

TALLGRASS PONY EXPRESS PIPELINE, LLC

LOCAL PIPELINE TARIFF
Containing

RULES AND REGULATIONS

Governing the Transportation of

CRUDE PETROLEUM
By Pipeline

The rules and regulations published herein apply under tariffs making reference to this Tariff; such reference will include successive issues hereof.

~~[C] Issued on eleven (11) days' notice under authority of 18 C.F.R. § 341.14. This tariff publication is conditionally accepted subject to refund pending a 30-day review period.~~

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

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GENERAL APPLICATION

Rules and regulations published herein apply under tariffs which make reference to this Tariff; such reference will include supplements hereto and successive issues hereof.

Petroleum will be transported through Carrier's System only as provided in this Rules and Regulations Tariff, except that specific rules and regulations published in individual tariffs will take precedence over rules and regulations published herein.

RULES AND REGULATIONS

Item No. 5: General Definitions

(applicable to the specified terms below and various forms thereof)

"API" as herein used means the American Petroleum Institute.

"Barrel" as herein used means forty-two (42) United States gallons at sixty degrees (60°) Fahrenheit.

"Carrier" as herein used means Tallgrass Pony Express Pipeline LLC.

"Carrier's System" as herein used means any facilities owned or leased by Carrier to perform services under these Rules and Regulations.

"Connecting Carrier" as herein used means an upstream pipeline connected to Carrier's System.

"Consignee" as herein used means the party to whom a Shipper has ordered delivery of Petroleum.

"Committed Shipper" as herein used means a shipper who has signed a Throughput and Deficiency Agreement with Carrier.

"Committed Volume" as herein used means the minimum volume commitment (barrels per Month) made by a Committed Shipper in its Throughput and Deficiency Agreement with Carrier

“Deeprocks” as herein used means Deeprocks Development, LLC, the operator of the Deeprocks Facilities.

“Deeprocks Facilities” as herein used means the storage and terminal facilities leased by Carrier in Cushing, Oklahoma to enable delivery of transported Petroleum to Destinations located in Cushing, Oklahoma.

“Destination(s)” shall mean custody transfer delivery point(s) on Carrier’s System, as described in Carrier’s published tariff(s), at which Shipper’s Petroleum, after being transported by Carrier, is delivered into the custody of a downstream party pursuant to Shipper’s confirmed Nomination.

“Financial Assurances” as herein used means the Financial Assurances provided by Shippers and accepted by Carrier in accordance with Item No. 75 herein.

“Month” or “Monthly” shall mean a calendar month consisting of 28, 29, 30 or 31 days as applicable to the particular calendar month.

“NECL” shall mean the Northeast Colorado Lateral connecting to Carrier’s pipeline system in Logan County, Colorado.

“Nominate(s)” or “Nomination(s)” as herein used means a Shipper’s binding offer to Carrier to Tender a specified quantity and quality of Petroleum for transportation by Carrier from a specified Origin to a specified Destination in the following calendar month.

“Origin(s)” shall mean custody transfer receipt point(s) connected to Carrier’s System, as described in Carrier’s published tariff(s), at which Shipper’s Petroleum is received into Carrier’s custody pursuant to a Shipper’s confirmed Nomination.

“Petroleum” as herein used means: (1) Any crude petroleum adapted for refining or fuel purposes which by A.S.T.M. (American Society for Testing Materials) methods substantially distills below seven hundred degrees (700°) Fahrenheit; or (2) any petroleum product which by A.S.T.M. methods substantially distills below four hundred degrees (400°) Fahrenheit and which when mixed in or for transit with other petroleum has a resultant vapor pressure not exceeding thirteen (13) pounds Reid at one hundred degrees (100°) Fahrenheit.

“Pipeline Loss Allowance” or “PLA” as herein used means that portion of Petroleum provided by each Shipper, at no cost to Carrier, and retained by Carrier in recognition of loss and shrinkage on Carrier’s System. The PLA under joint tariff movements will be as published in the applicable tariff(s). For deliveries using the Deeprocks Facilities an additional loss and shrinkage allowance will be charged and provided by each Shipper, at no

cost to Carrier, transporting to such Destinations for the actual loss and shrinkage in the Deeprock Facilities.

“Shipper” as herein used means a party who contracts with Carrier or makes a Nomination to Carrier for the transportation of Petroleum subject to and in accordance with this rules and regulations Tariff and subject to the rate provided in the applicable tariff.

“Tender” as herein used means the presentation for delivery by a Shipper to Carrier, or by a Connecting Carrier to Carrier on behalf of a Shipper, of a quantity of Petroleum for transportation from a specified Origin(s) on Carrier’s System or from a Connecting Carrier providing joint transportation services with Carrier, to a specified Destination(s) on Carrier’s System in accordance with these rules and regulations.

“Transferor” as herein used means the party who requests Carrier to recognize and record a change in ownership of petroleum from his or its account to a designated Transferee’s account.

“Transferee” as herein used means the party accepting volumes pursuant to an intra-system transfer of title to Petroleum.

“Throughput and Deficiency Agreement” or “TDA” as herein used means an effective Throughput and Deficiency Agreement executed by Carrier and a Shipper.

“Uncommitted Rate” as herein used means the rate(s) filed by Carrier with FERC applicable to transportation services performed for an Uncommitted Shipper.

“Uncommitted Shipper” as herein used means a Shipper who has not signed a TDA.

Item No. 10: Commodity

Carrier will transport Petroleum, as defined in Item No. 5 and No. 15, exclusively and will not accept any other commodity for transportation.

Item No. 15: Specifications as to Quality Received

All Petroleum Tendered to Carrier for transportation at Guernsey shall be good merchantable Petroleum with a gravity between twenty eight and fifty two degrees (28° to 52°) A.P.I. (American Petroleum Institute). All Petroleum Tendered to Carrier for transportation from Origins on the NECL shall be good and merchantable Petroleum with gravity between twenty eight and forty two degrees (28° to 42°) A.P.I. All Petroleum Tendered for

transportation shall be properly settled and weathered, as determined by Carrier, and contain no more than one half of one percent (0.50%) of basic sediment, water and other impurities, no more than three tenths of one percent (0.30%) of which is water. All Petroleum Tendered for transportation shall have a gravity, viscosity and other characteristics that make it readily susceptible to transportation through Carrier's System, will not materially affect the quality of other shipments or cause disadvantage or damage to other shippers and/or Carrier and/or Carrier's System. No Petroleum shall be Tendered to Carrier for transportation having 10 parts per million or more of hydrogen sulfide. No Petroleum Tendered to Carrier shall have a sulfur content higher than one half of one percent (0.50%) by weight. All Petroleum Tendered to Carrier for transportation shall have a temperature not greater than one hundred degrees Fahrenheit (100° F) nor a kinematic viscosity in excess of thirty centistokes ("cSt") determined at sixty degrees Fahrenheit (60° F); provided, however, that Carrier may elect at its sole discretion to accept Petroleum, from time to time, which does not meet the cSt specifications stated herein. No Petroleum shall be Tendered to Carrier for transportation that contains contaminants, including but not limited to chemicals such as chlorinated and/or oxygenated hydrocarbons, and/or lead. In the event any Petroleum is Tendered to Carrier by a Shipper, or by a third party or Connecting Carrier on behalf of a Shipper, that does not meet the quality specifications stated in this Tariff, such Shipper shall be liable for any and all direct and consequential damages resulting therefrom and such Shipper shall save Carrier harmless from any and all claims, suits, damages, costs, expenses, and/or judgments, arising from, directly or indirectly, the presence of such Petroleum in Carrier's System.

Any additives including but not limited to corrosion inhibitors, viscosity depressants, pour point depressants, drag reducing additives, or other such additives in the Petroleum to be delivered to Carrier shall require written approval by Carrier thirty (30) days prior to Tender and acceptance into Carrier's System of such Petroleum by Carrier.

In addition to other available remedies, Carrier shall have the right, but not the obligation, to reject any Petroleum Tendered by Shipper that does not comply with the provisions of this Tariff, including the quality specifications. Carrier's acceptance of, or failure to reject, Petroleum Tendered for transportation on Carrier's System shall not be deemed to be a waiver by Carrier of Shipper's obligations or liability regarding compliance with the provisions of this Tariff.

Item No. 19: Line Fill Requirement

Line fill will be required from each Committed Shipper on a pro rata basis per Carrier instructions no sooner than ninety days before the expected in service date, subsequent initiation of service under a joint tariff agreement(s) or expansion of Carrier's System for the efficient operation of Carrier's System. After the in service date, initiation of service under a joint tariff agreement(s) or expansion of Carrier's System, Carrier will require each Shipper

to supply a pro rata share of Petroleum for line fill necessary for the efficient operation of Carrier's System.

Unless otherwise agreed to by Carrier, line fill Petroleum may be withdrawn from Carrier's System only after ninety (90) days and subsequent to Shipper having ceased tendering shipments and notified Carrier in writing that it would no longer tender shipments to Carrier. Provided that Shipper has paid Carrier for all rendered services, line fill will be transported in accordance with these Rules and Regulations, and Shipper's TDA, if applicable, and returned to Shipper from a common stream that Carrier has available at the time of return to Shipper. Shippers shall pay Carrier for transportation of returned line fill Petroleum in accordance with Item No. 40 of these Rules and Regulations.

Item No. 22: Responsibility for Quality Delivered

Carrier is a multiple common stream carrier, and Petroleum will be accepted for transportation only on condition that it shall be subject to such changes in gravity, quality or characteristics while in transit as may result from its mixture with other Petroleum in Carrier's System. Subject to the foregoing, Carrier will use reasonable efforts to deliver Petroleum of a type equivalent to that accepted from Shipper; however, Carrier shall be under no obligation to make delivery of the identical Petroleum received but may make delivery out of common stock.

Carrier shall have no responsibility in, nor for, any revaluations or settlements which may be deemed appropriate by Shippers and/or Consignees because of mixing or intermingling of Petroleum shipments between the receipt and delivery of such shipments by Carrier, other than furnishing volume and gravity data on the Petroleum received and delivered.

Notwithstanding the foregoing, if a Shipper requests that its Petroleum be shipped separate from the common stream and has the necessary facilities to allow batching, Carrier will, to the extent permitted by its existing facilities and operating conditions, endeavor to segregate such Petroleum during transportation and to make delivery of substantially the same Petroleum at destination; provided that in such instances Carrier may require Shipper to (i) make the Petroleum available in such quantities and at such times as may be necessary to permit such segregated movement in light of Carrier's operating conditions; and (ii) supply buffers before and after its batch, said buffers to be of the type and quantity of Petroleum specified by Carrier in order to prevent changes in the quality of preceding and subsequent Petroleum; and provided further that the Consignee(s) shall accept at destination such leading and trailing buffers as mixed in transit together with its batch and Carrier shall not be liable for failure to deliver the identical Petroleum or for any variations in quality while in Carrier's custody.

Item No. 25: Title

Shipper shall not Tender, or cause to be Tendered, and Carrier has the right to reject, any Petroleum for transportation the title to which is in litigation or as to which a dispute of title exists or which is encumbered by any lien, and Carrier may require Shipper to provide satisfactory evidence of Shipper's good and unencumbered title or sufficient indemnity to protect Carrier against any loss whatsoever from having transported and/or delivered Petroleum, title to which is or may be in dispute. By Tendering Petroleum, Shipper warrants and guarantees that Shipper has good and unencumbered title thereto and agrees to indemnify and hold Carrier harmless for any and all loss, cost, liability, damage and/or expense which may in any manner arise or grow out of Shipper's breach of warranty or representation with respect to any shipment Tendered by Shipper and transported by Carrier. Acceptance for transportation shall not be deemed a representation by the Carrier as to title.

Shipper shall also be liable to, and shall indemnify, Carrier for property damage, including damage for loss of use of any facilities which may in any manner arise or grow out of Shipper's breach of warranty or representation with respect to any shipment Tendered by Shipper and transported by Carrier.

Item No. 30: Measurement, Gauging, Testing and Volume Corrections

(a) Prior to acceptance by Carrier of Petroleum for transportation on Carrier's System and upon its delivery at Destination, Petroleum quantities will be determined by direct measurement conducted in accordance with API standards and pipeline industry practice and gauging of tanks with the application of certified one hundred percent (100%) tank calibration tables according to API MPMS Chapters 2 and 3, or by carrier-approved automatic equipment, and corrected to the temperature of sixty degrees Fahrenheit (60°F) using API MPMS Chapter 11 Table 6A in its latest revision and may be tested by a representative of Carrier. Deductions to measured Petroleum will be made for the full amount of basic sediment, water and other impurities as ascertained in accordance with API MPMS Chapter 10. Petroleum quantities shall be reported in hundredths of barrels.

(b) Shipper and Connecting Carrier tendering Petroleum for transportation shall have the privilege of being present or represented during the testing, gauging or metering. A Shipper or Connecting Carrier tendering Petroleum for transportation shall give Carrier twenty-four (24) hours prior notice of its desire to be present during testing, gauging or metering.

(c) Each Connecting Carrier or Shipper shall allow Carrier to run, and obtain the results of, an indicator test of Petroleum which Shipper or Connecting Carrier desires Carrier to transport to determine the quality and composition of such Petroleum.

(d) If Carrier's indicator test shows that the tested Petroleum does not meet Carrier's quality specifications, Carrier shall submit, via surface transportation, said sample to a professional testing laboratory experienced in testing Petroleum and acceptable to both Shipper or connecting carrier and Carrier for definitive analysis, and if said laboratory confirms the results of the indicator test, then such Petroleum shall not be accepted by Carrier and Shipper shall be responsible for proper disposition of the Petroleum and Shipper shall pay Carrier all costs incurred in obtaining the analysis, plus an additional ten (10) percent thereof for Carrier's handling costs, but if said laboratory finds that the Petroleum meets Carrier's quality specifications Carrier shall bear such costs and accept the Petroleum for transportation.

(e) Nothing in this Item No. 30 requires Carrier to run an indicator test prior to accepting any Petroleum; nor does it excuse any Shipper from complying with any requirement in any other Item in this Tariff, or from liability for failing, in whole or in part, to comply therewith, whether or not an indicator test is run. Carrier does not hold itself out to be, and is not in the business of performing chemical analyses, and neither Carrier nor any employee thereof shall be liable for any claims, demands, losses, or damages suffered by any Shipper because of the running, or results of, any tests or analyses, except such as may arise from the willful negligence of, or acts in bad faith by, Carrier or any employee thereof.

(f) PLA Deduction – Carrier shall deduct PLA from Shipper's Petroleum at an Origin(s).

(g) In the case of unweathered Petroleum, Carrier may determine a further reduction factor to reflect the additional amount of shrinkage Carrier estimates will occur because of the lack of weathering.

Item No. 32: Minimum Quantity

Carrier will not be required to accept a Nomination for transportation of a quantity of less than 10,000 Barrels of Petroleum per month ("Minimum Quantity").

Item No. 35: Points of Origin, Destination, and Facilities

Carrier will receive Petroleum from Shippers only at established Origins. Petroleum will be received only from facilities provided or arranged for by Shipper. Carrier will determine and advise Shippers of the facilities to be provided at the Origins to meet the operating conditions of Carrier's System at such point. Carrier will not accept Petroleum for transportation unless such facilities have been provided.

All Origins on the Northeast Colorado Lateral (“NECL”) at or between the Pawnee and Buckingham Origins shall be treated as a single point of receipt for Committed Shippers on the NECL for purposes of meeting their minimum daily volume commitments.

Carrier will deliver Petroleum to Consignees at established Destinations. Petroleum will be delivered only into facilities which are provided by or arranged for by Shipper or Consignee or as provided for in a TDA. Carrier will determine and advise Shippers and Consignees of the size and capacity of facilities to be provided at the Destination(s) to meet the operating conditions of Carrier’s System at such point. Carrier will not accept Petroleum for transportation unless such facilities have been provided.

Any Petroleum that may arrive at a Destination and not be accepted by Shipper or Consignee at the designated Destination may be subject to additional Shipper charges and/or disposed of in any reasonable manner as determined by Carrier.

Shipper will be required to supply adequate storage at the Destination(s) or make other arrangements at the Destination(s) to receive its shipments. Carrier will assess a per barrel demurrage fee of one dollar U.S. (\$1.00), or as may otherwise be specifically set forth or determined in accordance with applicable published tariff(s) for each Day (or fractional part thereof) commencing twenty four (24) hours following Carrier’s notification to Shipper of its failure to perform in accordance with this Item No. 35. In addition to demurrage charges, Shipper shall pay any third party transportation and storage costs incurred by Carrier, for Shipper’s failure to perform in accordance with this Item No. 35 and Carrier’s liability for loss, damage or delay with respect to Petroleum delivered, but not taken by Shipper, shall be that of a warehouseman only. If a Shipper fails to take delivery of Petroleum from Carrier’s System in accordance with the provisions of this Tariff six days after Carrier’s notification to Shipper of its failure to perform in accordance with this Item No. 35, Carrier shall have the right to remove and sell such Petroleum.

Item No. 37: Access to and Use of Shipper’s Land and Facilities

Carrier shall have the right to install, in suitable locations, operate and maintain, pipelines, pumping equipment, other auxiliary pipeline equipment, and power service facilities upon and across surface lands held by the Shipper in connection with Petroleum tendered by Shipper from such lands directly into Carrier’s System for transportation under this Tariff.

Carrier, or its representative, shall have the right to go upon the premises where Petroleum tendered for shipment is produced or stored, and shall have access to any metering installations or storage receptacles for the purpose of making examinations, inspections, measurements, or tests authorized by, or necessary to effectuate, these regulations.

Item No. 40: Application of Rates and Charges

Petroleum accepted for transportation on behalf of Uncommitted Shippers shall be subject to the applicable published tariff rates and charges in effect on the date of receipt of such Petroleum by Carrier. Petroleum accepted for transportation on behalf of Committed Shippers shall be subject to the rates and charges in effect on the date of receipt of such Petroleum by Carrier and as stated in the applicable TDA and then published tariff, except for the return of line fill, which shall occur pursuant to Item No. 19 subject to the rates and charges in effect on the date of return. Transportation and all other lawful charges will be collected on the basis of the quantities of Petroleum delivered to the Destinations, and said quantities will be determined in the manner provided in these Rules and Regulations.

Item No. 45: Nominations and Tenders Required

(a) Petroleum for shipment through Carrier's System will be received only on properly executed Nominations and Tenders showing the point at which the Petroleum is to be received, point or points of delivery, Consignee, Common Stream Batch Type, and amount of Petroleum to be transported. Any Shipper desiring to Tender Petroleum for transportation shall make a Nomination for such Tender to Carrier in writing on or before 5:00 p.m. (Central Time) on the date specified by Carrier for that month in the notice Carrier issues on Carrier's bulletin board ("Nomination Deadline"). If the Nomination Deadline falls on a non-business day, Nominations shall be due on the preceding business day. Carrier may require detailed information to substantiate the validity of Nomination or pre-Nominations including but not limited to the origin of barrels nominated into the system whether from Connecting Carrier or other sources. [W] A Nominations made in accordance with this No. 45(a) [W] for transportation to be provided during a Proration Month shall constitute [W] a binding [W] offers which, when accepted by Carrier, will be binding and will constitute the nominating Shipper's agreement to pay the applicable per Barrel Rates [W] for the total amount of nominated capacity that was accepted and awarded to Shipper by Carrier, regardless of the amount, if any, of Petroleum that such Shipper actually Tenders and delivers to Carrier for transportation during such Proration Month. Committed Shipper obligations shall be in accordance with applicable terms and conditions of their TDAs, including minimum payment requirements. regardless of such Shipper's actual Tender and delivery of Petroleum to Carrier for transportation.

(b) If space is available for current movement a Shipper may Nominate Petroleum for transportation after the award of capacity pursuant to Item No. 45(a) above of the month preceding the month during which the transportation under the Nomination is to begin. Carrier may refuse to accept Petroleum Tendered for transportation unless satisfactory evidence has been furnished that Shipper or Consignee has made provisions for prompt receipt thereof at destination.

Item No. 48: Prorationing

The following procedures shall govern how Carrier will allocate the capacity of a line segment in a Proration Month.

Definitions

“Available Capacity” means the total monthly capacity in a line segment as determined by Carrier.

“Base Period” means the twelve (12) calendar month period beginning thirteen (13) Months prior to the current Month and excluding the Month preceding the current Month.

“In-Service Date(s)” means the first day that Carrier is able to provide transportation service within a Silo(s) to any Shipper(s) from an Origin(s) or point of interconnection with a Connecting Carrier to a Destination(s).

“New Shipper” means a qualified Shipper that has not shipped Petroleum in each month of the Base Period or a Committed Shipper that has failed to make payments pursuant to a TDA, in each month of the Base Period, for the transportation of Petroleum on Carrier’s System.

“New Shipper Silo Capacity” means the Available Capacity apportioned to each individual Silo minus the capacity awarded to Regular Shippers in each Silo. New Shipper Available Capacity shall be no less than ten percent (10%) of Available Capacity unless the aggregate volume nominated for transportation by New Shippers is less than ten percent (10%) of Available Capacity.

“Priority Service” means a service that a Hiland Joint Tariff Silo Committed Shipper may elect, by agreeing to pay a premium above the Uncommitted Shipper rate as provided for in its TDA, whereby its Regular Shipper Capacity Entitlement will not be subject to prorationing among Regular Shippers who do not elect Priority Service.

“Proration Month” means any calendar month when transportation volumes nominated by Regular and New Shippers exceeds Available Capacity.

“Regular Shipper” means (1) a New Shipper that has graduated in a Silo by shipping Petroleum on Carrier’s System in each month of the Base Period in that Silo or (2) a Committed Shipper that has shipped Petroleum or made payments in a Silo pursuant to a TDA for the transportation of Petroleum in each month of the Base Period, provided however, that such Committed Shipper shall be deemed to be a Regular Shipper upon the In-Service Date having a Total Shipment quantity that equals twelve (12) times its monthly

volume commitment under its TDA. If applicable, a Committed Shipper's Total Shipments shall be increased to reflect an increase in monthly volume commitment, as set forth in the TDA on the effective date of any such increase. A Regular Shipper will lose its status as a Regular Shipper if it does not ship Petroleum or, in the case of a Committed Shipper, ship or make payments pursuant to a TDA for the transportation of Petroleum in each month of the Base Period; provided, however, that if an uncommitted Regular Shipper nominates barrels to be shipped within the Hiland Joint Tariff Silo in a Proration Month, but receives no allocation due to Priority Service elections by Committed Shippers, such Regular Shipper shall not lose its Regular Shipper status notwithstanding that its volume history will reflect zero barrels shipped during that Proration Month.

"Regular Shipper Allocation Factor" means a Regular Shipper's Total Shipments divided by the sum of Total Shipments within a Silo.

"Regular Shipper Available Silo Capacity" means 90% of Silo Capacity.

"Regular Shipper Capacity Entitlement" means a volume, to be determined each Proration Month for each Regular Shipper within a Silo, that equals the Regular Shipper Allocation Factor times the Regular Shipper Available Silo Capacity.

"Silo" means a division of the Available Capacity assigned to joint tariff and/or local tariff movements for the use by Shippers on Carrier's System originating their transportation at specific joint tariff or local tariff Origins. Carrier recognizes the following Silos on Carrier's System upon their respective In-Service Dates: (1) the "Belle Fourche Joint Tariff Silo" for joint tariff movements originating on the Belle Fourche Pipeline, (2) the "Hiland Joint Tariff Silo" for joint tariff movements that originates on the Hiland Double H Pipeline, (3) the "Guernsey Local Silo" for local tariff movements originating at a Guernsey Origin(s) on Carrier's System, (4) the "NECL Local Silo" for local tariff movements originating at a Northeast Colorado Origin(s) on Carrier's System, and (5) such other new Silos as may be established on Carrier's System from time-to-time.

"Silo Allocation Factor" per line segment shall be determined for each Silo each month to equal all Total Shipments in a Silo divided by the sum of Total Shipments for all Silos; provided, however, that in the event that transportation service originating from multiple Silos into a common line segment do not commence on the same in-service date, the Silo Allocation Factor shall be determined by dividing the Committed Volume in the in-service Silos by the sum of Committed Volume for all in-service Silos. The sum of all Silo Allocation Factors equals 1.00.

“Silo Capacity” shall be determined each month for each Silo to apportion the amount of Available Capacity among the Silos by multiplying the Silo Allocation Factor by Available Capacity.

“Total Shipments” means the volumes that a Regular Shipper has shipped in a Silo during a Base Period, or that a Committed Shipper has shipped or made payments for pursuant to a TDA in a Silo during a Base Period; provided, however, that in the case where a Committed Shipper’s Committed Volume increases, such Committed Shipper’s Total Shipments shall be adjusted to equal twelve (12) times the increased Committed Volume.

Capacity Prorationing Procedures

In any Proration Month, Carrier shall allocate and award Available Capacity as set forth below, provided, however, that Carrier may not award capacity to any Shipper who has not paid Carrier for all charges and fees in accordance with invoice terms, applicable TDA(s) and these Rules and Regulations or has, in a previous Proration Month, through their own fault failed to make shipments in the amount awarded capacity in such Month.

- A. Regular Shippers – Regular Shipper Available Silo Capacity will be first allocated to Regular Shippers eligible for and electing Priority Service, who will receive their Regular Shipper Capacity Entitlement, and then to each Regular Shipper who will be allocated the lesser of its Regular Shipper Capacity Entitlement, its Regular Shipper Capacity Entitlement reduced on a pro rata basis among those Regular Shippers not receiving Priority Service or its nominated quantity. If Carrier is unable to award an uncommitted Regular Shipper its Regular Shipper Capacity Entitlement due to Priority Service election(s), such nominated quantities of Regular Shipper Capacity Entitlement quantities not allocated shall be treated as a New Shipper nomination. Any existing Regular Shipper Silo Capacity that remains after this first allocation shall be available for allocation to Regular Shippers in other Silos.
- B. New Shippers – New Shipper Silo Capacity will be allocated to New Shippers sequentially as follows:
 - i) Carrier shall divide the Minimum Quantity that a Shipper must nominate into the New Shipper Silo Capacity and round the result down to the nearest whole integer to determine the maximum number New Shippers that can receive an allocation. If the number of New Shippers making nominations exceeds the maximum number New Shippers that can receive an allocation, Carrier shall use a random selection process to select the number of New Shippers to receive an allocation.

- ii) Carrier shall allocate to each such New Shippers an initial quantity that equals the lesser of the New Shipper Silo Capacity divided by the number of New Shippers determined in B.i) above or its nominated quantity.
- iii) In each instance when a New Shipper is allocated its nominated quantity, the difference between such nominated quantity and the New Shipper Silo Capacity divided by the number of New Shippers will be allocated equally among the remaining New Shippers, subject to limitation by each remaining New Shipper's nominated quantity.

Capacity awarded to New Shippers shall not be less than ten percent of Available Capacity unless the aggregate volume nominated by New Shippers is less than ten percent of Available Capacity.

If, after the above two allocation processes are complete, there remains unallocated Available Capacity and nominated Regular Shipper quantities that have not been fully satisfied, such unallocated capacity will be allocated to Regular Shippers based on Total Shipments subject to limitation by each Regular Shipper's unsatisfied nominated quantity.

Carrier shall award capacity to Regular and New Shippers that equals the allocation of capacity resulting from the process described above and notify shippers of their capacity award. Carrier shall not be required to award capacity for any quantity less than the Minimum Quantity.

Item No. 50: Payment of Charges

The Shipper or Transferor shall be obligated to pay Carrier all charges and fees in accordance with invoice terms, applicable TDA and these rules and regulations. [W] ~~In Payments for nominated transportation to be provided during a Proration Month, [W] a New Shipper who is awarded capacity shall be made in accordance with Item No. [W] 48-45(a) shall be obligated to pay Carrier for the full amount of awarded capacity.~~

Shipper shall, if requested by Carrier, furnish Financial Assurances satisfactory to Carrier in accordance with Item No. 75 herein.

Carrier is entitled to a lien for all accrued unpaid charges and fees. Such lien attaches to any Petroleum retained by Carrier for the Shipper's or Transferor's account. Carrier may, at its option, refuse to: (1) deliver to the Shipper, or (2) recognize and record any change in ownership of Petroleum for the account of a Transferor until all charges or fees owed to Carrier have been paid in full by such party.

If any charge remains unpaid after the payment due date, then such amount due shall bear interest, calculated at an annual rate equivalent to 125% of the base lending rate of interest charged by the Wall Street Journal Prime Rate, from the payment due date of the invoice to the date payment is received by Carrier.

If any such charges or fees remain unpaid for thirty (30) calendar days after the payment due date, Carrier shall have the right, either directly or through an agent to sell any of the Shipper's or Transferor's Petroleum within the custody of Carrier. From the proceeds of this sale, Carrier will deduct all transportation charges, change in ownership charges, other lawful charges and fees and interest due to Carrier, including expenses incident to said sale, and the balance of the remaining proceeds, if any, shall be held by Carrier for whomsoever may be lawfully entitled thereto. If proceeds from such sale are not sufficient, Shipper or Transferor will remain liable for any deficiency including the above interest charges.

Carrier may, with or without notice to Shipper, appoint agent(s) to retain possession of Shipper's Petroleum on behalf of Carrier for the purpose of enforcing the general lien described in this Item 50.

Item No. 52: Charge for Spill Compensation

In addition to the transportation charges and all other charges accruing on Petroleum accepted for transportation, a per Barrel charge will be assessed and collected in the amount of any tax, fee, or other charge levied against the Carrier in connection with such commodity, pursuant to any Federal, State or local act or regulation which levies a tax, fee, or other charge, on the receipt, delivery, transfer or transportation of such commodities within their jurisdiction for the purpose of creating a fund for the prevention, containment, clean up and/or removal of spills and/or the reimbursement of persons sustaining loss therefrom.

Item No. 55: Liability

Carrier, while in possession of any of the Petroleum herein described, shall not be liable for any loss thereof, damage thereto or delay caused by fire, storm, flood, epidemics, acts of God, riots, war, sabotage, strikes, the authority of law, public enemy, or the act of default of the Shipper or Consignee, or from any cause whatsoever, whether enumerated herein or not, except by its own sole direct negligence. In case of the loss of Petroleum from any cause other than the sole direct negligence of Carrier, the Shipper shall bear a loss in such proportion as the amount of his Petroleum or portion thereof, received and undelivered at the time the loss occurs, bears to all the Petroleum then in the custody of the Carrier for transportation via the lines or other facilities in which the loss occurs; and the Shipper shall be entitled to have delivered only such portion of his shipment as may remain after deduction

of his due proportion of such loss. In such event, transportation charges will be assessed only on the net quantities of Petroleum delivered.

Item No. 60: Claims, Suit and Time for Filing

Claims for loss or damage must be made in writing to Carrier within nine (9) months after delivery of Shipper's Petroleum, or in case of failure to make delivery, then within nine (9) months after a reasonable time for delivery has elapsed; and suits for recovery of claims for loss or damage shall be instituted only within two (2) years and one (1) day from the day when notice in writing is given by Carrier to claimant that Carrier has disallowed the claim, in whole or in part. Claims not filed and suits not instituted thereon as aforesaid shall be null and void and Carrier shall have no liability therefore.

Item No. 65: Delivery

Carrier will transport and deliver Petroleum with reasonable diligence and dispatch, but will accept no Petroleum to be transported in time for any particular market.

Item No. 67: Inability to Deliver to Designated Facilities

Based upon Carrier's acceptance of Tendered shipments in reliance on the designation of delivery facilities required by Item No. 35 herein and upon Carrier's lack of storage facilities, if Carrier cannot deliver into such facilities for any reason not attributable to Carrier, Shipper or Consignee shall indemnify and save Carrier harmless from all costs or expenses which may arise therefrom, directly or indirectly. Any such indemnification shall be in addition to all other applicable charges.

Item No. 70: Application of Rates to New Origin or Destination Points

Pending the issue of new rates from any new points of origin or destination that may be established at Carrier's sole discretion, the following rule will govern with respect to transportation from or to any such new origin or destination point not named in this Tariff or an individual tariff: the rate published from the next more distant origin and/or destination point named herein or in an individual tariff shall be applied.

Item No. 75: Financial Assurances

(a) All prospective shippers shall, twenty-five (25) days prior to making their first Tender Nomination, provide information to Carrier that will allow Carrier to determine the prospective shipper's capacity to perform any financial obligations that could arise from the transportation of that prospective shipper's Petroleum under the terms of this Tariff, including

the payment of transportation charges, equalization obligations, the value of any loss allowance, and any negative balance positions. At any time, upon the request of Carrier, Shipper shall, within five days of such request, provide information to Carrier that will allow Carrier to determine Shipper's capacity to perform any financial obligations that could arise from the transportation of that Shipper's Petroleum under the terms of this Tariff, including the payment of transportation charges, equalization obligations, the value of any loss allowance, and any negative Shipper balance positions. Carrier shall not be obligated to accept Petroleum for transportation from any Shipper or prospective shipper if such Shipper or prospective shipper fails to provide the requested information to Carrier within the time periods set forth herein, or if Carrier's review of the requested information, in its sole discretion, reveals that such Shipper or prospective shipper does not have the capacity to perform any financial obligations that could arise from the transportation of its Petroleum under the terms of this Tariff, including the payment of transportation charges, equalization obligations, the reasonably determined value of any loss allowance, and any negative balance positions and such Shipper has not provided the Financial Assurances required by Carrier.

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

- (i) a Shipper's financial condition is or has become impaired or unsatisfactory;
- (ii) any Financial Assurances previously provided by Shipper no longer provide adequate security for the performance of such Shipper's obligations that could arise from the transportation of its Petroleum under the terms of this Tariff; or
- (iii) Carrier otherwise determines that it is necessary to obtain Financial Assurances from any Shipper or prospective Shipper, then such Shipper or prospective Shipper shall provide Financial Assurances for the payment of the charges and costs as provided for in this Tariff or otherwise lawfully due to Carrier relating to the transportation of such Shipper's or prospective Shipper's Petroleum by Carrier. For the purpose of this Tariff, and without limiting the generality of the charges and costs lawfully due to Carrier relating to the transportation of Shipper's Petroleum, those charges and costs shall include transportation charges, equalization obligations, any negative Shipper balance positions, and any loss allowance,

Carrier, upon notice to Shipper or prospective shipper, may require one or more of the following Financial Assurances for the payment of all charges and costs as provided for in this Tariff, or otherwise lawfully due to Carrier to be provided at the expense of such Shipper or prospective shipper:

- (i) A prepayment by wire transfer in immediately available funds in an amount equal to three months of transportation charges based on Shipper's or prospective Shipper's likely

actual shipments for the Month. For purposes of this Item No. 75, a prospective Shipper's likely actual Shipments will be based on the anticipated Shipments listed in such prospective Shipper's Shipper application; or

(ii) a standby irrevocable letter of credit in favor of Carrier in an amount sufficient to ensure payment of all costs and charges that could reasonably accrue due to Carrier in a form and from an institution acceptable to Carrier;

(iii) A security interest in an asset or guaranty acceptable to Carrier

(c) Any Financial Assurances received by Carrier shall be retained by Carrier until such time as Carrier determines that the Shipper or prospective shipper that provided such Financial Assurance is capable of performing its financial obligations to Carrier. Within ten (10) business days of such a determination by Carrier, the Financial Assurances shall be returned to the applicable Shipper, prospective Shipper or institution, subject to Carrier's receipt of information and/or authorizations which may be outside of Carrier's control and which are needed to return the Financial Assurances.

| EXPLANATION OF REFERENCE MARKS | |
|--------------------------------|--------------------------------|
| [I] | Increase. |
| [N] | New. |
| [U] | Unchanged. |
| [W] | Change in Wording Only. |
| [C] | Cancelled. |