Scheduling and Allocation of Capacity. On each day Transporter shall determine:

- (a) the total quantities which all Shippers have nominated to be received on

that day;

- (b) the total quantities which all Shippers have nominated to be delivered on that day; and
- (c) Transporter's System Capacity.

If due to any cause whatsoever Transporter is unable on any day to satisfy all nominations for Transportation Service made pursuant to the procedures in Section 4.0 of the General Terms and Conditions of this Tariff, then Transporter shall allocate available Transportation capacity according to the following procedure:

- (i) First, Transporter shall accept all nominations for service under Transportation Service Agreements under Rate Schedule FT, including nominations of Transportation quantities constituting corrective action pursuant to Section 4.0 of the General Terms and Conditions of this Tariff, up to the Maximum Daily Quantity contained in such Transportation Service Agreements; and, to the extent capacity remains,
- (ii) Second, Transporter shall accept all nominations for service under Rate Schedule IT and for Authorized Overrun Quantities in order of the unit rate at which service is to be performed, starting with the unit rate that represents the highest percentage of the maximum applicable rate. Transporter shall allocate the capacity available among Shippers paying the same rate on a first-come, first-served basis in accordance with the date service was requested. Among Shippers who initially requested service on the same day service shall be allocated pro rata on the basis of Shipper's nominations.

4.4 Segmentation of Capacity. Any Shipper receiving firm Transportation Service may segment its capacity by nominating a Secondary Delivery Point along the Primary Route which is both upstream of the Primary Delivery Point and downstream of the Primary Receipt Point, and by contemporaneously nominating quantities at a Secondary Receipt Point along the Primary Route which is both downstream of the Secondary Delivery Point and upstream of the Primary Delivery Point, provided that each segmented nominations is in the same direction as the Primary Route. For purposes of determining the flow direction along a Primary Route in the Northern Segment, if the Primary Receipt Point is located geographically south of the Primary Delivery Point, the flow direction shall be deemed to be northerly, and vice versa. If Shipper so elects to segment its capacity, the following shall apply:

- (a) Quantities may not be nominated in any manner that is inconsistent with these General Terms and Conditions or would cause the quantities of Gas flowing at any location in any segment to exceed the Primary Route MDQ; and
- (b) If such segmentation occurs pursuant to any capacity release, Transporter shall be entitled to ensure that nominations of the applicable Replacement and/or Releasing Shippers are not inconsistent with the limitation set forth in Section 4.4(a) of the General Terms and Conditions of this Tariff.

GENERAL TERMS AND CONDITIONS

5. CURTAILMENT

In the event that System Capacity becomes inadequate to provide previously scheduled service, Transporter shall curtail service as follows:

- (a) First, Transporter shall curtail Authorized Overrun Quantities and service to those Shippers receiving service under Rate Schedule IT in the order of the unit rate at which the service is being performed, beginning with the unit rate that represents the lowest percentage of the maximum applicable rate. Transporter shall allocate capacity among Shippers paying the same rate on a first-come, first-served basis in accordance with the date on which service was requested. Among Shippers having the same first-come, first-served priority, service will be curtailed pro rata on the basis of scheduled quantities; and
- (b) Second, Transporter shall curtail service to Shippers receiving service under the FT Rate Schedule pro rata on the basis of Maximum Transportation Quantities.

GENERAL TERMS AND CONDITIONS

6. BALANCING AND CONTRACT OVERRUNS

6.1 Shipper's Obligations.

- (a) Shipper shall endeavor to monitor and, if necessary, adjust deliveries and receipts of Gas in order to maintain a daily balance of deliveries and receipts. Transporter shall not be obligated to receive Gas in excess of the Scheduled Input Quantities, nor shall Transporter be obligated to deliver to Shipper at the Delivery Point(s) quantities in excess of Scheduled Equivalent Quantities. Shipper shall maintain receipts at levels at or below the Maximum Input Quantities (as adjusted for the L & U Percentage) and its Maximum Equivalent Quantities. Transporter will monitor, to the extent practicable, deliveries and receipts for each Transportation transaction and, based upon information available, advise Shipper of any imbalance situation which has occurred or may occur unless corrective action is taken. Upon notification, Shipper shall endeavor to adjust deliveries and receipts to avoid any imbalance. Any adjustment to deliveries and receipts by Shipper, whether or not pursuant to notification from Transporter, shall be coordinated with Transporter and shall be in accordance with the nomination and scheduling procedures set forth in Section 4 of the General Terms and Conditions of this Tariff.
- (b) If Shipper fails to maintain a balance of deliveries and receipts, inaccurately schedules deliveries and receipts, or exceeds its Maximum Input Quantity or its Maximum Equivalent Quantity, then, in addition to all other charges owing, Transporter shall impose all of the applicable imbalance, scheduling and overrun charges set forth in this Section, as applicable.

6.2 Scheduling Penalty.

- (a) Receipt Point Scheduling. If on any day Shipper delivers a quantity of Gas to Transporter at any Receipt Point which exceeds or falls short of the Scheduled Input Quantity for such Receipt Point by the greater of ten percent or 400 MMBtu, then for all quantities in excess of or which fall short of the Scheduled Input Quantity by more than the greater of ten percent or 400 Dth of the Scheduled Input Quantity for such Receipt Point, Shipper shall pay Transporter a penalty equal to the maximum Rate Schedule IT rate.
- (b) Delivery Point Scheduling. If on any day Shipper takes delivery of a quantity of Gas from Transporter at any Delivery Point which exceeds or falls short of the Scheduled Equivalent Quantity for such Delivery Point by the greater of ten percent or 400 MMBtu, then for all quantities in excess of or which fall short of the Scheduled Equivalent Quantity by more than the greater of ten percent or 400 Dth of the Scheduled Equivalent Quantity for such Delivery Point, Shipper shall pay Transporter a penalty equal to the maximum Rate Schedule IT rate.
- (c) On any day on which Shipper may be liable for Scheduling Penalties under both Sections 6.2(a) and 6.2(b) of the General Terms and Conditions of this Tariff, Transporter shall impose on Shipper only the greater of the two penalties.

6.3 Balancing Penalty.

- (a) Daily Balancing. If on any day Shipper delivers to Transporter Input Quantities at the Receipt Point(s) which (after adjustment for the L & U Percentage) are in excess of or deficient by the greater of 1,000 MMBtu or ten percent of the Equivalent Quantities taken by Shipper at the Delivery Point(s), Transporter shall provide Shipper 48 hours notification, or such lesser period of time as reasonably required by Transporter to protect the integrity of its system, to initiate corrective action. In the event Shipper fails to agree upon the appropriate corrective action to be implemented with Transporter or fails to initiate the corrective action mutually agreed upon by Shipper and Transporter within the period provided, Transporter shall charge Shipper a penalty equal to the maximum applicable rate under Rate Schedule IT per MMBtu for any receipts which are in excess of or deficient by the greater of ten percent or 1,000 MMBtu of deliveries after the time at which corrective action was to have taken effect.

- (b) Monthly Balancing. At least seven days prior to the end of each Month Transporter will notify Shipper if it appears that Input Quantities will be in excess of or deficient of the quantities taken by Shipper at all Delivery Points. In the event Shipper fails to agree upon the appropriate corrective action to be implemented with Transporter within five Business Days after notification, or fails to carry out the corrective action agreed upon within the agreed upon time frame, Transporter shall charge Shipper a penalty equal to the maximum applicable rate under Rate Schedule IT per MMBtu for any excess of deliveries over receipts that has not been made up, and Transporter shall retain any excess of receipts over deliveries that has not been made up.

Imbalances for any Month that become apparent after the time for notice has expired shall be considered as an imbalance for the Month following the Month in which the imbalance became apparent.

- 6.4 Overrun Penalty. If on any day Shipper takes delivery of a quantity of Gas from Transporter at any Delivery Point which exceeds Shipper's Maximum Equivalent Quantity at such Delivery Point by two percent, then Shipper shall pay to Transporter \$2.50 for each MMBtu up to 50 MMBtu in excess of the applicable Maximum Equivalent Quantity, and \$25.00 per MMBtu for any additional quantity of Unauthorized Daily Overrun taken by Shipper at such Delivery Point.

- 6.5 Operational Balancing Agreement ("OBA"):

- (a) An OBA is a contract between two parties which specifies the procedures to manage operating variances at an interconnect.
- (b) Transporter will enter into an Operational Balancing Agreement with the Receiving Party. The Receiving Party is the downstream pipeline or local distribution company (LDC) that takes delivery of the Gas at the Delivery Point for its own account and/or the account of its Transportation customers. The Receiving Party will be responsible for any imbalances at the Delivery Points and for any scheduling and/or balancing penalties resulting from these imbalances.

- 6.6 Penalty Provisions Inapplicable.

- (a) No monthly imbalance charge shall be assessed unless Transporter has notified Shipper that an imbalance has occurred or will occur without corrective action and Shipper has failed to take action in coordination with Transporter's Gas dispatchers which corrects such imbalance within 45 days of notification. Transporter will not assess imbalance or scheduling penalties in the event Shipper's failure to take corrective action or Shipper's failure to correctly schedule Gas deliveries is caused by Transporter's actions or force majeure conditions as defined in Section 18 of the General Terms and Conditions of this Tariff. In addition, in any Month in which Shipper may be liable for both daily and monthly imbalance penalties, the sum of the imbalance quantities for which Shipper has been assessed a daily penalty shall be deleted from the imbalance quantities used in calculating the monthly penalty. In calculating excess and deficient quantities, Transporter shall take into consideration (1) scheduled make-up quantities, and (2) any offsetting excess or deficiency in deliveries under other Transportation Service Agreements between Transporter and Shipper.

- 6.7 Penalty Provisions Not Exclusive. Nothing in this Section 6 shall limit Transporter's right to take such action as may be required to adjust deliveries or receipts in order to alleviate conditions which threaten the integrity of its system, nor prevent Transporter from exercising any other legal remedies which may be available. In the event that Transporter reasonably determines that Shipper's receipts or deliveries must be adjusted in order to alleviate a threat to the integrity of Transporter's system, and Shipper fails after reasonable notice to implement the action prescribed by Transporter to alleviate the threat to system integrity, then in addition to all other remedies Transporter may have, Transporter may assess a penalty equal to two times the maximum IT Rate Schedule rate per MMBtu by which Shipper's receipts or deliveries exceed the level specified by Transporter.

- 6.8 Proceeds resulting from penalties, net of costs, including imbalance, overrun and OFO penalties, shall be credited to Shippers receiving service under Rate Schedules

FT and IT. The credits will be allocated pro rata based on the total revenues received from each Shipper under Rate Schedules FT and IT during the calendar year, compared to the total revenues received from all Shippers under Rate Schedules FT and IT during the calendar year. Penalty revenue credits will be allocated only to those Shippers that were not assessed penalties on the day(s) for which such penalty revenues are to be credited. Penalty revenue credits will be reflected as a credit billing adjustment to each May billing for credits accrued during the prior calendar year.

GENERAL TERMS AND CONDITIONS

7. DELIVERY AND RECEIPT POINTS

- 7.1 Receipt Points. Transporter shall make available to each Shipper under Rate Schedule FT one or more Primary Receipt Points, the exact number and location to be determined by mutual agreement between Transporter and Shipper. The Primary Receipt Point(s) at which Transporter will accept Gas from Shipper or for Shipper's account shall be those set forth in the Transportation Service Agreement between Transporter and Shipper. The Transportation Service Agreement shall also set forth the Maximum Input Quantity and minimum receipt pressures applicable to each such Primary Receipt Point. Subject to the availability of capacity, all other Receipt Points shall be available as Secondary Receipt Point(s) provided that the sum of all Input Quantities at all Primary and Secondary Receipt Points shall not exceed Shipper's Maximum Transportation Quantity adjusted for the L & U Percentage. In the event that nominations by Rate Schedule FT Shippers for receipts at an Secondary Receipt Point exceed the capacity available at that Receipt Point, the available capacity shall be allocated pro rata on the basis of the portion of each Shipper's Maximum Daily Quantity that has not been scheduled for receipt at other points. Subject to the availability of capacity, all Receipt Points shall then be available to Shippers under Rate Schedule IT.
- 7.2 Additions and Deletions of Primary Receipt Points. The Transportation Service Agreement between Transporter and Shipper may be revised from time to time in order to reflect additions or deletions of Primary Receipt Points or changes in the Maximum Input Quantities or minimum receipt pressures applicable to such Primary Receipt Points. Additions or deletions of Primary Receipt Points and changes in the Maximum Input Quantities or receipt pressures applicable to Primary Receipt Points hereunder shall not be considered new transactions if Shipper's Maximum Daily Quantity is not increased.
- 7.3 Delivery Points. Transporter shall make available to each Shipper under Rate Schedule FT one or more Primary Delivery Points, the exact number and location to be determined by mutual agreement between Transporter and Shipper. The Primary Delivery Point(s) at which Transporter will make Gas available to or on behalf of Shipper shall be those set forth in the Transportation Service Agreement between Transporter and Shipper. The Transportation Service Agreement shall also set forth the Maximum Equivalent Quantity and maximum and minimum delivery pressures applicable to each such Primary Delivery Point. Subject to the availability of capacity, all other Delivery Points shall be available as Secondary Delivery Point(s) provided that the sum of all deliveries at all Primary and Secondary Points does not exceed Shipper's Maximum Transportation Quantity. In the event that nominations by FT Rate Schedule Shippers for deliveries at an Secondary Delivery Point exceed the capacity available at that Delivery Point, the available capacity shall be allocated pro rata on the basis of the portion of each Shipper's Maximum Transportation Quantity that has not been scheduled for delivery at other points. Subject to the availability of capacity, all Delivery Points shall then be available to Shippers under Rate Schedule IT.
- 7.4 Additions and Deletions of Primary Delivery Points. The Transportation Service Agreement between Transporter and Shipper may by mutual consent be revised from time to time in order to reflect additions or deletions of Primary Delivery Points or changes in the Maximum Equivalent Quantities or minimum delivery pressures applicable to such Primary Delivery Points. Additions or deletions of Primary Delivery Points and changes in the Maximum Equivalent Quantities or delivery pressures applicable to Primary Delivery Points hereunder shall not be considered new transactions if Shipper's Maximum Transportation Quantity is not increased.
- 7.5 Primary Receipt and Delivery Points To Be Added Only Where Capacity Available. Transporter will agree to add a Primary Delivery Point or Primary Receipt Point for service under a Transportation Service Agreement under the FT Rate Schedule only to the extent sufficient firm capacity is available at that point.

GENERAL TERMS AND CONDITIONS

8. UNIFORM PRESSURE AND QUANTITY

- 8.1 Delivery Pressure to Receipt Point. The delivery pressure of Natural Gas delivered to Transporter by or for the account of Shipper at a Receipt Point shall not be less than the minimum pressure set forth for the Receipt Point in the Transportation Service Agreement between Transporter and Shipper, nor shall Transporter be obligated to receive Natural Gas deliveries at pressures greater than those set forth in the Transportation Service Agreement.
- 8.2 Delivery Pressure to Delivery Point. The delivery pressure of Natural Gas made available by Transporter to or on behalf of Shipper at a Delivery Point shall not be less than the minimum pressure set forth for each Delivery Point in the Transportation Service Agreement between Transporter and Shipper, nor shall Transporter be obligated to make deliveries at pressures greater than those set forth in the Transportation Service Agreement.
- 8.3 Uniform Quantities. Shipper shall deliver to Transporter and take from Transporter Gas in uniform hourly quantities during any day; provided, however, that Transporter shall permit Shippers under Rate schedule FT to take hourly deliveries of Gas at rates equal to 6 percent of the Maximum Daily Quantity for up to three consecutive hours twice in any 24 hour period; provided, however, that the second three hour period shall not begin less than eight hours after the end of the first three hour period; provided that hourly deliveries by Shipper at the Receipt Point are at 1/24 of the scheduled quantity. Any other departure from uniform hourly quantities shall be allowed on a best efforts basis only. Nothing hereunder shall authorize Shipper to take a quantity of Gas in excess of its Maximum Daily Quantity.



GENERAL TERMS AND CONDITIONS

9. QUALITY

- 9.1 Gas delivered by Shipper to Transporter at the Receipt Point(s), and Gas delivered to Shipper by Transporter at the Delivery Point(s), shall conform to the specifications set forth in this Section 9.
- 9.2 (a) Heating Value. The Gas shall be natural gas having a Total Heating Value of not less than 900 nor more than 1100 Btus per Cubic Foot.
- (b) Freedom From Objectionable Matter. The Gas shall be commercially free (at prevailing pressure and temperature) from sand, dust, gums, crude oil, impurities and other objectionable substances which might interfere with its transmission through pipelines or its commercial utilization or which may cause injury to or interference with proper operation of the lines, regulators, meters or other appliances through which it flows.
- (c) The Gas shall not contain levels of the following contaminants higher than the levels specified below:
- (i) Sulfur/Hydrogen Sulfide. Not more than ten grains of total sulfur per 100 cubic feet nor more than one-quarter grain of hydrogen sulfide per 100 cubic feet;
  - (ii) Oxygen. Not more than four-tenths of one percent by volume of oxygen, provided that Shipper shall make every reasonable effort to keep the Gas free of oxygen;
  - (iii) Carbon Dioxide. Not more than two percent by volume of carbon dioxide;
  - (iv) Entrained Water. Not more than four pounds of entrained water per 1,000,000 cubic feet, at a pressure base of 800 pounds per square inch and a temperature of 15 degrees Fahrenheit as determined by a dew-point apparatus approved by the Bureau of Mines or such other apparatus as may be mutually agreed upon;
  - (v) Polychlorinated Biphenyl (PCB). No measurable quantity of PCB utilizing the best available measurement technology; and
  - (vi) Hydrocarbon Dew Point. Less than 15 degrees Fahrenheit at 800 pounds per square inch.
- (d) Temperature. The Natural Gas shall have a temperature of not more than 110 degrees Fahrenheit.
- 9.3 Quality Tests.
- (a) Upon reasonable notice from Transporter, Shipper shall conduct or cause to be conducted such tests as are required to determine whether Gas tendered by Shipper to Transporter is in conformance with the specifications set forth in this Section 9. Upon reasonable notice from Shipper, Transporter shall conduct such tests as are required to determine whether Gas redelivered by Transporter to Shipper at the Delivery Point(s) is in conformance with the specifications set forth in this Section 9.
- (b) The gross heating value of Gas delivered hereunder shall be determined from read-outs of continually operating measurement instruments. The method shall consist of one or more of the following:
- (1) calorimeter;
  - (2) gas chromatograph;
  - (3) any other method mutually agreed upon by the parties.

Measurement of gross heating value with the calorimeters shall comply with the standards set forth in the American Society for Testing and Materials' ASTM D 1826- 83 or any subsequent revisions. Analysis of Gas with gas chromatographs shall comply with the standards set forth in ASTM D 1945-81 or any subsequent revisions. Calculation of the gross heating value from compositional analysis by gas chromatography shall comply with the standards

set forth in ASTM D 3588-81 or any subsequent revisions. Transporter or its Agent shall calibrate and maintain the gross heating value measurement device at intervals as agreed upon by Transporter and Shipper. Shipper shall have access to Transporter's devices and shall be allowed to inspect the devices and all charts or other records of measurement at any reasonable time.

- (c) Tests shall be made to determine the total sulfur, hydrogen sulfide, carbon dioxide and oxygen content of the Gas, by approved standard methods in general use in the gas industry, and to determine the hydrocarbon dew point and water vapor content of such Gas by methods satisfactory to the parties. Tests shall be made frequently enough to ensure that the Gas is conforming continuously to the quality requirements.

- 9.4 Failure to Conform to Specifications. If the Gas offered for delivery to Transporter at the Receipt Point(s) or made available to or on behalf of Shipper at the Delivery Point(s) by Transporter shall fail at any time to conform to any of the specifications set forth in Sections 9.1, 9.2 or 9.3 of the General Terms and Conditions of this Tariff, then the party receiving such Gas (the "receiving party") shall notify the other party (the "tendering party") of such deficiency and thereupon the receiving party may at its option refuse to accept such Gas pending correction by the tendering party. Upon the tendering party's failure promptly to remedy any deficiency the receiving party may accept such Gas and may make changes necessary to bring such Gas into conformity with such specifications, and the tendering party shall reimburse the receiving party for any reasonable expense incurred by it in effecting such changes. In no event shall the failure of any Gas offered for delivery to Transporter by Shipper or for Shipper's account to conform to any of the specifications set forth in Sections 9.1, 9.2 or 9.3 of the General Terms and Conditions of this Tariff relieve Shipper of Shipper's obligation to pay Transportation Reservation Charges, if applicable. In no event shall the failure of any Gas made available to or on behalf of Shipper at any Delivery Point(s) to conform to any of the specifications set forth in Sections 9.1, 9.2 or 9.3 of the General Terms and Conditions of this Tariff relieve Shipper of Shipper's obligation to pay the Transportation Commodity Charges and, if applicable, Transportation Reservation Charges.