

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.