

**TX No. 70.0.0**  
(Adopts Panther DevCo LLC's  
Tariff No. 1.0.0)

# **ET-S PERMIAN PIPELINE COMPANY LLC**

LOCAL TARIFF  
CONTAINING  
**RATES, RULES, AND REGULATIONS**  
GOVERNING THE GATHERING OF  
**CRUDE PETROLEUM**  
BY PIPELINE

Effective July 1, 2024, ET-S Permian Pipeline Company LLC adopted certain assets of Panther DevCo LLC. This tariff adopts and brings forward the rules, rates, and routing of Panther DevCo LLC's Tariff No. 1.0.0.

Rules and regulations published herein apply only under tariffs making specific reference by number to this tariff; such references will include subsequent reissues hereof.

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

**EFFECTIVE: JULY 1, 2024**

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Operated by Panther DevCo LLC under P5 ID 638496 and T-4 Permit No. 10146

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**SECTION I**  
**RULES AND REGULATIONS OF RAILROAD COMMISSION OF TEXAS**  
**OIL AND GAS RULE §3.71**

For purposes of this Section I, common carriers shall be referred to as "pipeline," and the owners or shippers of crude petroleum by pipelines shall be referred to as "shippers."

**10. All Marketable Oil to be Received for Transportation**

By the term "marketable oil" is meant any crude petroleum adapted for refining or fuel purposes, properly settled and containing not more than two percent (2%) of basic sediment, water, or other impurities above a point six (6) inches below the pipeline connection with the tank. Pipelines shall receive for transportation all such "marketable oil" tendered; but no pipeline shall be required to receive for shipment from any one person an amount exceeding three thousand (3,000) barrels of petroleum in any one (1) day; and, if the oil tendered for transportation differs materially in character from that usually produced in the field and being transported there from by the pipeline, then it shall be transported under such terms as the shipper and the owner of the pipeline may agree or the Commission may require.

**20. Basic Sediment, How Determined – Temperature**

In determining the amount of sediment, water or other impurities, a pipeline is authorized to make a test of the oil offered for transportation from an average sample from each such tank, by the use of centrifugal machine, or by the use of any other appliance agreed upon by the pipeline and the shipper. The same method of ascertaining the amount of the sediment, water or other impurities shall be used in the delivery as in the receipt of oil. A pipeline shall not be required to receive for transportation, nor shall consignee be required to accept as a delivery, any oil of a higher temperature than ninety degrees Fahrenheit (90° F), except that during the summer oil shall be received at any atmospheric temperature and may be delivered at like temperature. Consignee shall have the same right to test the oil upon delivery at destination that the pipeline has to test before receiving from the shipper.

**30. "Barrel" Defined**

For the purpose of these rules, a "barrel" of crude petroleum is declared to be forty-two (42) gallons of 231 cubic inches per gallon at sixty degrees Fahrenheit (60°F).

**40. Oil Involved in Litigation, Etc. – Indemnity Against Loss**

When any oil offered for transportation is involved in litigation, or the ownership is in dispute, or when the oil appears to be encumbered by lien or charge of any kind, the pipeline may require of shippers an indemnity bond to protect it against all loss.

**50. Storage**

Each pipeline shall provide, without additional charge, sufficient storage, such as is incident and necessary to the transportation of oil, including storage at destination or so near thereto as to be available for prompt delivery to destination point, for five (5) days from the date of order of delivery at destination.

**60. Identity and Maintenance of Oil**

A pipeline may deliver to consignee, either the identical oil received for transportation, subject to such consequences of mixing with other oil as are incident to the usual pipeline transportation, or it may make delivery from its common stock at destination; provided, if this last be done, the delivery shall be of substantially like kind and market value.

**70. Minimum Quantity to be Received**

A pipeline shall not be required to receive less than one (1) tank carload of oil when oil is offered for loading into tank cars at destination of the pipeline. When oil is offered for transportation for other than tank car delivery, a pipeline shall not be required to receive less than five hundred (500) barrels.

**80. Gathering Charges**

Tariffs to be filed by a pipeline shall specify separately the charges for gathering of the oil, for transportation and for delivery.

**90. Measurement, Testing, and Deductions**

- A. Except as provided in subparagraph (B) of this paragraph, all crude oil tendered to a pipeline shall be gauged and tested by a representative of the pipeline prior to its receipt by the pipeline. The shipper may be present or represented at the gauging or testing. Quantities shall be computed from correctly compiled tank tables showing 100% of the full capacity of the tanks.
- B. As an alternative to the method of measurement provided in subparagraph (A) of this paragraph, crude oil and condensate may be measured and tested, before transfer of custody to the initial transporter, by:
- i. lease automatic custody transfer (LACT) equipment, provided such equipment is installed and operated in accordance with the latest revision of American Petroleum Institute (API) Manual of Petroleum Measurement Standards, Chapter 6.1; or
  - ii. any device or method, approved by the commission or its delegate, which yields accurate measurements of crude oil or condensate.
- C. Adjustments to the quantities determined by the methods described in subparagraphs (A) or (B) of this paragraph shall be made for temperature from the nearest whole number degree to the basis of 60 degrees Fahrenheit and to the nearest 5/10 API degree gravity in accordance with the volume correction Tables 5A and 6A contained in API Standard 2540, American Society for Testing Materials 01250, Institute of Petroleum 200, first edition, August 1980. A pipeline may deduct the basic sediment, water, and other impurities as shown by the centrifugal or other test agreed upon by the shipper and pipeline; and 1.0% for evaporation and loss during transportation. The net balance shall be the quantity deliverable by the pipeline. In allowing the deductions, it is not the intention of the commission to affect any tax or royalty obligations imposed by the laws of Texas on any producer or shipper of crude oil.
- D. A transfer of custody of crude between transporters is subject to measurement as agreed upon by the transporters.

**100. Delivery and Demurrage**

Each pipeline shall transport oil with reasonable diligence, considering the quality of the oil, the distance of transportation, and other material elements, but at any time after receipt of a consignment of oil, upon twenty-four (24) hours' notice to the consignee, may offer oil for delivery from its common stock at the point of destination, conformable to Item No. 6 of this section, at a rate not exceeding ten thousand (10,000) barrels per day of twenty-four (24) hours. Computation of time of storage (as provided for in Item No. 5 of this section) shall begin at the expiration of such notice. At the expiration of the time allowed in Item No. 5 of this section for storage at destination, a pipeline may assess a demurrage charge on oil offered for delivery and remaining undelivered, at a rate for the first ten (10) days of one-tenth of one cent (\$0.001) per barrel; and thereafter at a rate of three-fourths of one cent (\$0.0075) per barrel, for each day of twenty-four (24) hours or fractional part thereof.

**110. Unpaid Charges, Lien For and Sale to Cover**

A pipeline shall have a lien on all oil to cover charges for transportation, including demurrage, and it may withhold delivery of oil until the charges are paid. If the charges shall remain unpaid for more than five (5) days after notice of readiness to delivery, the pipeline may sell the oil at public auction at the general office of the pipeline on any day not a legal holiday. The date for the sale shall be not less than forty-eight (48) hours after publication of notice in a daily newspaper of general circulation published in the city where the general office of the pipeline is located. The notice shall give the time and place of the sale, and the quantity of the oil to be sold. From the proceeds of the sale, the pipeline may deduct all charges lawfully accruing, including demurrage, and all expenses of the sale. The net balance shall be paid to the person lawfully entitled thereto.

**120. Notice of Claim**

Notice of claim for loss, damage or delay in connection with the shipment of oil must be made in writing to the pipeline within ninety-one (91) days after, the damage, loss, or delay occurred. If the claim is for failure to make delivery, the claim must be made within ninety-one (91) days after a reasonable time for delivery has elapsed.

**130. Telephone – Telegraph Line – Shipper to Use**

If a pipeline maintains a private telegraph or telephone line, a shipper may use it without extra charge, for messages incident to shipments. However, a pipeline shall not be held liable for failure to deliver any messages away from its office or for delay in transmission or for interruption of service.

**140. Contracts of Transportation**

When a consignment of oil is accepted, the pipeline shall give the shipper a run ticket, and shall give the shipper a statement that shows the amount of oil received for transportation, the points of origin and destination, corrections made for temperature, deductions made for impurities, and the rate for such transportation.

**150. Shipper's Tanks, Etc. – Inspection**

When a shipment of oil has been offered for transportation, the pipeline shall have the right to go upon the premises where the oil is produced or stored and have access to any and all tanks or storage receptacles for the purpose of making any examination, inspection, or test authorized by this section.

**160. Offers in Excess of Facilities**

If oil is offered to any pipeline for transportation in excess of the amount that can be immediately transported, the transportation furnished by the pipeline shall be apportioned among all shippers in proportion to the amounts offered by each; but no offer for transportation shall be considered beyond the amount which the person requesting the shipment then has ready for shipment by the pipeline. The pipeline shall be considered as a shipper of oil produced or purchased by itself and held for shipment through its line, and its oil shall be entitled to participate in such apportionment.

**170. Interchange of Tonnage**

Pipelines shall provide the necessary connections and facilities for the exchange of tonnage at every locality reached by two or more pipelines, when the Commission finds that a necessity exists for connection, and under such regulations as said Commission may determine in each case.

**180. Receipt and Delivery – For Necessary Facilities**

Each pipeline shall install and maintain facilities for the receipt and delivery of marketable crude petroleum of shippers at any point on its line if the Commission finds that a necessity exists therefor, and under regulations by the Commission.

**190. Reports of Loss from Fires, Lightning, and Leakage**

- A. Each pipeline shall immediately notify the Commission, by telegraph, telephone, or letter, of each fire that occurs at any oil tank owned or controlled by the pipeline, or of any tank struck by lightning. Each pipeline shall in like manner report each break or leak in any of its tanks or pipelines from which more than five (5) barrels escapes. Each pipeline shall report in writing to the Commission, by the fifteenth (15th) day of the calendar month, the estimated amount of loss of oil by fire or leakage from its tanks and pipelines for the preceding month; but not including leakage or evaporation ordinarily incident to transportation.
- B. No risk of fire, storm, flood, or act of God, and no risk resulting from riots, insurrection, rebellion, war or act of the public enemy, or from quarantine or authority of law or any order, requisition or necessity of the government of the United States in time of war, shall be borne by a pipeline, nor shall any liability accrue to it from any damage thereby occasioned. If loss of any crude oil from any such causes occurs after the oil has been received for transportation, and before it has been delivered to the consignee, the shipper shall bear a loss in such proportion as the amount of his shipment is to all of the oil held in transportation by the pipeline at the time of such loss, and the shipper shall be entitled to have delivered only such portion of his shipment as may remain after a deduction of his due proportion of such loss, but in such event the shipper shall be required to pay charges only on the quantity of oil delivered. This Item No. 19 shall not apply if the loss occurs because of negligence of the pipeline.
- C. Common carrier pipelines shall mail (return receipt requested) or hand deliver to landowners (persons who have legal title to the property in question) and residents (persons whose mailing address is the property in question) of land upon which a spill or leak has occurred, all spill or leak reports required by the commission for that particular spill or leak within 30 days of filing the required reports with the commission. Registration with the commission by landowners and residents for the purpose of receiving spill or leak reports shall be required every five years, with renewal registration starting January 1, 1999. If a landowner or resident is not registered with the commission, the common carrier is not required to furnish such reports to the resident or landowner.

**SECTION II  
RULES AND REGULATIONS****200. Definitions**

"A.P.I." means the American Petroleum Institute.

"A.P.I. Gravity" means the gravity determined in accordance with the currently applicable American Society for Testing Materials Designation.

"Barrel" shall have the meaning set forth in Section I, Item 30 ("Barrel" Defined).

"Business Day" means Monday through Friday of each week, excluding banking holidays.

"Carrier" means ET-S Permian Pipeline Company LLC.

"COGA" means an agreement between Carrier and a Shipper that specifies that such Shipper is a Committed Shipper for purposes of the TRRC Tariff and that such agreement is a COGA for purposes of the TRRC Tariff.

"Committed Rate" means the rate charged to a Committed Shipper for services related to the gathering on the System.

"Committed Shipper" means any Shipper with which Carrier has executed a COGA.

"Committed Volumes" means, with respect to a Committed Shipper, the volumes of Crude Petroleum dedicated, nominated and Tendered by such Committed Shipper under the applicable COGA with Carrier.

"Consignee" means the party to whom a Shipper has ordered the delivery of Crude Petroleum.

"Consignor" means the party from whom a Shipper has ordered the receipt of Crude Petroleum.

"Crude Petroleum" means any mixture of hydrocarbons that is produced from an oil and gas well as a liquid and remains liquid at atmospheric pressure.

"Day" means a period commencing at 7:00 a.m., Central Standard Time, on a calendar day and ending at 7:00 a.m., Central Standard Time, on the next succeeding calendar day. Daily shall have the correlative meaning.

"Delivery Point" means the outlet flange from the System where Carrier makes deliveries to third party facilities and where Crude Petroleum is delivered to or for the account of Shipper.

"Force Majeure" means any cause or causes not reasonably within the control of the Party claiming relief and which, by the exercise of reasonable diligence, such Party is unable to prevent or overcome, including acts of God; strikes, lockouts or other industrial disturbances; acts of the public enemy, acts of terror, sabotage, wars, blockades, military action, insurrections or riots; epidemics; landslides, subsidence, lightning, earthquakes, fires, storms or storm warnings; crevasses, floods or washouts; civil disturbances; explosions, breakage or accident to wells, machinery, equipment or lines of pipe; the necessity for testing or making repairs or alterations to wells, machinery, equipment or lines of pipe; freezing of wells, equipment or lines of pipe; inability of any Party hereto to obtain, after the exercise of reasonable diligence, necessary materials, supplies, rights of way or Permits; or any action or restraint by any governmental authority (so long as the Party claiming relief has not applied for or assisted in the application for, and has opposed where and to the extent reasonable, such action or restraint, and as long as such action or restraint is not the result of a failure by the claiming Party to comply with applicable law).

"Line Fill" means the amount of Crude Petroleum necessary for pipeline line fill and tankage fill required to ensure efficient operation of the System, as determined by Carrier, subject, in the case of a Committed Shipper, to the terms of the applicable COGA.

"Measurement Facilities" means facilities or equipment used to measure the volume of Crude Petroleum, which may include meters, valves, recording devices, communication equipment, buildings and barriers.

"Month" means a period commencing at 7:00 a.m., Central Standard Time, on the first Day of a calendar month and extending until 7:00 a.m., Central Standard Time, on the first Day of the next succeeding calendar month.

"Movement" means transportation on the System.

"Nomination" means an offer by a Shipper to the Carrier of a stated quantity of Crude Petroleum for transportation from a specified Receipt Point to a specified Delivery Point over a period of one operating month in accordance with these rules and regulations.

"Nomination Deadline" is as defined in Item 250(b).

"Parties" means Carrier and Shipper, collectively.

"Party" means either Carrier or Shipper.

"Receipt Point" means the receipt point on the System where Crude Petroleum is received from Shipper.

"Shipper" means a party who contracts with Carrier for transportation of Crude Petroleum under the terms of these rules and regulations.

"System" means the Delaware Pipeline System that Carrier owns and to which the rules and regulations stated herein apply.

"Tariff" is as defined in Item 430(a).

"Tender" means the offering for shipment of Crude Petroleum presented by a Shipper to the Carrier for Movement by Carrier in accordance with these rules and regulations.

"Uncommitted Rate" means the rate charged to a Shipper for gathering pursuant to Carrier's Tariff or under a separate gathering agreement that does not constitute a COGA.

"Uncommitted Shipper" means a Shipper who has not entered into a COGA with Carrier.

"Uncommitted Volumes" means volumes of Crude Petroleum received by Carrier for gathering for a Shipper that is not a Committed Shipper.

## **210. Commodity**

Carrier is engaged in the gathering on the System of Crude Petroleum only, and therefore will not accept any other commodity for transportation under Carrier's applicable tariff.

## **220. Quality Specifications**

A. Except as provided in subsections (b) and (g) of this Item 220, Carrier will have no obligation to accept, gather, or deliver any commodity other than merchantable Crude Petroleum that meets the quality specifications herein, and Shipper shall not Tender to Carrier Crude Petroleum that does not meet such specifications without Carrier's written approval. Carrier will not be required to accept any Crude Petroleum offered for transportation other than merchantable Crude Petroleum of acceptable character which meets the following quality specifications subject to subsections (b) through (g) below:

- i. Not more than one percent (1%) of basic sediment, water, and other impurities (provided, in no event, will water be allowed to exceed two tenths of one percent (0.2%)). If Crude Petroleum is accepted from tankage, settled bottoms in such tanks must not be above a point four inches (4") below the pipeline connection with the tank from which it enters Carrier's facilities;
- ii. Sulfur content less than four tenths of one percent (0.4%) by weight;
- iii. Hydrogen sulfide vapor phase content less than or equal to ten (10) ppm;

- iv. Vapor pressure not in excess of 11 psia at 100 degrees Fahrenheit in accordance with the latest version of ASTM D6377;
  - v. Temperature not in excess of one hundred and twenty degrees (120°) Fahrenheit;
  - vi. A.P.I. Gravity of greater than thirty-six (36) degrees A.P.I. and less than forty-four (44) degrees A.P.I.;
  - vii. Viscosity less than thirty (30) centistokes at sixty degrees (60°) Fahrenheit;
  - viii. Total dissolved solids of not more than one percent; and
  - ix. Free of hazardous wastes and other substances that may not be received into or transferred through the System, or transported by truck, meets all Applicable Laws and Permits and Carrier's operational standards.
- B. Subject to the terms of any applicable COGA, at its sole discretion, Carrier may provide a waiver and accept Crude Petroleum having an A.P.I. Gravity of forty-four degrees (44°) or above subject to a deduction to cover shrinkage and evaporation, which may be based on actual gains or losses as stated in Item 300 or as reasonably determined by Carrier.
- C. Notwithstanding the foregoing, to the extent that the quality specifications required from time to time by a connecting carrier are more restrictive than any of the specifications provided for above, then the above quality specifications shall automatically be modified to incorporate such more restrictive specifications in lieu of any less restrictive specifications provided for above. Carrier shall use reasonable efforts to maintain the quality specifications stated herein above and shall not propose or support any more restrictive specifications for a connecting carrier.
- D. Crude Petroleum shall not contain sand, dust, dirt, gums, impurities or other objectionable substances that may be injurious to Carrier or the System, or which may otherwise interfere with the transportation of Crude Petroleum in the System.
- E. If Carrier determines that a Shipper does not comply with the provisions of this Item 220, then, upon notice from Carrier, such Shipper shall, at Shipper's sole cost and expense, remove its off-specification Crude Petroleum from the System as and when directed by Carrier, acting reasonably.
- F. If a Shipper fails to remove its off-specification Crude Petroleum from the System in accordance with subsection (e) of this Item 220, then, in addition to any other remedy available to Carrier under these rules and regulations, Carrier shall have the right to remove and sell such Crude Petroleum in any manner deemed appropriate by Carrier. Carrier shall remit to Shipper the value of Crude Petroleum sold less any costs incurred by Carrier. Carrier may take such further action and recourse as it deems appropriate to compensate, mitigate or reimburse Carrier for any adverse impact to Carrier or the System that is attributable to the presence of such off-specification Crude Petroleum.
- G. If a Shipper determines or otherwise becomes aware at any time prior to delivery that any Crude Petroleum that will be tendered by or for the account of such Shipper will not meet the quality specifications set forth in this Item 220, then such Shipper shall provide written notice to Carrier. Upon receipt of such notice, if Carrier nevertheless accepts such off-specification Crude Petroleum, then such Shipper shall not be liable for any claims or losses arising out of or related to delivery of such off-specification Crude Petroleum, including any damages or losses down- stream of the applicable Receipt Point(s).

**230. Shipments, Maintenance of Identity**

- A. If a Shipper delivers Crude Petroleum at the Receipt Points to Carrier that meets the quality specifications set forth in Item 220, Carrier shall redeliver Crude Petroleum at the Delivery Points to or for the account of such Shipper that meets such quality specifications.
- B. Carrier shall have no responsibility in, or for, any revaluation or settlements which are deemed appropriate by



Shippers and/or Consignees because of mixing or commingling of Crude Petroleum shipments between the receipt and delivery by Carrier within the same common stream.

**240. Additives**

Carrier reserves the right to require, approve or reject the injection of corrosion inhibitors, viscosity or pour point depressants, drag reducing agents, or other such additives in Crude Petroleum to be gathered.

**250. Nomination, Minimum Quantity**

- A. Nominations for gathering of Crude Petroleum for which Carrier has facilities will be accepted into the System under these rules and regulations in quantities that are subject to the minimum and maximum requirements of downstream Delivery Points.
- B. On or before the fifteenth (15<sup>th</sup>) Day prior to the end of each Month (such date, the "Nomination Deadline"), a Shipper shall provide to Carrier Nominations for (i) deliveries of Crude Petroleum to the Receipt Points and (ii) deliveries of Crude Petroleum to the specified Delivery Points to be delivered during the next Month.
- C. When Nominations submitted by Shippers to Carrier on or before the Nomination Deadline do not cause Carrier to implement the prorationing procedures set forth in Item 340 for the System, additional Nominations will 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 before the Nomination Deadline.

**260. Receipt and Delivery Facilities Required**

No obligation to transport will arise until evidence satisfactory to Carrier (i.e., a valid operator confirmation, downstream pipeline confirmation or other evidence acceptable to Carrier) has been furnished that Shipper or 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 Delivery Point.

**270. Storage in Transit**

Carrier may provide working tankage that is incident and necessary to the transportation of Crude Petroleum, but does not have facilities available for rendering, and does not hold itself out to provide, storage service.

**280. Linefill Requirements**

- A. Each Shipper shall be required to provide, or cause to be provided, without cost to Carrier, its pro rata share of Line Fill, based on the total volume of Crude Petroleum in Barrels received from or on account of such Shipper divided by the total volume of Crude Petroleum in Barrels received from all Shippers on the System.
- B. If a Shipper's pro rata share of the Line Fill is increased as a result of the calculation described in Item 280(a), such Shipper shall promptly provide, or cause to be provided, without cost to Carrier, additional volumes of Crude Petroleum to meet such requirement. If a Shipper's pro rata share of the Line Fill is reduced as a result of such calculation, Carrier shall promptly deliver the excess amount of Crude Petroleum to such Shipper, less any amounts specified in any applicable COGA, at the applicable Delivery Points and such Shipper shall pay any applicable fees under the applicable COGA on delivery of such excess Line Fill.
- C. A Shipper' share of the Line Fill shall be held by Carrier in the System and returned to such Shipper following the termination of the applicable COGA. Within sixty (60) Days following the termination or expiration of the applicable COGA, (i) Carrier shall deliver and such Shipper shall receive such Line Fill, less any amounts specified in the applicable COGA, at the applicable Delivery Points and (ii) such Shipper shall pay any applicable fees under the applicable COGA on delivery of such excess Line Fill to the applicable Delivery Points.

**290. Measurement and Testing**

- A. Carrier shall install, own, operate, and maintain Measurement Facilities to measure Crude Petroleum at all Receipt Point(s) located on the System, subject to provisions within any individual COGA or connection agreement. Measurement Facilities at such Receipt Point(s) shall meet current industry standards for custody transfer measurement. Shipper shall have the right to install check Measurement Facilities upstream of all Receipt Point(s).

- B. Each Party shall have the right, at its option, to have representatives present to observe any reading, inspecting, testing, calibrating, proving, or adjusting of Measurement Facilities used in measuring or checking the measurement of receipts of Crude Petroleum under these rules and regulations. The data from such Measurement Facilities shall remain the property of the Measurement Facilities' owner, but copies of such records shall, upon written request, be submitted to the requesting Party for inspection and verification.
- C. Carrier shall calibrate meters as often as required, as determined by Carrier in accordance with standard industry practices and applicable regulatory standards to reasonably assure accurate measurement, but at least once per month. The volume of Crude Petroleum measured at the Receipt Points and Delivery Points will be measured by meters (including calibration and proving meters) and sampled in accordance with appropriate A.P.I. Manual for Petroleum Measurement Standards, latest revision, and adjusted to base (reference standard) conditions.
- D. Corrections shall be made for temperature from observed Fahrenheit to sixty degrees (60°) Fahrenheit and zero (0) gauge pressure. Carrier shall deduct the full amount of sediment, water, and other impurities as the centrifugal or other testing shows.

### **300. Gains or Losses**

Subject to the provisions of Item 390 or any provisions of a COGA, Shippers shall be responsible for all pipeline operational gains or losses, which shall be calculated as the difference between Receipt Point and Delivery Point measured volumes. Subject to any provisions of a COGA, (a) Shippers will also be responsible for losses related to evaporation, (b) gains or losses will be apportioned according to each Shipper's proportionate share of Receipt Point measurement and, (c) Shipper will use reasonable efforts to monitor measurement and pipeline operations as to minimize gains and losses in the System.

### **310. Tampering**

- A. Carrier shall have the right to install and monitor, to Carrier's satisfaction, sealing devices on the components of measuring devices for the purpose of discouraging tampering. Installation of sealing devices by Carrier shall not absolve the owner of Measurement Facilities of any responsibilities with respect to the security of its owned equipment.
- B. In addition to any other remedies provided for herein or at law or equity if any Shipper or Consignee, without permission from Carrier, tampers with any property owned or used by Carrier to provide services, this shall constitute reason for Carrier to refuse acceptance of further Crude Petroleum from such Shipper, or to deliver further Crude Petroleum to such Consignee, or, at the option of Carrier, to impose additional terms and conditions prescribed by Carrier. As used herein, tamper means to rearrange, break, alter, interfere with, or otherwise to prevent Carrier from performing the normal or customary function(s).

### **320. Title**

Each Shipper represents and warrants that it owns, or has the right to deliver to the System, all Crude Petroleum that it delivers to the System. If the title to Crude Petroleum delivered by a Shipper hereunder is disputed or is involved in any legal action, Carrier shall have the right to cease receiving such Crude Petroleum, to the extent of the interest disputed or involved in legal action, during the pendency of the action or until title is freed from the dispute, or until such Shipper furnishes, or causes to be furnished, defense and indemnification to hold Carrier harmless from all claims arising out of the dispute or action, with surety acceptable to Carrier. Such Shipper shall release, indemnify, defend and hold harmless Carrier from and against all claims and losses arising out of or related to any liens, encumbrances or adverse claims on any of such Shipper's Crude Petroleum delivered to the Receipt Points.

### **330. Notice of Arrival, Delivery at Delivery Points, Demurrage**

- A. The obligation of the Carrier is to deliver the quantity of Crude Petroleum to be gathered, less deductions, to the specified Delivery Point. Such delivery shall be made upon twenty-four (24) hours' notice to the Shipper or Consignee who shall accept and receive said Crude Petroleum from the Carrier with all possible dispatch as arranged for by the Shipper or Consignee at the Delivery Point.
- B. Commencing after the expiration of said twenty-four (24) hour notice, Carrier shall have the option to assess a demurrage charge on any part of said Crude Petroleum shipment offered for delivery and not taken by Shipper or Consignee. The demurrage charge shall be \$0.02 per Barrel per Day for each Day or fractional part thereof.

- C. If the Shipper, or Consignee, is unable or refuses to receive such Crude Petroleum as it arrives at the specified Delivery Point, the Carrier reserves the right to make whatever arrangements for disposition of the Crude Petroleum it deems appropriate in order to clear its pipeline. Any additional expenses incurred by the Carrier in making such arrangements shall be borne by the Shipper or Consignee. Carrier shall remit to Shipper any proceeds from the disposition less expenses incurred.

**340. Prorationing of Pipeline System Capacity**

- A. All nominations will be confirmed when the System is not being curtailed. During periods of curtailment, the following procedures will be implemented and allocations for Committed Shippers and Uncommitted Shippers will be limited to a maximum volume of Shipper's nomination.
- B. First, Carrier shall curtail all Uncommitted Volumes prior to curtailing Committed Volumes.
- C. Second, if additional System curtailments are required beyond Item 340(b), Carrier shall curtail Committed Volumes on the System. In the event Carrier curtails some, but not all, Committed Volumes on a particular Day, Carrier shall allocate the capacity of the applicable point on the relevant System segment available to each Shipper entitled to deliver Committed Volumes, on a pro rata basis based on the most recent previous Month's Receipt Point volumes and allowing Carrier in its sole discretion to include estimated volumes from new wells that are connected to a Receipt Point that were not producing during the previous Month.

Notwithstanding the foregoing, Carrier shall have the right from time-to-time to enter into COGAs (including capacity leases or similar arrangements) with its customers pursuant to which a customer may have priority for its Committed Volumes up to its maximum leased capacity during certain events of curtailment.

- D. No Nominations shall be considered beyond the amount that the nominating Shipper or Consignee has readily available for shipment. If a Shipper or Consignee is unable to Tender Crude Petroleum equal to the space allocated to it, Carrier may reduce that Shipper's volumes for the succeeding month by the amount of allocated capacity not utilized during the preceding month if apportionment is necessary. Carrier may require, on a nondiscriminatory basis, written assurances from Shippers regarding readily available supply for shipment stating that this requirement has not been violated.

**350. Financial Assurances**

- A. Carrier may at any time and from time-to-time request, and Shipper shall provide in Carrier so requests, financial security for the payment of charges to be paid by Shipper to Carrier for services provided. If requested by Carrier, Shipper's financial assurances must be provided to Carrier prior to Carrier accepting Shipper's initial Nomination for gathering of Crude Petroleum. Carrier shall thereafter have the option to refuse Nominations, in whole or in part, from Shipper, and to suspend further receipts and deliveries, until adequate financial assurances are provided. Shipper shall provide notice of any change in its financial situation that would adversely affect Shipper's ability to pay Carrier for services provided.
- B. The financial assurances that Carrier may request from Shipper shall include, but not be limited to, the following: (i) prepayment of the charges applicable to such volumes nominated by Shipper; or (ii) an irrevocable letter of credit or such other financial guarantees satisfactory to Carrier, which financial assurances shall remain in effect until payment in full for all service has been received by Carrier, at which time Carrier shall, upon request, return and/or cancel such financial guarantee forthwith.

**360. Rates Applicable**

Crude Petroleum gathered shall be subject to the applicable tariff rates and charges in effect on the date of receipt of such Crude Petroleum by Carrier, regardless of the date of Tender. Carrier shall charge the applicable tariff rate for Crude Petroleum based on the total quantities received by Carrier from Shipper at the Receipt Point in a month. Payment for volumes received from a Committed Shipper shall be equal to the Committed Volumes received multiplied by the applicable Committed Rate for Committed Shippers. Payment for volumes received from Uncommitted Shippers shall be equal to the Uncommitted Volumes received multiplied by the applicable Uncommitted Rate for Uncommitted Shippers.

**370. Payment of Charges**

- A. Shipper shall be responsible for payment of all charges applicable to the Tender. Not later than the twentieth (20<sup>th</sup>) Business Day following the end of each month, Carrier shall provide Shipper with a detailed statement setting forth the quantity of Crude Petroleum received by Carrier at the Receipt Point(s) in such month and the Committed Rate and/or Uncommitted Rate (as applicable), together with measurement summaries and all relevant supporting documentation, to the extent available on such twentieth (20<sup>th</sup>) Business Day (with Carrier being obligated to deliver any such supporting documentation that is not available on such twentieth (20<sup>th</sup>) Business Day as soon as it becomes available). Shipper shall make payment to Carrier by the later of: (i) the last Business Day of the month in which such invoice is received or (ii) thirty (30) Business Days after receipt of the invoice. Such payment shall be made by wire transfer pursuant to wire transfer instructions delivered by Carrier to Shipper in writing from time to time or other means as mutually agreeable by the Parties. If any overcharge or undercharge in any form whatsoever shall at any time be found and the invoice therefor has been paid, Carrier shall refund any amount of overcharge, and Shipper shall pay any amount of undercharge, within thirty (30) Days after final determination thereof; *provided, however*, that no retroactive adjustment will be made beyond a period of twenty-four (24) Months from the date of a statement hereunder.
- B. If any undisputed amount due hereunder remains unpaid for sixty (60) Days after the due date, Carrier shall have the right to suspend or discontinue Services hereunder until any such past due amount is paid.
- C. In the event of any dispute with respect to any payment hereunder, Shipper shall make timely payment of all undisputed amounts, and Carrier and Shipper will use good faith efforts to resolve the disputed amounts within sixty (60) Days following the original due date. Any amounts subsequently resolved shall be due and payable within ten (10) Days of such resolution.
- D. Carrier shall have a lien and security interest on all Crude Petroleum accepted for gathering to cover payment of all charges, including demurrage and late charges and Carrier may refuse to make delivery of Crude Petroleum until all charges have been paid. Carrier shall have a lien and security interest on Crude Petroleum when there shall be failure to take the Crude Petroleum at the Delivery Point as provided in Item 330. If said charges, or any part thereof, shall remain unpaid for sixty (60) Days after notice of readiness to deliver, the Carrier may sell the Crude Petroleum in any manner deemed appropriate by Carrier. Carrier shall remit to Shipper value of Crude Petroleum sold less any costs to Carrier. If the proceeds of the said sale do not cover all expenses incurred by Carrier, the Shipper and/or Consignee are liable for any deficiency. Carrier's rights under this Item 370(d) are not exclusive but shall be in addition to any other rights or remedies available hereunder or under applicable law.

**380. Charge for Compensation Fund Fees Incurred by Carrier**

In addition to all other charges being incurred on Crude Petroleum accepted for gathering through the System, a per Barrel charge shall be assessed and collected in the amount of any tax, fee, or other charge levied against Carrier by any Federal, State or local agency for the purpose of creating a fund for the reimbursement of parties who sustain costs or losses resulting from oil pipeline industry operations. Such operations shall include, without limitation, for the prevention, containment, clean-up and/or removal of spills, the reimbursement of persons sustaining loss therefrom or any other lawful purpose. Carrier shall be under no obligation to contest or protest on behalf of Shipper or Consignee the legality of such tax, fee, or other charge. If a per Barrel charge is assessed, the amount of such charge shall be stated in Carrier's tariff.

**390. Liability of Carrier**

- A. The Carrier while in possession of any of the Crude Petroleum herein described shall not be liable for any loss thereof, damage thereto, or delay, caused by a Force Majeure event. In no event shall Carrier be liable to Shipper, Consignor or Consignee for consequential, incidental, indirect, special, or exemplary damages. In case of loss of Crude Petroleum (other than losses provided for in Item 300) for which Carrier is not liable, each Shipper of the grade of Crude Petroleum so lost via the System in which the loss occurs shall share such loss in the proportion that the amount of such grade of Crude Petroleum then in the custody of Carrier for the account of such Shipper in such System bears to the total amount of such grade of Crude Petroleum then in the custody of Carrier in such System. Statements of quantities ascertained and computed from records in the usual manner by Carrier shall be accepted as prima facie correct in the distribution of losses under this Item 390.
- B. Carrier will be obligated to deliver only that portion of a Crude Petroleum shipment remaining after deducting

such loss. In such event, applicable tariff rates will be charged only on quantities of Crude Petroleum delivered at the Delivery Points.

- C. If Crude Petroleum is lost in transit, while in the custody of Carrier, due to Carrier's negligence, Carrier, at its discretion, will obtain and deliver to Shipper other Crude Petroleum of the same quantity and grade as that which was lost or Carrier will compensate Shipper for such loss in money. If Carrier compensates Shipper for such loss in money, the price per Barrel of Crude Petroleum shall be determined as of the date of the loss based on Shipper's weighted average spot sales price for the month. Carrier's liability to Shipper, Consignor or Consignee for any claim of negligence shall be collectively limited to the value of the Crude Petroleum gathered and related delivery charges.

#### **400. Liability of Shipper**

- A. If Shipper fails to remove its Crude Petroleum from Carrier's facilities upon delivery and a disruption of Carrier's operations or the operation of downstream facilities results, Shipper shall be solely responsible and liable if and to the extent that any expenses, costs, damages, and losses whatsoever are incurred and suffered by Carrier in connection with such disruption unless the non-removal of such Crude Petroleum is due to Carrier's negligence or willful misconduct.
- B. Shipper shall indemnify Carrier for any and all damages, losses, expenses, and costs incurred or suffered by Carrier as a result of Shipper's failure to comply with any provision of Carrier's tariff, unless Shipper's failure to comply is due to Carrier's negligence or willful misconduct.

#### **410. Force Majeure**

The Carrier and Shipper(s) shall be excused from the performance of their obligations under Carrier's tariff when and to the extent that such performance is delayed or prevented by Force Majeure; *provided* that Carrier or Shipper(s) shall give notice to the other party, stating particulars of such event, as soon as reasonably possible after the occurrence thereof, and shall as far as possible, remedy such situation with all reasonable dispatch. It is understood and agreed that the settlement of strikes or lockouts shall be entirely within the discretion of the Party affected thereby, and that the above requirement that any Force Majeure shall be remedied with all reasonable dispatch shall not require the settlement of strikes or lockouts by acceding to the demands of the opposing party when such course is inadvisable in the sole discretion of the Party affected thereby. Notwithstanding the foregoing, it is specifically understood and agreed by the Parties that an event of Force Majeure will in no way affect or terminate Shipper's obligation to make payment for quantities of Crude Petroleum delivered to a Receipt Point hereunder.

#### **420. Claims, Suits, and Time for Filing**

As a condition precedent to recovery, claims must be filed in writing with the Carrier within twelve (12) months after delivery has elapsed; and suits arising out of such claims shall be instituted against the Carrier within two (2) years and one (1) Day from the Day when notice in writing is given by the Carrier to the claimant that the 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 shall not be liable and such claims shall not be paid.

#### **430. Law and Venue**

- A. Carrier's tariff and these rules and regulations (collectively, this "Tariff") are subject to all applicable laws. If either Carrier or Shipper is required to do any act inconsistent with the provisions of this Tariff, then this Tariff will continue nevertheless and will be deemed modified to conform with the requirements of the applicable laws.
- B. To the extent the Railroad Commission of Texas does not possess, claim, assert, or otherwise exercise jurisdiction over any dispute or proceeding arising out of or relating to this Tariff or any contract entered into covering the transactions contemplated by this Tariff, then this Tariff will be construed, enforced, and interpreted according to the laws of the State of Texas, without regard to the conflicts of law rules thereof. Except as provided for in the previous sentence, the Parties agree that the appropriate, exclusive and convenient forum for any disputes between the Parties arising out of this Tariff or the transactions contemplated by this Tariff shall be in any state or federal court in Harris County, Texas, and each of the Parties irrevocably submits to the jurisdiction of such courts solely in respect of any proceeding arising out of or related to this Tariff. The Parties further agree that the Parties shall not bring suit with respect to any disputes arising out of this Tariff or the transactions contemplated by this Tariff

in any court or jurisdiction other than the above specified courts. **EACH PARTY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAWS, ANY OBJECTION THAT IT MAY NOW OR HEREAFTER HAVE TO THE VENUE OF ANY DISPUTE ARISING OUT OF OR RELATING TO THIS TARIFF, ANY OF THE TRANSACTIONS CONTEMPLATED BY THIS TARIFF, OR ANY CONTRACT ENTERED INTO COVERING THE TRANSACTIONS CONTEMPLATED BY THIS TARIFF BROUGHT IN SUCH COURT OR ANY DEFENSE OF INCONVENIENT FORUM FOR THE MAINTENANCE OF THE DISPUTE OR ACTION.**

- C. EACH PARTY KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY WAIVES ITS RIGHT TO TRIAL BY JURY IN ANY PROCEEDING ARISING OUT OF OR RELATING TO THIS TARIFF, ANY OF THE TRANSACTIONS, CONTEMPLATED BY THIS TARIFF, OR ANY CONTRACT ENTERED INTO COVERING THE TRANSACTIONS CONTEMPLATED BY THIS TARIFF, WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE.**

**440. Regulatory Matters**

At each time of tender of any Crude Petroleum at a Receipt Point, Shipper shall be deemed to have represented and warranted to Carrier that: (a) none of such Crude Petroleum has flowed on a transportation pipeline but rather only on gathering lines and/or flowlines located entirely within the State of Texas, and (b) such Shipper has no fixed and persistent intention to further transport such Crude Petroleum in interstate commerce, but rather intends that such Crude Petroleum come to rest in Texas or that there shall be a sufficient break in the transportation movement in Texas such that any interstate movement of such Crude Petroleum will occur subsequent to, and as a separate movement from, any movement on the System.

**450. Connections**

Requests for connections shall be made by formal written request to the Carrier at the address shown on the front page of this tariff. Acceptance of any connection request shall be in Carrier's sole discretion and subject to compliance with all applicable government regulations.

**460. Deviation from Rules and Regulations in Section I**

In the event of a conflict between Section I and Section II, the Rules and Regulations set forth in Section II herein will apply.

**TABLE OF RATES**

<b>List of Points from and to Which Rates Apply</b>			
<b>Rate in Cents per Barrel of Crude Petroleum</b>			
<b>Receipts</b>	<b>Deliveries</b>	<b>Uncommitted Shipper Rate</b>	<b>Committed Shipper Rate</b>
Loving, Ward and Winkler County, Texas Receipt Points	Wink and Pyote Area Deliveries, Winkler and Ward County, Texas	80.00	Negotiated Rate

\*Negotiated Rates for gathering are available to shippers that make commitments to Carrier in an executed Crude Oil Gathering Agreement.

\*Uncommitted Shipper Rate may be a negotiated rate.