

# **BANGL, LLC**

## **PIPELINE TARIFF**

Containing

## **RULES AND REGULATIONS**

Applying to the Intrastate Transportation of

## **RAW MAKE**

Transported by Pipeline

From and To Points in Texas

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All rates published in the Rates Tariff are for the intrastate transportation of Raw Make through the BANGL Pipeline within the State of Texas, being expressed in cents per Barrel of 42 U.S. Gallons and are subject to change as may be provided by law, and are governed by the provisions found under the Rules and Regulations herein. The Rules and Regulations published herein apply only under tariffs making specific reference by number to this tariff; such references will include subsequent reissues hereof.

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P-5 Operator No. [W] ~~525390 (Marathon Pipe Line LLC)~~ 048387;  
T-4 Permit No. 10045

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**EFFECTIVE: OCTOBER 1, 2020**

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**RULES AND REGULATIONS**

**1. Definitions**

“Affiliate” means any Person that directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with another Person. For purposes of this definition, the term “control” (including its derivatives and similar terms) shall mean possessing the power to direct or cause the direction of the management and policies of a Person, whether through ownership, by contract, or otherwise. A Person is deemed to be an Affiliate of another specified Person if such Person owns fifty percent (50%) or more of the voting securities of the specified Person, or if the specified Person owns fifty percent (50%) or more of the voting securities of such Person, or if 50% or more of the voting securities of the specified Person and such Person are under common control.

“Aggregate Daily Maximum Volume Entitlement” means that portion of System Capacity (in BPD) to which a Priority Shipper is entitled on a daily basis in the aggregate across all then-effective TSAs entered into between such Priority Shipper and Carrier.

“Barrel” means forty-two (42) United States gallons of 231 cubic inches at sixty degrees Fahrenheit (60° F) and equilibrium vapor pressure.

“BPD” means Barrels per Day.

“Carrier” means BANGL, LLC.

“CCT” means Central Standard Time, as adjusted for Central Daylight Time.

“Component(s)” means each of the five individual hydrocarbon constituents contained in Raw Make, including ethane, propane, isobutane, normal butane, and natural gasoline (with natural gasoline including all pentane and heavier components), all in accordance with the applicable Raw Make Specifications.

“Component Balance Statement” means a Monthly statement issued by Carrier to Shipper reflecting Shipper’s Component balance.

“Component Imbalance” means, for any given Component, a Component Net Volume delivered to Consignee at the applicable Destination Point(s) in excess of, or less than, the Component Net Volume received from Shipper at the applicable Origin Point(s) for delivery to that Consignee.

“Component Net Volume” means Component volume calculated at sixty degrees Fahrenheit (60° F) in accordance with the latest edition of GPA 8173.

“Consignee” means the person or entity to whom the Shipper has ordered delivery of Raw Make.

“Day” or “Daily” means a period commencing at 7:00 a.m., CCT, on a calendar day and ending at 7:00 a.m., CCT, on the next calendar day.

“Destination Point” means the points on the Pipeline where Carrier delivers Raw Make to Shipper or its designee, as such Destination Point(s) shall be specified in the applicable Rates Tariff making reference hereto.

“Force Majeure” means any cause or causes not reasonably within the control of the Party claiming suspension and which, by the exercise of reasonable diligence, such Party is unable to prevent or overcome, and which wholly or partially prevents or delays such Party’s performance of any of its obligations under this tariff (except for any obligation to pay amounts due hereunder), including, without limitation by enumeration, acts of God, acts of Governmental Authorities, compliance with rules, regulations or orders of any Governmental Authority, strikes, lockouts or other industrial disturbances, acts of the public enemy, acts of terrorism, wars, blockades, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, extreme cold, storms, hurricanes, floods, or other adverse weather conditions, washouts, arrests and restraint of rulers and people, civil disturbances, explosions, warnings for

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any of the foregoing which may necessitate the precautionary shut-down of wells, pipelines, gathering systems, loading facilities, refineries, terminals, or any portion thereof or other related facilities, breakage or accident to machinery, equipment or pipelines, freezing of wells, pipelines or equipment, requisitions, directives, diversions, embargoes, priorities or expropriations of government or Governmental Authorities, legal or de facto, whether purporting to act under some constitution, decree, law or otherwise, failure of pipelines or other carriers to transport or furnish facilities for transportation, failures, disruptions, or breakdowns of machinery or of facilities for production, manufacture, transportation, distribution, processing or consumption (including, but not by way of limitation, the Pipeline), allocation or curtailment by third parties of downstream capacity, inability to secure or delays in securing rights-of-way and permits, transportation embargoes or failures or delays in transportation or poor road conditions, the inability to secure labor or materials at a reasonable rate after the exercise of reasonable diligence that is required for a Party's performance under this tariff, constraints on or physical disruptions to transportation downstream of and directly connected to Shipper's or Carrier's facilities used herein to any Destination Point, or refusal or other failure to accept Raw Make by Persons downstream of Carrier's facilities that are directly connected to the Pipeline or to any Destination Point. The term Force Majeure shall also include any force majeure declared by a contractual counterparty of either Party, but only to the extent such declaration directly prevents the applicable Party from being able to perform its obligations under this tariff.

"Governmental Authority(ies)" means (a) the United States of America, (b) any state, county, parish, municipality or other governmental subdivision within the United States of America, and (c) any court or any governmental department, commission, board, bureau, agency or other instrumentality of the United States of America or of any state, county, municipality or other governmental subdivision within the United States of America.

"Low Ethane Penalty" has the meaning set forth in Item 7 of this tariff.

"Month" means a period commencing at 7:00 a.m., CCT, on the first Day of a calendar month and ending at 7:00 a.m., CCT, on the first Day of the next calendar month.

"Monthly Ratable Basis" means the delivery of Raw Make throughout each Month in Daily quantities that are approximately equal to the volume of Raw Make delivered during the Month, divided by the number of Days in that Month.

"Monthly Maximum Volume Entitlement" means a Priority Shipper's Aggregate Daily Maximum Volume Entitlement multiplied by the number of Days in the applicable Month.

"Nomination" (including "Nominate" and the syntactical variations thereof) means a written or electronic communication (in form and context specified by Carrier) made by a Shipper to Carrier of a quantity of Raw Make for transportation on the Pipeline in a given Month from an Origin Point to a Destination Point in accordance with the terms of this tariff.

"Non-Routine Raw Make Losses" has the meaning set forth in Item 16 of this tariff.

"OPIS Index" means the Monthly average of the Daily average (AVG) prices per gallon, for the Month of delivery, as quoted by Oil Price Information Service ("OPIS") in the OPIS-LP-Gas Report for "Any Current Month" under "Mont Belvieu Spot Gas Liquids Prices" using (i) the Non-TET prices for the propane, isobutane, normal butane, and natural gasoline Components and (ii) the Purity Ethane price for the ethane Component. The OPIS Index is not to include any TET, Oth, or other categories of Component prices that might be published by OPIS. No value will be given to CO<sub>2</sub> or other impurities or for methane in excess of the Carrier's Raw Make Specifications.

"Origin Point" means the inception/receipt points of the Pipeline where Carrier accepts Raw Make for transportation on the Pipeline, as such Origin Point(s) shall be specified in the Rates Tariff making reference hereto.

"Person" means any individual, firm, corporation, trust, partnership, limited liability company, association, joint venture, other business enterprise or Governmental Authority.

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“Pipeline” means that portion of Carrier’s pipeline system, including all appurtenances thereto, related to the provision of transportation service provided by Carrier pursuant to this tariff or any tariff(s) making reference hereto.

“Priority Capacity” means System Capacity that is not subject to prorationing during normal operating conditions.

“Priority Shipper” means a Shipper that has executed and has an effective TSA(s) with Carrier pursuant to which such Shipper has made a specified dedication for transportation of Raw Make on the System.

“Proration Month” means the Month for which System Capacity is to be allocated in accordance with Item 18.

“Rates Tariff” means Carrier’s tariff(s) that sets forth the rates applicable to transportation service on the Pipeline and that makes specific reference to being governed by this Rules and Regulations Tariff.

“Raw Make” means demethanized natural gas liquids meeting the Raw Make Specifications described in Item 7 of this tariff.

“Raw Make Specifications” shall have the meaning given in Item 7 of this tariff.

“Shipper” means the party who contracts with Carrier for transportation of Raw Make under the terms of this tariff.

“Shipper Cash Out Position” means the sum of (i) each Component Imbalance multiplied by (ii) the corresponding OPIS Index less the cost to resolve such Component Imbalance through additional fractionation services at the Destination Point, as determined by Carrier, which cost shall be available upon request.

“System Capacity” means the operational capacity of the Pipeline at any applicable point in time.

“Total Net Volume” means the aggregate Component Net Volume of all Components identified for a given volume of Raw Make.

“Transportation Services Agreement” or “TSA” means a transportation services agreement executed by a Priority Shipper and Carrier.

“Uncommitted Shipper” means any Shipper that is not a Priority Shipper.

“Year” means a period of three hundred sixty-five (365) consecutive Days, except for any Year that involves a leap year, which will consist of three hundred sixty-six (366) consecutive Days.

### **2. Scheduled Shipments**

Shippers desiring to transport Raw Make shall furnish a Nomination to Carrier in accordance with the format prescribed by Carrier, which shall require Shipper to specify the Origin Points, the Destination Points, and the quantity of Raw Make requested to be transported on the Pipeline. Shippers desiring to originate Raw Make shall furnish a Nomination no later than the 15th calendar day of the Month preceding the Month in which Shipper desires transportation; provided, however, that if operating conditions permit, Carrier, in its sole discretion, may consider and accept Nominations submitted after the date specified above. If Shipper does not furnish such Nomination, then Carrier will be under no obligation to accept such Raw Make for transportation.

Raw Make will be accepted for transportation, subject to this tariff, at such time and in such quantity as scheduled by Carrier.

Carrier will transport and deliver Raw Make with reasonable diligence and dispatch considering the quantity, distance of transportation, safety of operations, and other material factors, but Carrier provides no guarantees with respect to timing for delivery of Raw Make at a Destination Point and will accept no Raw Make to be transported in time for any particular market.

When Shipper(s) request for delivery at a Destination Point a volume of Raw Make greater than the amount that can be immediately delivered, Carrier shall schedule the requested delivery. Carrier shall not be liable for any delay in delivery resulting from such scheduling of delivery.

**3. Minimum Tender and Ratable Delivery**

The minimum quantity of Raw Make that will be accepted at an Origin Point for transportation on the Pipeline shall be fifteen thousand (15,000) Barrels per Month. Carrier shall have the right to accept shipments of less than the above minimum tender requirement for transportation on the Pipeline, in its sole discretion, which such transportation may be subject to delay until Carrier has accumulated the required quantities of Raw Make at the same Origin Point from the same or other Shippers.

Carrier reserves the right to require that Shipper deliver Raw Make to each Origin Point for transportation service under this tariff on a Monthly Ratable Basis.

**4. Facilities at Origin and Destinations**

Carrier will provide only such facilities at the Origin Points or Destination Points that Carrier considers necessary for operation of the Pipeline. Raw Make will be accepted for transportation only when Shipper has provided facilities at the applicable Origin Points and Destination Points that are satisfactory to Carrier and are capable of delivering or receiving Raw Make at pressures and pumping rates required by Carrier.

**5. Assurance of Delivery at Destination**

Upon arrival of Raw Make at the specified Destination Point, such Raw Make will be delivered through metering facilities provided by Carrier or the operator of the receiving facility into receiving lines and storage facilities provided by Shipper. In the event Shipper or its Consignee does not have adequate facilities available to receive Raw Make at the Destination Point in accordance with Carrier's schedule and in accordance with the requirements of Item 4, Carrier may store, sell at public auction, or otherwise dispose of Shipper's Raw Make in accordance with Item 13 below.

**6. Demurrage**

Shipper shall remove Raw Make, or cause Raw Make to be removed, from Carrier's facilities following transportation to a nominated Destination Point. If a Shipper's failure to remove Raw Make from Carrier's facilities at a nominated Destination Point threatens or prevents delivery of succeeding shipments into or out of the Pipeline and/or threatens or causes congestion at Carrier's terminals, then Carrier may, without liability to Shipper, make such disposition of unremoved Raw Make as is necessary for the efficient operation of the Pipeline, and Shipper shall pay Carrier all charges and costs associated with such disposition as if Shipper had authorized the same, together with any associated additional costs and damages borne or incurred by Carrier. Shipper shall indemnify and hold Carrier harmless from any loss sustained by Carrier by reason of Shipper's inability to take delivery of unremoved Raw Make, including any interface, out of the Pipeline. In addition to the foregoing remedies, if the Pipeline flow rates are reduced due to Shipper's inability or refusal to take delivery of Raw Make at the nominated Destination Point, then Shipper shall pay an hourly per-Barrel demurrage penalty equal (a) the then-current tariff rate applicable to Shipper from the affected Pipeline segment Origin Point to the furthest Destination Point on such segment, (b) the Pipeline hourly flow capacity, and (c) the number of hours that Shipper's Raw Make remains in the Pipeline.

**7. Raw Make Specifications**

Carrier is engaged in the transportation of Raw Make as herein defined and will not accept any other commodity for transportation under this tariff.

Carrier reserves the right to require Shipper to furnish a certificate by a licensed petroleum inspector confirming the quality and specifications of the Raw Make tendered for transportation hereunder.

Carrier reserves the right to refuse to accept any Raw Make for transportation service that does not conform to Carrier's Raw Make specifications ("Raw Make Specifications"), as identified in Table 1 below. Carrier reserves the right to modify its Raw Make Specifications from time to time. In the event Carrier makes modifications to its Raw Make Specifications, Carrier will provide Shippers with notice of such modifications and provide a copy of, or access to, the modified Raw Make Specifications.

Table 1  
Raw Make Specifications

Component <sup>2</sup>	Test Method <sup>1</sup>	Specification
Carbon Dioxide	GPA-2177	Max 1,000 ppm <sub>w</sub> of the total stream
Methane	GPA 2177	Methane max 0.5 Liq Vol% of the total components excluding N <sub>2</sub> and CO <sub>2</sub> and 1.5 Liq Vol% of the ethane
Ethane	GPA 2177	Min 35 Liq Vol%; Max 55 Liq Vol%
Aromatics	GPA 2186	Max 10.0 Liq Vol% of C <sub>5</sub> +
Olefins	GPA 2186/GPA 2163	Max 0.5 Liq Vol% of the total stream, C <sub>4</sub> olefin max is 0.1 Liq Vol% of the nC <sub>4</sub>
Vapor Pressure	Peng-Robinson EQS	Max 600 psig @ 100°F
Copper Strip @ 100°F	ASTM D-1838	No. 1, use of corrosion masking agents prohibited
Total Sulfur	ASTM D-5623 or ASTM D-6667	Max 150 ppm <sub>w</sub>
H <sub>2</sub> S	ASTM D-5623	None
Carbonyl Sulfide	ASTM D-5623	Max 15 ppm <sub>w</sub> in contained propane
Distillation End Point (147 psia, °F)	ASTM D-86	375°F
Saybolt Number	ASTM D-156	Min +27
Free Water	Inspection/Cobalt Bromide	None at 34°F
Halides (incl Flourides)	Antek method or equivalent	Max 1 ppm <sub>w</sub> in nC <sub>4</sub>
Product Temperature (°F)		Max 110°F

Notes:

- (1) Most recent year's version of ASTM (American Society for Testing and Materials) testing procedures will be used.
- (2) Contaminants: The specification defines only the basic purity for this product. The product is to be free of any contamination that might render the product unusable for its common applications. Specific contaminants include, but are not limited to: dirt, rust, scale, and any other solid contaminants, caustic, amines, chlorides, heavy metals, oxygenates, inerts, and any component added to the product to enhance the ability to meet the specifications.

If Carrier determines that Shipper has delivered to the Pipeline Raw Make that does meet the Raw Make Specifications or that is not good merchantable Raw Make, Carrier reserves the right to treat or otherwise dispose of all such Raw Make in any reasonable commercial manner at Shipper's sole expense. Shipper shall be subject to a penalty charge of \$0.5082 per Barrel for any Barrels of Raw Make that Shipper delivers to the Pipeline that fails to contain a minimum Ethane content of at least twenty-seven and one-half percent (27.5%) (the "Low Ethane Penalty"). The Low Ethane Penalty shall be subject to annual adjustment by multiplying the Low Ethane Penalty then in effect by the FERC Oil Pipeline Index "Multiplier to Use", as published by the Federal Energy Regulatory Commission pursuant to 18 CFR 342.3 on or about the previous July 1 to the date of such escalation, or its successor index. Carrier also reserves the right to collect its actual treating and handling charges for any Raw Make delivered to the Pipeline that does not meet the Raw Make Specifications or that is not good merchantable Raw Make.

Except to the extent Carrier knowingly accepts Raw Make from Shipper that does not conform to the Raw Make Specifications or as otherwise provided in the TSA, Shipper shall be liable for and shall defend, indemnify, and hold Carrier harmless from and against any and all claims, actions, suits, losses, demands, costs, and expenses (including attorneys' fees and costs of repairing, inspecting, cleaning, and decontaminating the facilities of Carrier or third parties) of every kind, nature, or description resulting from any Raw Make that Shipper has delivered into Carrier's facilities that fails to meet the Raw Make Specifications.

**8. Measurement and Inspection**

The quantity of Raw Make received at the Origin Point will be measured by meters and sampled. Raw Make shall be measured in accordance with Carrier's standard measurement procedures and in accordance with the provisions of the TSA, as applicable. Shipper, at its sole risk and expense, may have a representative witness all measurement and sampling at the origins or at the destinations. Carrier shall perform, to the extent feasible, any additional testing or sampling requested by Shipper, and Shipper shall reimburse Carrier for all costs and expenses associated with such additional testing or sampling. All measurement and tests performed by Carrier will be determinative unless Shipper provides written notice to Carrier that it is contesting the applicable measurements and/or tests and provides reasonable documentation explaining such dispute within thirty (30) Days of receipt of appropriate documentation by Shipper setting forth such measurements and/or tests.

**9. System Losses and Loss Adjustments**

Quantities of Raw Make delivered by Carrier to Shipper at the Destinations Points shall be adjusted to account for actual shrinkage, evaporation, measurement, interface losses and other physical losses, and Shipper shall be responsible for its proportionate share any such losses, unless such losses result from Carrier's negligence.

**10. Integrity of Raw Make**

Carrier may commingle Raw Make received for transportation and reserves the right at any time to substitute and deliver Raw Make of the same specification as the Raw Make tendered by Shipper. Raw Make will be accepted for transportation service only on the condition that it shall be subject to such changes in characteristics (including Component changes) while in transit that may result from the mixture with other Raw Make. Carrier shall be under no obligation to make delivery of the identical Raw Make, but may make delivery out of the common stream and Shippers will be required to accept such delivery. For Pipeline protection, Carrier may inject corrosion inhibitor in the Raw Make to be transported and Shipper will accept delivery of Raw Make at the specified Destination Point containing the corrosion inhibitor.

**11. Title to Raw Make, Possession, Control and Risk of Loss**

Title to the Raw Make tendered by Shipper to Carrier for transportation on the pipeline will remain with Shipper.

Shipper shall be deemed to be in exclusive possession and control of all Raw Make for which services are provided hereunder upstream of the Origin Point and downstream of the Destination Point. Carrier shall be deemed to be in exclusive possession and control of all Raw Make at and downstream of the Origin Point and upstream of the Destination Point. Risk of loss for all Raw Make for which services are provided hereunder shall pass from Shipper to Carrier and back to Shipper in the manner outlined in the prior sentence; provided that, Carrier's risk of loss does not apply to the extent of losses and loss adjustments addressed in Item 9 above.

**12. Title, Liens, Raw Make Involved in Litigation or Encumbered**

Shipper warrants and guarantees that Shipper has good title to all Raw Make tendered and delivered hereunder and agrees to hold Carrier harmless for any and all loss, cost, liability, damage, and/or expense resulting from failure of title thereto. Carrier's acceptance of Shipper's Raw Make for transportation service is not an admission by Carrier that Shipper holds good title thereto and is not a waiver of Shipper's obligation to have good title thereto.

Carrier may refuse any Raw Make for transportation which may be encumbered by a lien (other than the line created in favor of Carrier pursuant to Item 13)) or charge of any kind, which may be involved in litigation, or the ownership of which may be in dispute, unless Shipper provides satisfactory evidence of its perfect and unencumbered title or satisfactory indemnity bond to protect Carrier against any and all loss. Carrier's acceptance of Shipper's Raw Make for transportation service is not an admission by Carrier that Shipper holds perfect and unencumbered title thereto and is not a waiver of Shipper's obligation to have good title thereto.

**13. Payment for Transportation and Lien**

Carrier shall bill Shipper Monthly, or more frequently if, in Carrier's judgment, reasonable grounds for insecurity exist in accordance with Item 14, for all transportation charges and other charges due hereunder based upon volumes received by Carrier from Shipper. Shipper shall pay all transportation charges, and other lawful charges accruing on Raw Make within ten (10) Days from the receipt of invoice from Carrier.

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Carrier may require that all payments to Carrier for services pertaining to the transportation of Raw Make be wire transferred in accordance with the instructions on Carrier's invoice to Shipper.

If any amounts owed by Shipper are not paid by the due date stated on the invoice, Carrier shall have the right to assess a finance charge on the entire past due balance until paid in full at the rate equal to the lesser of (i) the prime rate per annum plus two percent (2%), with the prime rate being the then effective prime rate of interest published under "Money Rates" by *The Wall Street Journal* or (ii) the maximum interest rate allowed by law.

Shipper or Consignee shall pay the transportation charges applicable to shipments on the Pipeline and, if required, shall prepay such charges or furnish guaranty of payment satisfactory to Carrier. If Shipper fails to pay any charges when due, Carrier shall not be obligated to provide Shipper access to the Pipeline or provide services pursuant to this tariff until such time as payment is received by Carrier. In addition, Carrier reserves the right to set-off any amounts owing to Carrier against any monies owed by Carrier to Shipper or any of its Affiliates under this tariff, a Transportation Services Agreement, or under any other agreement, or against any Raw Make of Shipper in Carrier's custody. In addition, Shipper shall pay all documented costs incurred by Carrier to collect any unpaid amounts, including attorneys' fees and costs incurred by Carrier.

Carrier shall have a lien on all Raw Make in its possession belonging to Shipper and may withhold such Raw Make from delivery until all unpaid charges shall have been paid. Such lien shall take effect at the Origin Point as Raw Make is received into the Pipeline. Such lien shall secure the payment of any and all charges and fees owed to Carrier by Shipper, including but not limited to penalties, interest, and late payment charges, whether or not incurred on the Raw Make in the Pipeline and whether or not invoiced. Such lien shall be in addition to any and all other rights and remedies Carrier has at law or in equity.

If any charges or fees owed to Carrier by Shipper shall remain unpaid for ten (10) Days after the date set for payment in Carrier's invoice to Shipper or, in the absence of unpaid charges, when there shall be a failure to take redelivery of the Raw Make at the Destination Point, Carrier shall have the following options, in its sole discretion:

- (a) Carrier may sell Shipper's Raw Make in its possession for cash at public auction at its office in Austin, Texas, on any Day not a legal holiday, not less than forty-eight (48) hours after publication of a notice in a daily newspaper in Houston, Texas, of the time and place of sale and the specifications and quantity of Raw Make to be sold. Carrier may be a bidder and a purchaser at such sale. From the sale proceeds, Carrier may pay itself all charges, expense of notice and sale, and storage and maintenance costs, and the balance shall be held for whosoever may be entitled thereto; or
- (b) In circumstances in which Carrier has no storage facilities or other means of holding and maintaining Shipper's Raw Make and inability to deliver (whether caused by Shipper's failure to take redelivery or caused by exercise of Carrier's lien) will cause a shutdown of the Pipeline or a segment thereof, Carrier may, without notice but in the most commercially reasonable manner as is possible under the circumstances, dispose of Shipper's Raw Make. If such disposal shall result in proceeds after payment of Carrier's charges and expenses, proceeds shall be held for whomever may be entitled thereto. If such disposal does not result in proceeds, Shipper and Consignee shall remain liable for all charges due to Carrier and for all expenses incurred by Carrier.

### 14. Creditworthiness of Shippers

Carrier is not required to provide service on behalf of any Shipper who is or has become insolvent. If Carrier, in its sole judgment, has reasonable grounds for insecurity regarding the ability of Shipper or Shipper's guarantor (if any) to perform its obligations hereunder or make payment of charges and fees when due (including without limitation, the occurrence of a material change in the creditworthiness of Shipper or its guarantor (if any)), Carrier, upon notice to Shipper, may require any of the following prior to Carrier's delivery of Shipper's Raw Make in Carrier's possession or prior to Carrier's acceptance of Shipper's Raw Make: (1) prepayment of all charges, (2) a standby irrevocable letter of credit (in a form, amount, and term, and issued by a financial institution reasonably acceptable to Carrier) at Shipper's expense in favor of Carrier, or (3) a guaranty issued on behalf of Shipper in a format, amount and tenor acceptable to Carrier, if the credit of Shipper's guarantor is deemed to be acceptable to Carrier in Carrier's sole judgment; and/or such additional requirements as may be stated in a TSA. If Shipper fails to comply with any such



requirement on or before the date supplied in Carrier's notice to Shipper, Carrier shall not be obligated to provide Shipper access to Carrier's facilities or provide transportation service pursuant to this tariff until such requirement is fully met.

### **15. Application of Rates**

Raw Make transported shall be subject to the rates in effect on the date such Raw Make is delivered by Carrier to Shipper at the Nominated Destination Point, as such rates are identified in the applicable Rates Tariff making reference hereto.

For Raw Make accepted for transportation from any point on Carrier's Pipeline that is not named in the Rates Tariff or delivered to any point on Carrier's Pipeline that is not named in such tariff, but which is intermediate to a point from or to, as applicable, which rates are published therein, through such unnamed point, Carrier will apply the rate published therein from the next more distant point specified in the tariff pending establishment of new rates.

### **16. Liability of Carrier**

Except to the extent otherwise set forth in a Transportation Services Agreement between Carrier and a Priority Shipper, Carrier agrees to indemnify and save Shipper harmless from any loss, claims, or damages for injury or death of any person and for damage to property of Carrier, Shipper, Shipper's Consignee, and/or third party resulting from or arising out of any material breach of any provision of this tariff by Carrier, his agents, employees, or representatives or the negligence of Carrier, his agents, employees, or representatives.

Carrier shall not be liable for any loss of Raw Make as described herein or damage thereto, delay caused by an event of Force Majeure, default of Shipper, or from any other cause not due to the negligence of Carrier ("Non-Routine Raw Make Losses"). Non-Routine Raw Make Losses shall be charged proportionately to each Shipper (in the ratio that such shipment, or portion thereof, received and undelivered at the time of the loss or damage occurs, bears to the total of all shipments or portions thereof, then in the custody of Carrier for shipment via the lines or other facilities in which the loss or damage occurs, provided that if such Non-Routine Raw Make Losses are due to the default of a Shipper, such Shipper shall be responsible for such Non-Routine Raw Make Losses. Shipper shall be entitled to receive only that portion of its shipment remaining after deducting its proportion of such loss or damage determined as aforesaid and shall be required to pay transportation charges only on the quantity delivered. Carrier will not be liable for discoloration, contamination, or deterioration of Raw Make transported hereunder unless resulting from the negligence of Carrier.

### **17. Liability of Shipper**

As a condition precedent to Carrier's acceptance of Raw Make for transportation under this tariff, each Shipper agrees to indemnify and save Carrier harmless from any loss, claims, or damages (including but not limited to consequential damages and attorneys' fees and costs, except that if a Priority Shipper and Carrier have entered a Transportation Services Agreement pursuant to which there is a waiver of consequential, multiple, incidental, indirect, special, exemplary, or punitive damages or loss of profits or revenues, then such waiver shall apply and be enforced in accordance with the terms of the applicable Transportation Services Agreement) for injury or death of any person and for damage to property of Carrier, Shipper, Consignee, and/or third party resulting from or arising out of (1) any material breach of any provision of this tariff by Shipper, his Consignee, his agents, employees, or representatives; (2) the negligence of Shipper, his Consignee, his agents, employees, or representatives; (3) the injection of contaminants of any kind by Shipper, his Consignee(s) or consignors, his agents, employees, or representatives into the Pipeline; and/or (4) failure of Shipper's Raw Make delivered or accepted for transportation to meet Carrier's Specifications.

### **18. Claims Against Carrier; Time Limitation**

As a condition precedent to recovery for loss, damage, delay, or misdelivery, claims must be filed in writing with Carrier within nine (9) Months after delivery of Raw Make or, in case of failure to make delivery, within ten (10) Months after receipt of the Raw Make from Shipper by Carrier, except such time limits shall not apply to the extent damage to Raw Make is actually made known by Carrier. Suits must be instituted against Carrier within two (2) Years from the Day when Carrier gives notice to the claimant that Carrier has disallowed the claim or any part thereof specified in the notice of claim. If claims are not filed or suits are not instituted thereon in accordance with these provisions, Carrier will not be liable and claimant may not recover from Carrier.

**19. Prorating of Pipeline Capacity**

When Carrier receives more Nominations in a Month for transportation of Raw Make on the Pipeline than Carrier is able to transport, Carrier shall allocate the System Capacity under the provisions of this Item 19.

System Capacity will be allocated among Priority Shippers as a class, and Uncommitted Shippers as a class; any remaining System Capacity will be allocated in accordance with the provisions of Item 19(C). Such allocation may be based on Nominations exceeding System Capacity at a given Origin Point or Destination Point and/or a given segment of the Pipeline.

**A. Allocation to Priority Shippers**

- (1) Except as provided in Item 19(A)(2), Carrier shall allocate to each Priority Shipper an amount of System Capacity equal to the lesser of the Shipper's Nomination for the Proration Month or its Monthly Maximum Volume Entitlement. If a Priority Shipper Nominates volumes in excess of its Monthly Maximum Volume Entitlement, then the excess incremental volumes shall be subject to prorating under Item 19(B) below.
- (2) If an event of Force Majeure or other operational issue causes System Capacity to be reduced for the Proration Month, Carrier shall allocate available System Capacity to first satisfy the Nominations up to the Monthly Maximum Volume Entitlement of each Priority Shipper under this Item 19(A), provided that only five percent (5%) of such available System Capacity shall be reserved for Uncommitted Shippers. Carrier will reduce the allocations of available System Capacity to each Priority Shipper affected by such Force Majeure event or operational issue by the same percentage.

**B. Allocation to Uncommitted Shippers**

Following the allocation of System Capacity set forth in Items 19(A), Carrier shall next allocate at least five percent (5%) of the remaining System Capacity on the Pipeline among all Uncommitted Shippers, including Priority Shipper Nominations in excess of each such Shipper's Monthly Maximum Volume Entitlement in the following manner:

- (1) Each Priority Shipper having unmet Nominations or Uncommitted Shipper shall be allocated an amount of System Capacity in the Proration Month that is equal to:
  - (a) its Nomination, if the total volume Nominated eligible for allocation under this Item 19(B) is less than or equal to five percent (5%) of System Capacity on the Pipeline; or
  - (b) its pro rata share of five percent (5%) of the System Capacity on the Pipeline, as such pro rata share shall be determined by dividing the total Barrels of Raw Make shipped by such Shipper in the aggregate during the prior full twelve Month period by the total Barrels of Raw Make shipped on the Pipeline by all Shippers in the aggregate during the prior full twelve Month period, if the total volume Nominated eligible for allocation under this Item 19(B) is greater than five percent (5%) of such System Capacity.

**D. Remaining System Capacity**

Any remaining System Capacity not allocated through the application of Items 19(A) and (B) shall be allocated first, pro rata, to each Priority Shipper having remaining unmet Nominations according to the level of its Monthly Maximum Volume Entitlement. If allocation to any Shipper pursuant to this Item 19 exceeds such Shipper's remaining Nomination or there remains unallocated System Capacity following this additional allocation to Priority Shippers, then the excess volume will be allocated among all Priority Shippers having unmet Nominations until the remaining System Capacity is fully allocated or all of the remaining Nominations have been fulfilled.

**E. Basis for Allocation**

When prorating of System Capacity is in effect:

- (1) Carrier shall allocate System Capacity on a Monthly basis; and

- (2) Carrier will notify each Shipper of its allocation in advance of the Proration Month.

**F. Reallocation of Unused Allocated System Capacity**

If a Shipper does not use the portion of System Capacity allocated to it under this Item 19 at the times and in the amounts designated by Carrier, Carrier shall have the right to use Shipper's unused portion of System Capacity to fulfill the unmet Nominations of other Shippers.

**G. Failure of Shipper to Use Allocated System Capacity**

- (1) Except as provided in Item 19(G)(2) below, a Shipper, who is not a Priority Shipper, that fails to use all of its allocated System Capacity during a Proration Month shall have its allocation of System Capacity reduced in each subsequent Proration Month until the total reductions equal the amount of the deficiency. The amount of any such reduction shall be treated as unused allocated System Capacity and shall be reallocated among other Shippers in accordance with Item 19(F).
- (2) Reduction of such Shipper's allocation for failure to use its allocated System Capacity during a Proration Month may be waived, in whole or in part, if Carrier determines that Shipper's failure to use all or some of its allocated System Capacity was due to an event of Force Majeure.

**20. Linefill Requirements**

Carrier shall be responsible for providing any linefill sufficient for operation of the Pipeline.

**21. Pipeline Contracts Required**

A proposed Shipper may be required to execute a separate pipeline contract covering further details of the transportation service offered hereunder before any duty of transportation shall arise, if Carrier determines that fulfillment of Carrier's duties requires the execution of such an agreement.

**22. Raw Make Component Balancing**

Carrier reserves the right to require Shipper participation in a Raw Make Component Imbalance process. Carrier will work with Shippers, connected pipelines, and connected origins to facilitate the balancing process and in this regard to function as a source of information to ensure confidentiality.

If Carrier requires Shipper participation in the Raw Make Component Imbalance process described herein, Shippers will be required to cash out any Component Imbalance from the prior Month to zero and will be notified by Carrier of its Shipper Cash Out Position on the Component Balance Statement. A positive Shipper Cash Out Position shall be paid by Shippers within ten (10) Days from receipt of the Component Balance Statement. A negative Shipper Cash Out Position shall be paid by Carrier within ten (10) Days from issuance of the Component Balance Statement.

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**TEXAS TARIFF REQUIREMENTS**

The Railroad Commission of Texas tariff requirements at 16 Texas Administrative Code § 3.71(20) (the "Texas Tariff Requirements"), are incorporated herein by reference. To the extent that any matter in the Texas Tariff Requirements is addressed with greater specificity in, or conflicts with, the foregoing Rules and Regulations, the foregoing Rules and Regulations shall govern the rights and obligations of Carrier and Shipper hereunder.

Notwithstanding anything in the Texas Tariff Requirements to the contrary, Carrier will receive, transport, and deliver Raw Make through its facilities only as provided in these Rules and Regulations or in succeeding reissues of these Rules and Regulations.

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[W] Change in Wording