

WESTERN REFINING PIPELINE, LLC

RATES, RULES AND REGULATIONS TARIFF

APPLYING ON THE GATHERING OF

CRUDE PETROLEUM

FROM THE

SAN JUAN GATHERING SYSTEM

Governed by the rules and regulations as provided herein.

Request for Special Permission

Issued on less than thirty 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.

Filed in Compliance with 18 C.F.R. § 341.3 (Form of tariff)

Explanation of Reference Marks:

[C] Cancel

[N] New

[U] Unchanged Rate

[W] Change in wording only

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

ISSUED BY

R. J. ST. AMOUR

Vice President

WESTERN REFINING PIPELINE, LLC

539 South Main Street

Findlay, Ohio 45840

COMPILED BY

A. J. HELDMAN

For

WESTERN REFINING PIPELINE, LLC

539 South Main Street

Findlay, Ohio 45840

(419) 421-4048

tariffadministration@marathonpetroleum.com

Tariff available at <http://www.mplx.com/Tariffs/>

RATES

TABLE OF ACREAGE DEDICATION RATES
(Rates in cents per barrel of 42 U.S. gallons each)

FROM ORIGIN POINT LOCATED IN NEW MEXICO	TO DESTINATION POINT LOCATED IN NEW MEXICO	ACREAGE DEDICATION RATE*
BTWU M11 BTWU I10 BTWU N15 BTWU H28 BTWU B21 [W] White Crow <u>Crow Canyon</u> Unit	7-1 CDP, San Juan County	[U] 233.40
Ponderosa Unit Goodtimes Unit	Ponderosa, San Juan County	
Nageezi Unit	Nageezi, San Juan County	
Carson Unit	Carson, San Juan County	
North Alamito Unit Bettonnie Tsosie Wash Unit	North Alamito, San Juan County	
[N] <u>NAU M24</u>	[N] <u>NAU-3, Sandoval County</u>	
[N] <u>NAU A26</u>	[N] <u>NAU-2, Sandoval County</u>	

FROM ORIGIN POINT LOCATED IN NEW MEXICO	TO DESTINATION POINT LOCATED IN NEW MEXICO	ACREAGE DEDICATION RATE*
Rodeo Unit West Lybrook Unit Trunk 1 Trunk 2-9 Lybrook 112H Lybrook 114H Lybrook 145H Lybrook 147H Lybrook 149H Lybrook 151H Lybrook 153H Lybrook 282H Lybrook 283H Lybrook 395H Lybrook 407H	7-1 CDP, San Juan County	[U] 125.00
Northwest Lybrook Unit Northeast Lybrook Unit Haynes Canyon Unit	4-1 CDP, Rio Arriba County	
Lybrook 160H Lybrook 163H Lybrook 409H Ridge Unit Bobby B Unit	[N]Lybrook, Rio Arriba County	
Athena Heros Omega State	7-1 CDP, San Juan County	[U] 200.00
Federal	[C]4-1 CDP, Rio Arriba County [N]Lybrook, Rio Arriba County	

* Rate is applicable to any volumes delivered to Carrier that are Tendered pursuant to an acreage dedication agreement (or equivalent). Any Shipper wishing to execute an acreage dedication agreement should contact the Carrier.

The Carrier may impose the quality specifications of a connecting carrier or destination terminal, if the specifications for such are more restrictive than those established by the Carrier.

RULES & REGULATIONS

TABLE OF CONTENTS

ITEM NO.	SUBJECT
5	Definitions
10	Commodity
15	Reserved for future use
20	Reserved for future use
25	Quality Specifications
30	Biocides
35	Additives
40	Nominations
45	Common Stream Operation
50	Reserved for future use
55	Proration
60	Reserved for future use
65	Reserved for future use
70	Origination Facilities
75	Destination Facilities
80	Warranty of Title
85	Measuring, Testing and Deductions
90	Evidence of Receipts and Deliveries
95	Liability
100	Duty of Carrier
105	Pipeline Contracts Required
110	Liability for Non-Compliance with Tariff
115	Rates Applicable
120	Reserved for future use
125	Payment of Transportation Rates and Other Charges
130	Financial Assurances
135	Reserved for future use
140	Liens
145	Time Limitation of Claims
150	Working Stock
155	Application of Rates From/To Intermediate Points
	Explanation of Abbreviations

ITEM 5 – DEFINITIONS

API Gravity: Gravity determined in accordance with ASTM designation and expressed in degrees API.

Assay: A laboratory analysis of a Crude Petroleum to include API gravity, Reid Vapor Pressure, pour point, sediment and water content, sulfur content, viscosity at 100 degrees Fahrenheit, and other characteristics as may be required by Carrier.

Barrel: Forty-two (42) U.S. gallons of a Crude Petroleum at a temperature of sixty (60) degrees Fahrenheit.

Batch: A quantity of Crude Petroleum of like specifications moved through the System as an identifiable unit.

Carrier: Western Refining Pipeline, LLC and other pipeline companies which may, by proper concurrence, participate in joint tariffs incorporating these regulations by specific reference.

Common Stream: Crude Petroleum moved through Carrier's System which is commingled or intermixed with other Crude Petroleum.

Consignee: The party to whom a Shipper has ordered the delivery of Crude Petroleum.

Crude Petroleum: The direct production from crude oil or gas wells, or blend of such, in its natural form, not having been enhanced or altered in any manner or by any process that would result in misrepresentation of its true value for adaptability to refining as a whole crude oil.

Destination: A location for the delivery of Crude Petroleum as provided for in the Carrier's tariffs.

Destination Release: A written commitment of a Consignee, or owner of Destination facilities, to receive a proposed Nomination of Crude Petroleum from Shipper on Carrier's System.

Fahrenheit: The temperature scale that registers the freezing point of water as 32°F and the boiling point as 212°F at one atmosphere of pressure.

Nomination: A written request by a Shipper representing a commitment to Tender a specific quantity and type of Crude Petroleum to Carrier for Transportation between a specified Origin and Destination pursuant to the rules and regulations established by this tariff.

Nomination Deadline: 5:00 pm (CT) on the twenty-fifth (25th) calendar day of the month prior to the month of delivery; provided, however, that in the event the twenty-fifth calendar day falls on a weekend or holiday, the Nomination Deadline shall be 5:00 pm (CT) on the previous business day.

Origin: A location for the receipt of Crude Petroleum as provided for in the Carrier's tariffs.

Quality Specifications: Quality Specifications shall have the meaning set forth in Item 25.

Reid Vapor Pressure (“RVP”): A standardized measurement of volatility as determined in accordance with ASTM designation and expressed in pounds per square inch.

Saybolt Universal Seconds (“SUS”): A standardized measurement of viscosity determined in accordance with ASTM test methods.

Segregated Batch: A single Tender of Crude Petroleum for an individual Shipper having specific identifiable characteristics which is moved through the Carrier’s pipeline so as to maintain its identity.

Shipper: A party who contracts with the Carrier for Transportation of Crude Petroleum under the terms of this tariff.

System: The portion of Carrier’s pipeline system, including all appurtenances thereto, related to the provision of Transportation provided by the Carrier pursuant to Carrier’s tariffs.

Tender: The physical exchange of Crude Petroleum custody between the Shipper and the Carrier.

Transit Time: The time a shipment takes to move from Origin to Destination.

Transmix: A by-product of pipeline operations created by the mixing of different batches moved sequentially during pipeline Transportation.

Transportation: Gathering of Crude Petroleum for movement on the Carrier’s System from a specified Origin to a specified Destination, as applicable.

Transportation Agreement: An executed agreement between Carrier and a Shipper for Transportation on Carrier’s System.

Working Stock: The volume of Crude Petroleum required by Carrier as pipeline line fill, and for Carrier’s operational tankage, to float tank roofs to working levels and to maintain that level and for terminal piping and tank bottoms.

ITEM 10 – COMMODITY

Carrier is engaged primarily in the Transportation of Crude Petroleum and will not accept any other commodity for Transportation under tariffs making reference hereto. Crude Petroleum Tendered for Transportation that differs in quality or characteristics from the grades of Crude Petroleum that

is usually transported by Carrier, will, at the option of Carrier if operationally possible and in a non-discriminatory manner, be transported under such terms as the Shipper and Carrier may agree. Such shipments will only be considered when they can be transported, as time permits, with existing facilities and when they will not seriously impair the quality of other shipments.

ITEM 15 – RESERVED FOR FUTURE USE

ITEM 20 – RESERVED FOR FUTURE USE

ITEM 25 – QUALITY SPECIFICATIONS

The specifications set forth in this Item 25 (the “Quality Specifications”) are the required specifications for the Crude Petroleum and shall apply to each Barrel of Shipper’s Batch. Carrier shall not be obligated to accept Crude Petroleum that fails to meet the Quality Specifications set forth below:

- (i) a sulfur content no greater than 0.25 percent by weight;
- (ii) a Reid Vapor Pressure no greater than 8.0 pounds per square inch (psi) for any Crude Petroleum with an API Gravity of less than 35.0° or a Reid Vapor Pressure no greater than 10.0 psi for any Crude Petroleum with an API Gravity of 35.0° or greater;
- (iii) a temperature that does not exceed 120 degrees Fahrenheit;
- (iv) sediment and water that does not exceed 1 percent by volume;
- (v) a pour point no higher than 40 degrees Fahrenheit;
- (vi) a viscosity no greater than 60 SUS at 100 degrees Fahrenheit;
- (vii) a mercaptan content not exceeding 75 parts per million
- (viii) a hydrogen sulfide (H₂S) content not exceeding 10 parts per million;
- (ix) may not contain any organic chlorides (including but not limited to PCB), any waste oils, lube oils, crankcase oils, Dioxins, or be injected with butane or other similar liquified petroleum gases; and
- (x) may not possess physical or chemical characteristics that may render such Crude Petroleum not readily transportable by the Carrier or that may materially affect the quality of other commodities transported by the Carrier or that may otherwise cause disadvantage to other shippers or the Carrier.

Carrier reserves the right to reject all Tenders of Crude Petroleum that do not conform to the above Quality Specifications; provided, however, that Carrier may accept Tenders of Crude Petroleum that do not conform to the above Quality Specifications if such Crude Petroleum can, in Carrier’s sole determination, be accepted without causing disadvantage to other Shippers, the Carrier, or connecting carriers.

Quality specifications of a connecting carrier may be imposed upon Carrier when such limits are less than that of Carrier, in which case the limitations of the connecting carrier will be applied.

If, upon investigation, Carrier reasonably determines that a Shipper has delivered to Carrier's System Crude Petroleum that does not meet the current Quality Specifications, or has been contaminated by the existence of and/or excess amounts of impure substances, including, but not limited to, chlorinated and/or oxygenated hydrocarbons, arsenic, lead and/or other metals, such Shippers will be excluded from further entry into applicable segments of Carrier's System until such time as Quality Specifications are met to the reasonable satisfaction of Carrier. Carrier reserves the right to dispose of any such contaminated, non-compatible or non-acceptable Crude Petroleum in its System. Disposal thereof, if necessary, may be made in any reasonable commercial manner.

ITEM 30 – BIOCIDES

Carrier may, from time to time, in its discretion and without prior approval of Shipper, add biocides or other similar substances to the Crude Petroleum in order to minimize bacteria growth or attacks.

ITEM 35 – ADDITIVES

Carrier reserves the right to approve or reject the injection of viscosity or pour point depressants, drag reducing additives or other such additives in the Crude Petroleum to be transported. Any Shipper desiring to inject any additive into the Crude Petroleum it plans to Tender to the Carrier must receive written approval from the Carrier in advance of the shipment. Otherwise, in addition to other remedies that may be established by this tariff, Carrier reserves the right to reject the shipment. Carrier may from time to time, in its discretion, and without the prior approval of Shipper, add drag reducing agents to the Crude Petroleum on the System.

ITEM 40 – NOMINATIONS AND TENDERS

Carrier will only transport Crude Petroleum which has been properly Nominated by the Shipper and accepted by the Carrier for Transportation between an established Origin and Destination on Carrier's System. All Shippers desiring to ship Crude Petroleum through the Carrier's pipelines must provide the following information in writing to Nominate each shipment of Crude Petroleum: the quantity (in Barrels), Origin, Destination, and name of Consignee (if applicable).

Nominations must be received by the Carrier before the Nomination Deadline. Nominations or changes in Nominations will not be accepted from the Nomination Deadline date to the first day of the following month. After the first of the month, changes will be accepted only in writing and only if space is available, such that the additional or changed Nominations do not impair the movement of Crude Petroleum nominated prior to the Nomination Deadline.

Carrier is not obligated to accept any Nominations received after the Nomination Deadline. If space is available and operating conditions permit, Carrier may, in its discretion, accept Nominations after the Nomination Deadline. To the extent the Carrier does accept a Nomination after the

Nomination Deadline, it will transport such volumes only to the extent said Nomination meets all the requirements of this tariff and the Carrier has sufficient idle pipeline capacity to accommodate the Nomination without adversely impacting the scheduling of other shipments and Carrier's need to perform maintenance on its System.

If the Shipper does not own or operate the Destination facilities required in Item 75, Consignee or operator that controls the Destination must provide a Destination Release to Carrier committing to accept the proposed shipment before the Nomination will be considered valid.

In the event the total Nominations submitted for shipment in a pipeline segment exceed the capacity of that segment, the capacity will be prorated in accordance with the proration policy set forth in Item 55.

ITEM 45 – COMMON STREAM OPERATION

Carrier operates its system as a Common Stream system. Carrier will accept Crude Petroleum for Transportation which can be comingled or intermixed with a grade of Crude Petroleum which Carrier regularly transports from Origin to Destination without substantially reducing the value or altering the quality of any grade of Crude Petroleum regularly transported by Carrier.

Carrier will accept Crude Petroleum for Transportation only on condition that Carrier shall not be liable to Shipper for changes in gravity or quality of the Shipper's Crude Petroleum which may occur from commingling or intermixing such Crude Petroleum with other Crude Petroleum being transported in the same Common Stream on Carrier's System. The Carrier is not obligated to deliver to Shipper the identical Crude Petroleum Tendered by the Shipper; Carrier will deliver the grade of Crude Petroleum it is regularly transporting as a Common Stream to the same Destination.

Carrier will, from time to time, determine which grades of Crude Petroleum it will regularly transport as a Common Stream between particular Origins and Destinations on its System. Carrier will inform all interested persons of such determination upon request. Carrier may, from time to time, undertake to transport other or additional grades of Crude Petroleum. If, in the opinion of the Carrier, sufficient quantities are not Nominated or facilities are not available to justify continued Transportation of other or additional grades, Carrier may, after giving reasonable notice to Shippers who may be affected, cease transporting particular grades of Crude Petroleum.

Due to operational and quality considerations, it may be necessary for Carrier to transport Crude Petroleum in Segregated Batches between certain specified Origins and Destinations on its System. Any Transportation of Crude Petroleum that requires the use of Segregated Batches will be clearly identified on Carrier's tariffs. When transporting Segregated Batches, Carrier will use its best efforts to maintain the physical identity of each shipment Tendered by Shipper and deliver the same Crude Petroleum back to Shipper or Consignee as was Tendered to the Carrier with the exception of any applicable Transmix associated with the leading and trailing Batch interfaces.

Shippers or Consignees are required to accept a proportionate share of all Transmix generated during the Transportation of their Segregated Batch. Carrier will invoice Shipper transportation charges on all volumes of Transmix delivered at Destination.

ITEM 50 – RESERVED FOR FUTURE USE

ITEM 55 – PRORATION

When there shall be Nominated to Carrier for Transportation more Crude Petroleum than can be immediately transported, based on the capacity of the System or any line segment thereof, the following proration policy will apply:

I. Definitions

“Base Period” is a period of 12 calendar months ending one month prior to the Calculation Month.

“Base Shipment Ratio” is the value determined by dividing the volume of Crude Petroleum moved for a Regular Shipper through the affected line segment during the Base Period by the total Crude Petroleum moved through such line segment for all Regular Shippers during the Base Period.

“Binding Nominations”: For any month, if the Carrier reasonably determines the Nominations exceed the line segment’s capacity, then the Carrier will notify each Shipper and provide each Shipper an opportunity to reduce its Nomination, which shall be considered a Binding Nomination. If a Shipper does not submit a reduced Nomination, then its initial Nomination shall be considered its Binding Nomination.

“Calculation Month” is the calendar month immediately preceding the Proration Month, during which allocations for the Proration Month will be determined.

“Proration Month” is the calendar month for which capacity is being allocated.

A “Regular Shipper” is any Shipper having a record of movements, in the line segment being prorated, during at least eight (8) months of the Base Period.

A “New Shipper” is any Shipper who is not a Regular Shipper.

II. Proration Procedures

When Binding Nominated Volumes for any month exceed the capacity in any line segment of the Carrier’s System, such capacity shall be allocated among Shippers by the following procedure:

A. New Shippers

Ten percent (10%) percent of the available capacity of the line segment being prorated will be reserved for New Shippers. The available capacity for New Shippers will be allocated equally amongst all New Shippers, if any, up to their Binding

Nomination. No New Shipper will be allocated more than two and one-half percent (2.5%) of the total capacity of the line segment being prorated. A New Shipper will not be allocated capacity under this Item 55, Section II, A if it is an affiliate of another Shipper.

B. Regular Shippers

- (1) After allocation in Item 55, Section II, A, the remaining available capacity allocated to Regular Shippers will be determined by multiplying each Regular Shipper's Base Shipment Ratio times the remaining available capacity of the line segment being prorated during the Proration Month.
- (2) If the results of the calculation in Item 55, Section II, B, 1 for a Regular Shipper is greater than that Regular Shipper's Binding Nomination on that line segment, then that Regular Shipper's allotted capacity will be reduced to equal its Binding Nomination on that line segment. The remaining capacity shall be allocated amongst Regular Shippers in proportion to their Base Shipment Ratio.

III. General

In no event will any portion of an allocation granted to a New Shipper be used in such manner that it will increase the allocation of another Shipper beyond what Shipper is entitled to under this proration policy. Carrier may reject the Nomination of a potential New Shipper if, in the sole judgment of the Carrier, the purpose of the New Shipper's Nomination is to circumvent the requirements of this proration policy. Capacity allocated to a Shipper may not be assigned, conveyed, loaned or transferred to another Shipper. A Shipper's allocation may be transferred as a direct incident of the bona fide sale of all or a portion of Shipper's business related to this tariff or to a successor to Shipper's business. Carrier may also require written assurances from responsible officials of Shippers regarding use of allocated capacity stating that these proration policy requirements have not been violated. In the event any New Shipper shall, by any device, scheme or arrangement whatsoever, make available to another Shipper or in the event any Shipper shall receive and use any capacity from a New Shipper through violation of this requirement, the allocated capacity for both Shippers will be reduced to the extent of the excess capacity so made available or used in the shipping cycles next following discovery of the violation which are under proration.

When Nominations submitted by Shippers to Carrier on or before the Nomination Deadline do not exceed the capacity of the System or any line segment thereof, additional Nominations may be accepted by the Carrier to fill capacity. These additional Nominations will be accepted only if they do not impair the movement of Crude Petroleum Nominated on or before the Nomination Deadline and will be accepted in a non-discriminatory manner.

ITEM 60– RESERVED FOR FUTURE USE

ITEM 65 – RESERVED FOR FUTURE USE

ITEM 70 – ORIGATION FACILITIES

Crude Petroleum shall be accepted for Transportation only at Origin points established by the Carrier in currently effective rate tariffs which reference these rules and regulations. Carrier does not provide storage or other facilities at points of Origin. Crude Petroleum will be received only from pipelines, tanks or other facilities that are provided by Shipper.

ITEM 75 – DESTINATION FACILITIES

Crude Petroleum shall be accepted for Transportation only when Tendered for shipment to Destination points established by the Carrier in currently effective rate tariffs which reference these rules and regulations. Carrier does not provide storage or other facilities at Destination points. Crude Petroleum will be delivered only to pipelines, tanks or other facilities that are provided by Shipper or Consignee. Carrier will determine and advise Shipper or Consignee of the size and capacity of pipelines, tanks and/or metering facilities required to be provided by Shipper or Consignee at the Destination point in order to meet the operating requirements established by Carrier at such points. Carrier will not accept Crude Petroleum for Transportation unless equipment and facilities have been furnished by the Shipper or Consignee which are satisfactory to the Carrier which are capable of receiving Crude Petroleum at the Destination point from Carrier at adequate pressures and flow rates as to avoid delay or congestion on the Carrier's System.

ITEM 80 – WARRANTY OF TITLE

The act of delivering Crude Petroleum into Carrier's pipeline for Transportation shall constitute a warranty by Shipper that Shipper has unencumbered title thereto and that unencumbered title shall remain with Shipper until such Crude Petroleum is delivered out of Carrier's pipeline.

By Tendering Crude Petroleum, the Shipper warrants and guarantees that it has good title thereto and agrees to hold Carrier harmless for all direct damages, claims, actions, expenses, penalties and liabilities, including attorney's fees, resulting from failure of title thereto; provided, that acceptance for Transportation shall not be deemed a representation by Carrier as to title.

The Carrier shall have the right to reject any Crude Petroleum when Tendered for shipment which may be involved in litigation, the title of which may be in dispute, or which may be encumbered by lien or charge of any kind.

In addition, Shipper shall not cause or permit any lien, security interest or other form of burden be filed or created with respect to Crude Petroleum in Carrier's possession, except for the lien created in favor of Carrier under Item 140 of this tariff.

ITEM 85 – MEASURING, TESTING AND DEDUCTIONS

The Carrier shall gauge or meter, or cause to be gauged or metered, a Shipper's Crude Petroleum upon receipt and delivery by the Carrier. All measurements and tests shall be determined by Carrier, but Shipper and Consignee or their representatives may be present to witness them.

The volume of Crude Petroleum received and delivered by Carrier will be measured in Barrel units by meter or by gauge. If tank gauges are used, the volume of Crude Petroleum shall be computed from tank tables computed on a 100 percent volume basis. The Carrier shall have the right to enter the premises where Crude Petroleum is received or delivered by the Carrier and shall be granted access to all facilities for the purpose of gauging or metering and to make any examination, inspection, sampling, measurement or test as required by the Carrier to verify the accuracy of such facilities and the quality of such Shipper's Crude Petroleum.

The Carrier shall correct the density and volume of Crude Petroleum received and delivered by the Carrier from the actual observed temperature of such Crude Petroleum to 60 degrees Fahrenheit by use of API Manual of Petroleum Measurement Standards (MPMS) Chapters 11.1 and 12.2, or the latest revision to such. The Carrier shall correct the metered volume of Crude Petroleum for compressibility by the use of MPMS Chapters 11.1 or 12.2, or the latest revision to such. The Carrier shall determine the percentage of sediment and water in Crude Petroleum by the use of a centrifuge or other method the Carrier deems appropriate. The Carrier shall deduct the amount of sediment and water from the corrected volume of such Crude Petroleum. The Carrier shall, as reasonably deemed necessary by the Carrier, adjust the measured volume of Crude Petroleum for shrinkage in accordance with MPMS Chapter 12.3, or the latest revision to such.

All receipts of Crude Petroleum having an API gravity of 50 degrees or above shall also be subject to a deduction to cover shrinkage and evaporation. Such deduction shall be determined in accordance with the following table:

API Gravity, Degrees	Deduction For Incremental Evaporation & Shrinkage
50.0 through 54.9	0.5%
55.0 through 64.9	1.0%
65.0 through 74.9	1.5%
75.0 and above	2.0%

ITEM 90 – EVIDENCE OF RECEIPTS AND DELIVERIES

Crude Petroleum received from a Shipper and Crude Petroleum delivered to Shipper or Consignee shall, in each instance, be evidenced by Carrier tickets or statements containing data essential for the determination of quantity.

ITEM 95 – LIABILITY

- I. Shipper's liability and indemnification.** Shipper shall be in control and possession of Crude Petroleum until delivered to Carrier at the Origin(s) and following its redelivery by Carrier at the Destination(s), and shall be fully responsible and liable for all direct damages, claims, actions, expenses, penalties and liabilities, including attorney's fees, arising from personal injury, death, property damage, environmental damage, pollution, hazardous materials or contamination relating to Crude Petroleum while in Shipper's control and possession, and Shipper agrees to release, indemnify and defend Carrier with respect thereto. Shipper further agrees to release, indemnify and defend Carrier from and against all direct damages, claims, actions, expenses, penalties and liabilities, including attorney's fees, arising from personal injury, death, property damage, environmental damage, pollution, hazardous materials or contamination relating to Shipper's ownership or operation of the facilities delivering Crude Petroleum to the Origin(s) or Shipper's performance or nonperformance of its obligations under this tariff and/or any applicable Transportation Agreement.
- II. Carrier's liability and indemnification.** Carrier shall be in control and possession of Crude Petroleum from the time delivered to Carrier at the Origin(s) until it is redelivered by Carrier at the Destination(s) and shall be fully responsible and liable for all direct damages, claims, actions, expenses, penalties and liabilities, including attorney's fees, arising from personal injury, death, property damage, environmental damage, pollution, hazardous materials or contamination relating to Crude Petroleum while in Carrier's control and possession, and Carrier agrees to release, indemnify and defend Shipper with respect thereto. Carrier further agrees to release, indemnify and defend Shipper from and against all direct damages, claims, actions, expenses, penalties and liabilities, including attorney's fees, arising from personal injury, death, property damage, environmental damage, pollution, hazardous materials or contamination relating to Carrier's ownership or operation of the System or Carrier's performance or nonperformance of its obligations under this tariff and/or any applicable Transportation Agreement. However, this indemnity shall not apply to the extent the liability directly arises from or is incurred in connection with Shipper delivering any Crude Petroleum into the System that is not in compliance with the applicable quality requirements when delivered by Shipper at the Origin(s), regardless of fault.
- III. Express negligence.** The indemnities set forth herein are intended to be enforceable against Shipper and Carrier (together, the "Parties" and each a "Party") in accordance with the express terms and scope thereof notwithstanding any express negligence rule, doctrine relating to indemnification for strict liability or any similar directive that would prohibit or otherwise limit indemnities because of the negligence (whether sole, concurrent, active or passive) or other fault or strict liability of any of the indemnified Parties.
- IV. Damage waiver.** Notwithstanding any language to the contrary, neither Party shall be

released, indemnified or defended with respect to its own gross negligence or willful misconduct for any and all damages. Nor is any language intended to provide indemnification greater than that which is permitted by applicable law. If any limitations upon indemnification are imposed by applicable law, then such limitations are hereby incorporated herein by reference. Only actual damages shall be recoverable and neither Party shall be liable to the other for any special, incidental, indirect, consequential, exemplary or punitive damages other than as result from claims of unaffiliated third parties for which a Party is obligated to indemnify, defend or hold harmless the other Party. Each Party hereby waives any and all claims it may have against the other Party for its own such damages.

ITEM 100 – DUTY OF CARRIER

The Carrier holds itself out solely to receive Crude Petroleum from an established Origin point, as defined in its tariffs and identified in the Shipper's Nomination; transport this Crude Petroleum with reasonable diligence over pipelines owned or operated by Carrier in common carriage in a manner consistent with the efficient and economic operation of its System; and deliver the net quantity of Crude Petroleum, as defined by this tariff, at a Destination point established in the Carrier's tariffs, as identified in the Shipper's Nomination.

ITEM 105 – PIPEAGE CONTRACTS REQUIRED

Separate pipeage contracts in accordance with this tariff and these regulations covering further details may be required of a Shipper before any duty to transport shall arise.

ITEM 110 – LIABILITY FOR NON-COMPLIANCE WITH TARIFF

Any Shipper or Consignee who does, or permits to be done, any act, matter or thing that violates the terms of this tariff shall be liable to Carrier only for actual direct losses, damages, or injuries caused thereby or resulting therefrom.

ITEM 115 – RATES APPLICABLE

The rate that shall apply to the Transportation of the Crude Petroleum shall be the rate in effect on the date the Crude Petroleum is received by Carrier at Origin for Transportation. Likewise, the rules and regulations which shall govern the Transportation of the Crude Petroleum shall be the rules and regulations in effect on the date the Crude Petroleum is received by Carrier for Transportation.

ITEM 120 – RESERVED FOR FUTURE USE

ITEM 125 –PAYMENT OF TRANSPORTATION RATES AND OTHER CHARGES

The Shipper shall be obligated to pay Carrier all lawful charges and fees upon Carrier's performance of the designated service(s) in accordance with these rules and regulations and any applicable Transportation Agreement. Payment of such charges and fees shall be made in accordance with these rules and regulations and any applicable Transportation Agreement.

Shippers shall settle inventory imbalances within a reasonable timeframe and in a mutually agreed upon manner. If no agreement can be reached, Carrier reserves the right to withhold Crude Petroleum or settle the balance financially at a fair market price.

If any undisputed charges are not paid by the due date, Carrier shall have the right to assess finance charges on the relevant past due balance until paid in full at a rate equal to one hundred twenty-five percent (125%) of the prime rate as quoted by a major New York bank as of the due date or the maximum finance charge rate allowed by law, whichever is less; provided that, if an applicable Transportation Agreement is in place, any finance charges will be assessed as prescribed in such Transportation Agreement.

In the event Shipper fails to pay any undisputed charges when due and Shipper does not cure such failure within thirty (30) days of the date of a written notice from Carrier demanding such cure, Carrier shall have available to it, in addition to the express rights and remedies provided in any applicable Transportation Agreement, all remedies otherwise available at law or in equity against Shipper, subject, however, to the provisions of any applicable Transportation Agreement.

ITEM 130 – FINANCIAL ASSURANCES

Unless otherwise stipulated in an applicable Transportation Agreement, the assurances prescribed in this Item 130 shall apply to any prospective or existing Shipper on Carrier's System. At any time, upon the request of the Carrier, any prospective or existing Shipper shall provide information to the Carrier that will allow the Carrier to determine the prospective or existing Shipper's capacity to perform any financial obligations that could arise from the Transportation or other handling of that Shipper's Crude Petroleum under the terms of this tariff, including the payment of transportation or other charges. The Carrier shall not be obligated to accept Crude Petroleum for Transportation from an existing or prospective Shipper if the Shipper or prospective Shipper fails to provide the requested information to the Carrier within ten (10) days of the Carrier's written request, or if the Carrier's review of the requested information reveals that the existing or prospective Shipper does not have the capacity to perform any financial obligations that could arise from the Transportation of that Shipper's Crude Petroleum under the terms of this tariff, including the payment of transportation and other charges.

Carrier, upon notice to the 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

the Carrier, to be provided at the expense of the Shipper: (i) prepayment; (ii) a 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 the Carrier, in a form and from an institution acceptable to Carrier; (iii) a guaranty in an amount sufficient to ensure payment of all such costs and charges that could reasonably accrue due to the Carrier, in a form and from a third party acceptable to Carrier; or (iv) such other enforceable collateral security, including but not limited to security interests in the assets of the Shipper, in a form acceptable to the Carrier (“the Financial Assurances”).

In the event that the Carrier reasonably determines that: (i) the existing or prospective Shipper’s financial condition is or has become impaired or unsatisfactory; or (ii) any Financial Assurances previously provided by a Shipper no longer provide adequate security for the performance of the Shipper’s obligations that could arise from the Transportation of its Crude Petroleum under the terms of this tariff; or (iii) the Carrier otherwise determines that it is necessary to obtain Financial Assurances from the Shipper, then the Shipper shall provide sufficient Financial Assurances for the payment of the charges and costs as provided for in this tariff or otherwise lawfully due to the Carrier relating to the Transportation of the Shipper’s Crude Petroleum by the Carrier.

ITEM 135 – RESERVED FOR FUTURE USE

ITEM 140 – LIENS

Carrier shall have a self-executing lien on all Crude Petroleum delivered to Carrier to secure the payment of any and all transportation or any other charges that are owed to Carrier. Such lien shall take effect at the point of Origin as the Crude Petroleum is received into Carrier’s System and shall survive delivery of Crude Petroleum to Shipper. Such lien shall extend to all Crude Petroleum, including Shipper’s Working Stock, in Carrier’s possession beginning with Shipper’s first receipt of Transportation or other services from Carrier. Shipper agrees to execute such additional documents as may be reasonably necessary to perfect or evidence such lien. If a bill of lading is required under applicable law for such a lien to arise, acceptance of the Nomination will be deemed to be the bill of lading for all Crude Petroleum, including Shipper’s Working Stock, subject to such Nomination. The lien provided herein shall be in addition to any and all other rights and remedies Carrier has at law or in equity, subject, however, to the provisions of any applicable Transportation Agreement.

ITEM 145 – TIME LIMITATION OF CLAIMS

As a condition precedent to recovery for loss or delay, claims must be filed in writing with the Carrier within two (2) years from the end of the calendar year in which the relevant statement was received by Shipper. This two (2)-year period does not extend the dispute period for any matter whose dispute period is less than two (2) years, as may be expressly provided in an applicable Transportation Agreement, even if it otherwise impacts Shipper’s statement. Where claims are not filed or suits are not instituted thereon in accordance with the foregoing provisions, Carrier will not

be liable and such claims will not be paid by Carrier.

ITEM 150 – WORKING STOCK

- (a) Each Shipper shall supply its quantity of Working Stock by types and volumes as reasonably determined from time to time by Carrier and provided for in the Nomination, or Binding Nomination if applicable, given in accordance with Item 55 each month. Title to Working Stock provided by a Shipper shall remain with such Shipper.
- (b) In the event a Shipper fails to supply the Working Stock volumes as requested by the Carrier pursuant to this Item 150, Carrier may obtain the deficient Working Stock volumes on such Shipper's behalf, and such Shipper shall pay for all charges incurred by Carrier to obtain the deficient Working Stock volumes upon receipt of Carrier's invoice therefor.
- (c) Subject to Carrier's operating conditions, Working Stock provided by a Shipper may be withdrawn after not less than sixty (60) days' advance written notice to Carrier of Shipper's intention to discontinue shipments of volumes through Carrier's System. The redelivery period for Working Stock shall be subject to Carrier's reasonable operating conditions.

ITEM 155 – APPLICATION OF RATES FROM/TO INTERMEDIATE POINTS

In accordance with the provisions 18 C.F.R. § 341.10, Crude Petroleum accepted for Transportation from/to any point on Carrier's pipelines not named in Carrier's tariff will be deemed as having been received/delivered at the next more distant point named in the tariff for purpose of determining the transportation rate to be charged.

EXPLANATION OF ABBREVIATIONS

API American Petroleum Institute
ASTM American Society for Testing and Materials
CT Then-prevailing time in the Central Time Zone
F.E.R.C. Federal Energy Regulatory Commission
No. Number
U.S. The United States of America