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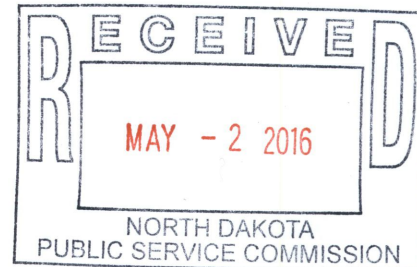
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April 29, 2016

**BY OVERNIGHT DELIVERY**

North Dakota Public Service Commission  
600 E. Boulevard, Dept. 408  
Bismarck, ND 58505-0480

Attention: Mr. Darrell Nitschke  
Executive Secretary



**RE: OIL PIPELINE TARIFF FILING**

Dear Mr. Nitschke:

Tesoro High Plains Pipeline Company LLC (THPP) files the accompanying tariff, Supplement 11 to North Dakota P.S.C. 63 with an issue date of April 29, 2016 to be effective on June 1, 2016. Supplement 11 to North Dakota P.S.C. 63 cancels Supplement 10 to North Dakota P.S.C. 63.

At the request of shippers, THPP is filing Supplement 11 to North Dakota P.S.C. 63 to change Item 110 regarding the Non-Performance Penalty. Under Supplement 10 to North Dakota P.S.C. 63, shippers incur both a financial and volumetric penalty when the shipper fails to tender 95% of its allocated volume during a month of pro-rationing. Under Supplement 11 to North Dakota P.S.C. 63, THPP is changing the application of the volumetric penalty so that THPP will only apply the Non-Performance Volumetric Penalty on Shippers who have experienced shortfalls in their Tenders in two months of a rolling 12-month period. In addition, THPP is increasing the permissible level of a shortfall before the Non-Performance Penalty is applied. The shortfall under-delivery tolerance will increase to ten percent (10%) from the current five percent (5%). THPP has also changed the definition of Non-Performance Penalty in its Abbreviations and Definitions section to reflect the changes made to Item 110. Finally, THPP has clarified that it may waive the Non-Performance Penalty on a non-discriminatory basis if the shipper shows good cause for not being able to deliver the volumes it nominated.

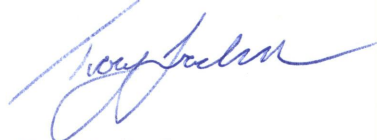
No other changes have been made to this tariff other than the changes described above.

THPP requests that any protest be sent by fax and electronic mail to THPP at the time such is filed, in care of Barron Dowling, Associate General Counsel for THPP, at fax number (210) 283-

2833, Barron.W.Dowling@tsocorp.com and to Melvin Goldstein at (202) 872-8744, mgoldstein@goldstein-law.com.

The required \$50.00 filing fee is attached to this letter. We have enclosed an extra copy of THPP's tariff along with a self addressed, stamped envelope. Please stamp the copy received and return it for our records. We hereby certify that we have, on or before this date, sent one copy of the enclosed tariff to each subscribed thereto by electronic or first class mail.

Sincerely,



Tory L. Jackson  
Faegra Baker Daniels LLP  
Attorney, ND Bar ID #06517  
*Counsel for Tesoro High Plains Pipeline  
Company LLC*

*Of counsel:*

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Supplement No. 11 to North Dakota P.S.C. No. 63

# Tesoro High Plains Pipeline Company LLC

SUPPLEMENT No. 11

TO

North Dakota P.S.C. No. 63

## LOCAL TARIFF

Containing

RULES AND REGULATIONS

Governing

THE TRANSPORTATION

And

DIVERSION AND RECONSIGNMENT

Of

CRUDE PETROLEUM

By Pipeline

The rules and regulations published herein apply only under tariffs making specific reference to this Tariff. Any such reference includes supplements and successive issuances of these rules and regulations.

**NOTE: This reissue of North Dakota P.S.C. No. 63 contains all changes from the prior versions of North Dakota No. 63 as covered by Supplement Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10.**

Pursuant to Section 49-05-05 of the North Dakota Century Code, Permission to File on Short Notice is requested

**ISSUED: April 29, 2016**

**EFFECTIVE: June 1, 2016**

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

Issued by:  
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Compiled by:  
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**GENERAL APPLICATION**

The rules and regulations published herein apply only under tariffs which make specific reference to this tariff. Any such reference includes supplements and successive issuances of these rules and regulations.

Crude Petroleum will be transported through Carrier's facilities 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**

Crude petroleum will be transported through Carrier's facilities only as provided in these rules and regulations.

**5. ABBREVIATIONS AND DEFINITIONS**

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As used in these rules and regulations, the following terms have the following meanings:

"Actual Shipments" means volumes of Crude Petroleum that originate and are Tendered at a regular receiving point during a month. For greater certainty Crude Petroleum re-entering the pipeline at intermediate points will not be considered to be Actual Shipments.

"a.m." means a time of day after midnight and before noon.

"Available Capacity" means the total capacity of the pipeline segment or segments which, as reduced by Committed Capacity, remains available to transport Crude Petroleum. Available Capacity shall not be less than ten (10) percent of the total capacity of any pipeline segment.

"Average Monthly Volume" means the average of a Historic Shipper's Actual Shipments of Crude Petroleum with respect to the line segment or segments calculated in accordance with Item 110.

"API" refers to the American Petroleum Institute.

"ASTM" refers to ASTM International formerly known as American Society for Testing and Materials.

"Barrel" means forty two United States gallons.

"Carrier" means and refers to Tesoro High Plains Pipeline Company, LLC.

"Committed Capacity" means the capacity on the pipeline segment or segments that is equal to the aggregate Committed Volumes for such segment(s) under Transportation Services Agreements in effect during a month of prorationing. Committed Capacity on any pipeline segment shall not exceed ninety (90) percent of the total capacity of that segment.

"Committed Shipper" means a Shipper that has signed a Transportation Services Agreement with Carrier and has thereby committed to transporting or paying for the transportation of a specified minimum volume per day of Crude Petroleum.

"Committed Volume" means with regard to a Committed Shipper, the minimum daily volume of Crude Petroleum set out in the Shipper's Transportation Services Agreement.

"Consignee" means the Shipper or a party whom a Shipper has designated as the recipient of a delivery of Crude Petroleum.

"Crude petroleum" means either the direct liquid products of oil wells or synthetic crude petroleum. Excluded from the category of crude petroleum are natural gasoline; condensate; and mixtures of direct products of oil wells and indirect products. Also, specifically excluded in the definition of crude petroleum that Carrier will transport are indirect products of oil wells or natural gas wells, such as liquefied petroleum gases, as provided in Item 15.

"Destination Point" means any of the points identified on Carrier's currently effective NDPSC Tariff as a location at which Crude Petroleum is discharged from the pipeline. These points are generally designated under the "To" point listing on the applicable rate schedules.

"NDPSC" means the North Dakota Public Service Commission.

“No.” means number.

“Non-Performance Penalty” means ~~[N] the Financial Non-Performance Penalty and the Volumetric Non-Performance Penalty, as defined under Item 110. [C] an amount equal to the product of the applicable tariff multiplied by the difference between the Shipper’s binding allocated Tender and its actual shipment of Crude Petroleum in the month of Prorating under Item 110.~~

“Origination Point” means any point listed on Carrier’s currently effective NDPSCTariff as a location at which Crude Petroleum is tendered to the pipeline for delivery to a Destination Point. These points are generally designated as “From” on applicable rate schedules.

“p.m.” means a time of day after noon and before midnight.

“Tender” means an offer by a Shipper to Carrier of a stated quantity of Crude Petroleum for transportation from a specified Origination Point to a specified Destination Point in accordance with these rules and regulations.

“Transportation Services Agreement” or “Services Agreement” means an executed agreement between Carrier and a Shipper, by which Shipper commits to ship or pay for the shipment of a specific volume of Crude Petroleum per day.

“Uncommitted Shipper” means a Shipper that has not entered into a Transportation Service Agreement.

## **10. COMMODITY**

Carrier is engaged in the transportation of crude petroleum by pipeline and will not accept any indirect products of oil and gas wells, mixtures containing indirect products or other commodity for transportation.

## **15. MIXTURES**

Natural gasoline, condensate and the indirect liquid products of oil or gas wells, including liquefied petroleum gases, hereinafter referred to as indirect products, will not be accepted or transported as a mixture with the direct liquid products of oil wells, herein referred to as direct products.

## **20. TENDERS**

(a) Crude petroleum will be transported only under a tender accepted by Carrier, from-Origination Points (or from facilities connected to Carrier’s gathering system when gathering service is to be performed by Carrier) to Destination Point when a tariff covering the movement is lawfully in effect and on file with the Federal Energy Regulatory Commission with respect to interstate traffic and with the Public Service Commission with respect to intrastate traffic.

(b) The transportation service offered by Carrier does not include any truck or rail unloading facility. Any such facility is outside the scope of this tariff.

(c) Any shipper desiring to tender crude petroleum for transportation shall make such tender to Carrier in writing no later than the time and date set out in the Carrier’s monthly nomination schedule. The Carrier shall notify all shippers of the monthly nomination schedule applicable for the calendar year. Notice of any amendment to a monthly nomination date shall be provided by the Carrier to all shippers at minimum 24 hours in advance of the proposed change in nomination date. The Carrier may, subject to the availability of space and the operating conditions of the facilities of the Carrier, accept Nominations or revised Nominations after such time.

## **25. QUANTITIES**

- (a) A tender will be accepted only when the total quantity covered by such tender will be made available for transportation within the month in which the tender is to begin.
- (b) Any quantity of crude petroleum will be accepted from lease tanks or other facilities to which Carrier is connected, if such quantity can be consolidated with other crude petroleum so that Carrier can make delivery of not less than five thousand barrels during the month.

**28. QUALITY**

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- (a) The presence of contaminants in Crude Petroleum including but not limited to chemicals such as chlorinated and/or oxygenated hydrocarbons and/or lead, shall be reason for carrier to reject a Crude Petroleum tender.
- (b) Carrier may reject any Crude Petroleum offered or received for transportation when the Crude Petroleum's sulfur content exceeds 0.5% by weight.
- (c) Hydrogen Sulfide Specification:
  - (i) The Carrier may reject any Crude Petroleum received or offered for transportation when the Crude Petroleum hydrogen sulfide (H<sub>2</sub>S) vapor phase [ppm] content is greater than 5 ppm for routes with the following origins (and gathering facilities upstream of such origin):

Johnson's Corner, McKenzie County;  
Blue Buttes, McKenzie County;  
Keene Station, McKenzie County;  
Yttredahl, McKenzie County;  
Charlson, McKenzie County;  
Battleview, Burke County;  
Black Slough, Burke County;  
Ramberg Station, Williams County;  
Tioga, Williams County; and  
Connolly Station, Dunn Center.

- (ii) For all other origin points, with the exception of Dodge Station, the Carrier may reject any Crude Petroleum received or offered for transportation when the Crude Petroleum H<sub>2</sub>S vapor phase content is greater than 10 ppm. There is no maximum H<sub>2</sub>S specification for Dodge Station.

The method used to test H<sub>2</sub>S levels will be the Primary ASTM Test, method D5705.

- (d) Crude Petroleum shall have an API Gravity specification of between thirty-three degrees (33°) and forty-six degrees (46°) using ASTM D5002 testing method.
- (e) Crude Petroleum shall have a reid vapor pressure (RVP) of no greater than 13.0 using ASTM D6377 testing method.

**30-A. SEGREGATION AND VARIATIONS IN QUALITY AND GRAVITY**

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The following rules and regulations covering crude petroleum quality apply to Carrier's intrastate crude petroleum system:

- (a) As part of its common stream transportation, Carrier does not accept crude petroleum that does not meet the quality criteria of the common stream as provided herein. Carrier will take appropriate and reasonable steps to monitor the quality of its common streams and shall look into suspected abuses of common stream criteria violations. Monitoring of common streams will include gravity and sulfur testing and could include simulated distillation and other testing to determine quality.
- (b) If abuses of the common stream quality are determined, the shipper causing such abuses shall be advised to cease and desist all such actions. Failure to desist or failure to cooperate in ending such

practices shall result in that shipper being barred from shipping in the common stream where such abuses occurred. Before such shipper is allowed to regain its shipper status in the common stream where the abuses occurred, the shipper will be required to provide Carrier with assurances that such abuses will not recur.

(c) Carrier will work with connecting carriers regarding Carrier's quality issues and will advise such connecting carriers that any crude petroleum found to be a detriment to Carrier's common stream may be rejected for further transportation on Carrier's system.

(d) Since variations in gravity and/or quality of common stream crude petroleum are inherent in common stream operations, Carrier will not be liable for such variations occurring while crude petroleum is in its custody, nor is Carrier under any obligation to deliver the identical crude petroleum received, but will make delivery out of such common stream.

(e) When requested by the shipper and if operationally feasible, Carrier will endeavor to segregate crude petroleum of a kind and/or quality not currently transported through Carrier's facilities. Carrier will, to the best of its abilities, make delivery of such crude petroleum at the destination, specified by shipper in a form that is substantially the same as the crude petroleum received by Carrier at origin. For such segregated batches, shipper must provide crude petroleum in such quantities (see Note 1) and at such specified times as may be necessary to permit such segregated movements via Carrier's existing facilities. Further, Carrier will not be liable for failure to deliver the identical crude petroleum or for any variations in the gravity and/or quality of crude petroleum occurring while such segregated crude is in Carrier's custody.

Note 1 – The quantity to be accepted and transported under the provisions of this Item will be determined by Carrier in accordance with current operations through its existing facilities involved in the segregated movements, but in no event shall the quantity for a single delivery be less than the minimum quantity stated in Item 25; nor shall Carrier be required to make any changes to its existing facilities or mode of operation to accommodate segregated batches.

### **35. DESTINATION FACILITIES**

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No duty to transport will arise until evidence satisfactory to Carrier has been furnished that consignee has provided necessary facilities to which Carrier is connected and has made necessary arrangements for accepting delivery of shipments promptly on arrival at the destination. Carrier does not provide truck or rail unloading facilities as part of its transportation service.

### **40-A. GAUGING, DEDUCTIONS AND ADJUSTMENTS**

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(a) Quantities of crude petroleum for receiving, delivering, assessing charges and all other purposes will be corrected to a temperature of sixty degrees Fahrenheit, after deduction of impurities shown by tests made by Carrier prior to receipt and upon delivery. Quantities may be computed from tank tables compiled or accepted by Carrier.

(b) Pursuant to Item 70, crude petroleum quantities transported may be adjusted to allow for inherent losses, including but not limited to shrinkage, evaporation, interface losses and normal "over and short" losses. A deduction of two tenths of one percent (0.2%) will be made to cover evaporation, interface losses, and other normal losses during transportation with losses being assessed only upon delivery to the Destination Point on Carrier's mainline.

(c) The net quantities as determined under paragraphs (a) and (b) of this item will be the amounts accountable at destination.

#### **45. DIVERSION OR RECONSIGNMENT**

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Crude petroleum in transport may be diverted without an additional charge to a destination other than the destination originally specified on the tender, or crude petroleum in transport may be reconsigned without an additional charge to another shipper at the point of destination only if such diversion or reconsignment is made in writing by the shipper prior to delivery at the original destination. Any such diversion will be permitted only in accordance with and subject to the rates, rules and regulations applicable from point of origin to point of final destination and, upon condition that no out of line or backhaul movement will be made.

#### **50. STORAGE AND TRANSIT**

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- (a) Carrier has working tanks required to transport crude petroleum, but has no other tankage and, therefore, does not have facilities for rendering, nor does it offer, a storage service. Provisions for storage in transit in facilities furnished by shipper at points on Carrier's system will be permitted only to the extent authorized under individual transit tariffs lawfully on file with the Public Service Commission.
- (b) Each shipper will be required to furnish crude oil into inventory for its proportionate share of the line fill in such amount as deemed necessary by Carrier.

#### **52. LINEFILL**

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Prior to delivering Crude Petroleum from Carrier's System, each Shipper will be required to supply a pro rata share of the volume of Crude Petroleum necessary for pipeline and tankage fill and reasonable additional minimum quantities required to ensure efficient operation of Carrier's pipeline system. Each Shipper will retain title to the linefill it provides to Carrier. Crude Petroleum provided by Shipper for this purpose may be withdrawn from the pipeline system only with the prior approval of Carrier, with such approval not to be unreasonably withheld or delayed, or after reasonable notice has been provided to Carrier of Shipper's intention to discontinue shipment in the pipeline system.

#### **55. DELIVERY AND DEMURRAGE**

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- (a) Carrier will transport and deliver crude petroleum with reasonable diligence and dispatch, but will not accept crude petroleum to be transported in time for any particular market.
- (b) After any shipment has had time to arrive at the destination, and on twenty-four hour notice to Consignee, Carrier may begin delivery at its current rate of pumping.
- (c) Commencing after the first seven o'clock a.m. after expiration of said notice, a demurrage charge of one cent per barrel per day of twenty four hours shall accrue on any part of said shipment offered for delivery and not taken as prescribed in paragraph (b) of this item. After expiration of said notice, Carrier's liability for loss, damage, or delay shall be that of warehouseman only.

#### **60. RATES APPLICABLE**

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Crude petroleum transported shall be subject to the rates in effect on the dates such crude petroleum is received by Carrier irrespective of the date of Tender.

#### **65. PAYMENT OF CHARGES**

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The shipper shall be responsible for payment of transportation and all other charges applicable to the shipment, according to the provisions of this Tariff or any applicable Transportation Service Agreement, and if required, shall prepay such charges or furnish guaranty of payment satisfactory to Carrier. Carrier will have a lien on all crude petroleum accepted for transportation to secure the payment of all charges, including demurrage charges, and may refuse to deliver crude petroleum until all charges have been paid. If said charges or any part thereof shall remain unpaid five days, computed from the first seven o'clock a.m.

after written notice is mailed to shipper of intention to enforce Carrier's lien as herein provided, or when there shall be failure to take the crude petroleum at the point of destination as provided in Item 55 within five days, computed from the first seven o'clock a.m. after expiration of the notice therein provided, Carrier shall have the right through an agent, to sell said crude petroleum at public auction for cash, between and not less than twenty four hours after notice of the time and place of such sale and the quantity, general description, and location of the crude petroleum to be sold has been published in a daily newspaper of general circulation published in the town or city where the sale is to be held, and sent by electronic mail or facsimile to shipper. Carrier may be a bidder and purchaser at such sale. Out of the proceeds of said sale Carrier may pay itself all transportation, demurrage, and other lawful charges, expense of notice, advertisement, sale, and other necessary expense, and of caring for and maintaining the crude petroleum, and the balance shall be held for whomsoever may be lawfully entitled thereto.

#### **66. CREDIT WORTHINESS**

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(A) Carrier shall not be required to provide service to any Shipper who fails to meet Carrier's standards for credit worthiness. In this regard Carrier may require that a Shipper provide audited financial statements within 90 days of its fiscal year end for review by Carrier. Carrier may also require a shipper to provide unaudited interim financial statements.

(B) Carrier shall not be required to perform and shall have the ability to suspend service for any Shipper who is or has become insolvent, fails to demonstrate credit worthiness under Section (A), fails to timely provide information to Carrier as requested in Section (A), or fails to demonstrate ongoing credit worthiness through the credit information referred to in Section (A). Accordingly, Carrier may suspend service to Shipper who fails to meet credit worthiness requirements unless the shipper provides one of the following forms of Performance Assurance:

- (a) an irrevocable letter of credit with terms and amounts acceptable to Carrier in its sole discretion and from a bank acceptable to Carrier in its sole discretion;
- (b) a guaranty with terms acceptable to Carrier in its sole discretion and executed by a guarantor acceptable to Carrier in its sole discretion;
- (c) such other form of credit security acceptable to Carrier in its sole discretion; or
- (d) prepayment at least ten (10) calendar days prior to the first day of a month of an amount of money reasonably calculated by Carrier to cover any payments for transportation services likely to be incurred by Shipper during such month.

#### **70. LIABILITY OF CARRIER**

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(a) Carrier, while in possession of any crude petroleum, will not be liable for any loss thereof, or damage thereto, or delay, caused by an act of God, the public enemy, quarantine, the authority of law, or of public authority, strikes, riots insurrection, inherent nature of the goods, or the act or default of a shipper consignee except as may be otherwise provided in a Transportation Service Agreement.

(b) Any losses of crude petroleum will be charged proportionately to each shipper in the ratio that its petroleum products, or portion thereof, received and undelivered at the time the loss occurs, bears to the total of all crude petroleum then in the custody of Carrier for transportation via the lines or other facilities in which the loss occurs; and Carrier will be obligated to deliver only that portion of such crude petroleum remaining after deducting shipper's proportion of such loss determined as aforesaid. Transportation charges will be assessed only on the quantity delivered.

#### **75. TITLE**

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A tender of crude petroleum shall be deemed a warranty of title by the party tendering, but acceptance shall not be deemed a representation by Carrier as to title. Carrier may, in the absence of adequate security,

decline to receive any crude petroleum which is in litigation or with respect to which a dispute over title may exist, or which is encumbered by any lien of which Carrier has notice.

#### **80. TIME LIMITATION ON CLAIMS**

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As a condition precedent to recovery for loss, damage, or delay to shipments, claims must be filed in writing with Carrier within nine months and one day after reasonable time for delivery, based on Carrier's normal operations, has elapsed; and suits shall be instituted against Carrier only within two years and one day from the day when notice in writing is given by Carrier to the claimant that Carrier has disallowed the claim or any part or parts thereof specified in the notice. Where claims are not filed or suits are not instituted thereon in accordance with the foregoing provisions, Carrier will not be liable with respect to any such claim, and no such claim will be paid.

#### **105. COMMON STREAM PETROLEUM CONNECTING CARRIERS**

When both receipts from and deliveries to a connecting Carrier of substantially the same grade of Crude Petroleum are scheduled at the same interconnection, Carrier reserves the right, with the cooperation of the connecting Carrier, to offset like volumes of such common stream Crude Petroleum in order to avoid the unnecessary use of energy which would be required to physically pump the offsetting volumes. Carrier will apply to such offsetting of volumes the applicable tariff rate.

#### **110. PRORATION PROCEDURES**

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For purposes of the Item 110, the following terms shall mean:

"Committed Shipper": Has the meaning set out in the Item 5 of these Rules and Regulations. Note, a Committed Shipper that tenders Crude Petroleum in excess of its Committed Volume will be an Uncommitted Shipper with respect to the difference between the Committed Volumes and the amount the Shipper actually tenders. With respect to that excess amount the Shipper will be either a Historic or a New Shipper.

"Historic Shipper": An Uncommitted Shipper that has shipped Crude Petroleum on the same segment on the pipeline in each of the 13 months prior to the month of allocation. Upon termination of its Services Agreement, a Committed Shipper will be considered an Historic Shipper.

"New Shipper": A New Shipper is any Shipper that does not meet the qualifications of an Historic Shipper.

When more Crude Petroleum is tendered for transportation in a month on a line segment than Carrier can transport, Carrier shall apportion its capacity by allocating space in that line segment in the following manner:

(1) to Committed Shippers on the segment, if any, as follows:

- a) Each Committed Shipper that has a Committed Volume for a prorated line segment shall be allocated Committed Capacity on that line segment in an amount equal to one hundred (100) percent of its Committed Volume. If a Committed Shipper has nominated an amount less than its Committed Volume, then the Committed Shipper's allocation will be equal to its nominated volume;
- b) If there is insufficient capacity at an Origination Point to meet all of the requested nominations of Committed Shippers, capacity will be allocated by calculating the ratio of individual Committed Shippers' Committed Volumes for the Origination Point to the total Committed Volumes of all Committed Shippers with volumes listed for that Origination Point as reflected in each Committed Shipper's Services Agreement and multiplying the percentage derived by the available capacity at that Origination Point;
- c) To the extent that there is insufficient capacity to meet the nominations of Committed Shippers at a Destination Point, capacity at the Destination Point will be allocated among Committed Shippers by

calculating the ratio of each individual Committed Shipper's Committed Volumes for the applicable Destination Point to the total Committed Volumes of all Committed Shippers with volumes for delivery to the Destination Point as reflected in each Committed Shipper's Services Agreement and multiplying the percentage derived by the available capacity at such Destination Point.

After allocating the Committed Capacity on a line segment subject to prorationing to Committed Shippers, any remaining Available Capacity on a line segment shall be allocated to Historic Shippers and New Shippers as follows:

The Average Monthly Volumes of each Shipper will be calculated on the basis of the Actual Shipments made by that Shipper in the 12 month period beginning 13 months prior to the month of allocation.

The Available Capacity of the line segment being prorated will be divided by the total of all volumes nominated by Historic Shippers and New Shippers. The resultant fraction will be the "proration factor."

Each New Shipper shall be allocated space equal to its nominated volumes multiplied by the proration factor, except that in any month for which Carrier is allocating capacity on a segment, the capacity allocated to a Historic Shipper shall not be reduced by more than 10 percent of the Historic Shippers' Average Monthly Volume prorated based on Available Capacity. In addition, in any month for which Carrier is allocating capacity, no New Shipper will be allocated more than 2.5 percent of Carrier's Available Capacity.

If less than four (4) New Shippers have submitted nominations for the affected line segment, each New Shipper will be allocated the lesser of either 2.5 percent of Available Capacity or its nominated volume. In the event that more than four (4) New Shippers have submitted nominations for the affected line segment, the nominated volumes for each New Shipper shall be totaled and divided into 10 percent of the Available Capacity. The resulting percentage shall be the initial New Shipper's proration factor. Each New Shipper will be allocated pipeline segment capacity equal to the lesser of:

2.5 percent of Available Capacity, or  
Its nominated volumes, or  
Its nominated volumes multiplied by the initial New Shipper proration factor.

The remaining capacity shall be allocated among Historic Shippers in proportion to their respective Average Monthly Volumes.

No individual Shipper nomination shall be considered beyond the physical capacity of the pipeline segments on which the nominated Crude Petroleum will be transported. Nominations in excess of these limits will be reduced accordingly.

For purposes of responding to scheduled or unscheduled operational issues at certain pipeline delivery points, Carrier may be required to occasionally reverse the flow of all or part of its pipeline. During these periods of pipeline reversal to meet downstream operational conditions, the determination of Average Monthly Volumes will be suspended and will immediately resume when service is restored to the established pipeline destinations. Accordingly, after service is restored, Average Monthly Volumes will be calculated on the basis of actual shipments prior to the reversal of services and actual shipments on Carrier when service is restored to designated destinations. If prorationing becomes necessary during the period of time in which the pipeline is reversed, capacity on Carrier will be allocated in a fair and equitable manner so as to avoid discrimination among Shippers and so as not to adversely affect the reasonable operation of Carrier's facilities.

(2) Proration to Stampede: Each nominating Shipper shall be allocated the capacity of the pipeline divided by the number of nominating Shippers. For purposes hereof, a Shipper and any affiliates of the Shipper shall be aggregated to create one (1) Shipper for allocation purposes. If a Shipper elects to ship less than its allocated capacity, the difference between its allocated capacity and the quantity of crude oil it Tendered

for shipment shall be allocated to the remaining Shippers on an equal basis up to the amount of Crude Petroleum Tendered by each Shipper, with any allocated amounts in excess of each Shipper's Tender being allocated to the Shippers receiving less than their full Tendered quantities.

(3) In months of prorationing, all Tenders by Uncommitted Shippers shall have the Non-Performance Penalty applied to any shortfall in Tenders of Crude Petroleum from Uncommitted ~~[W] Shippers~~ Shipper that exceeds ~~[N] ten (10) [C] five (5)~~ percent of that Shipper's allocated volume ~~[N]~~ as follows:

- a) For purposes hereof, the following terms have the meanings specified below:
- Financial Non-Performance Penalty means an amount equal to the product of the applicable tariff multiplied by the difference between the Shipper's binding allocated Tender and its actual shipment of Crude Petroleum in the month of Prorationing.
  - Volumetric Non-Performance Penalty the nomination that will be accepted by Carrier from that Shipper in the next three months, beginning two months after the month of non performance, will be limited to no more than the volume that the Shipper actually shipped during the month of prorationing, provided that this volume limitation will only be applied when the pipeline is being prorationed.
- b) If a Shipper incurs a Non-Performance Volume on a segment during the first month of a rolling 12-month period (a cumulative rolling period of 12 months beginning the month in which the Shipper first incurs a Non-Performance Volume), the Financial Non-Performance Penalty shall apply;
- c) If a Shipper incurs a Non-Performance Volume in any subsequent month of the rolling 12-month period (as defined in (a) above) in addition to the Financial Non-Performance Penalty, the Shipper shall incur a Volumetric Non-Performance Penalty.
- d) For good cause shown, including Force Majeure events, Carrier may waive the Financial Non-Performance Penalty and/or the Volumetric Non-Performance Penalty on a non-discriminatory basis.

~~[C] However, the Non-Performance Penalty will not be applied to that portion of shortfalls caused by Force Majeure events. Any Shipper subject to the Non-Performance Penalty and this Paragraph 110(3) shall remit that Non-Performance Penalty to Carrier within 15 days of the last day of the month in which the Non-Performance Penalty was incurred. In addition, if a Shipper is subject to the Non-Performance Penalty, the nomination that will be accepted by Carrier from that Shipper in the next three months, beginning two months after the month of non performance, will be limited to no more than the volume that the Shipper actually shipped during the months of prorationing, provided that this volume limitation will only be applied when the pipeline is being prorationed.~~

**[W] Change in wording only**

**[N] New**

**[C] Cancelled**

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