

[W] South Bow (USA) LP
~~TransCanada Keystone Pipeline, LP~~

Local Pipeline Tariff

Containing Rules and Regulations
Applying to the Transportation of
Petroleum

From the International Boundary with Canada at or near Haskett, Manitoba
To Points in Illinois, Oklahoma and Texas

The rules and regulations herein apply only under tariffs making specific reference by F.E.R.C. number to this tariff, such reference will include amendments and supplements hereto or successive issues hereof.

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

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ITEM 1 – DEFINITIONS

1.1 Definitions. Except where the context expressly states another meaning, the following terms, when used in these Rules and Regulations, any rate schedule, or in any Contract into which these Rules and Regulations are incorporated, shall have the following meanings:

“**Adverse Encumbrance**” has the meaning set out in Section 16.1.

“**Affiliate**” means any Person that, directly or indirectly:

- (i) controls a Party;
- (ii) is controlled by a Party; or
- (iii) is controlled by the same Person that controls a Party;

it being understood and agreed that for purposes of this definition the terms “controls” and “controlled by” shall mean the power to direct or cause the direction of the management and policies of another Person whether through the ownership of shares, a contract, trust arrangement or any other means, either directly or indirectly, that results in control in fact, but notwithstanding the foregoing includes, with respect to the control of or by a corporation or partnership, the ownership of shares or equity interests carrying not less than 50% of the voting rights regardless of whether such ownership occurs directly or indirectly, as contemplated above.

“**Allocated Volume**” means for any Month that volume of Pipeline System capacity allocated to a Shipper pursuant to Item 7.

“**Alternate Delivery Point**” has the meaning set out in Section 7.15.

“**API MPMS**” means American Petroleum Institute Manual of Petroleum Measurement Standards.

“**ASTM**” means American Society for Testing and Materials.

“**Available Capacity**” has the meaning set out in Section 7.2.

“**Banking Day**” means any day that the financial institution designated by Carrier for payment pursuant to Section 9.1 conducts business.

“**CER**” means the Canada Energy Regulator.

“**Canadian Contract**” means a Petroleum Transportation Service Agreement between Carrier and either a Term Shipper or its Affiliate for the transportation and delivery of Petroleum for any portion of the Keystone Canada Pipeline System.

“**Canadian Tariff**” means the rules and regulations governing the transportation of Petroleum on the Keystone Canada Pipeline System and any Petroleum toll schedule filed at the CER by South Bow Canada, all as may be amended from time to time.

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“**Carrier**” means [W] South Bow (USA) LP ~~TransCanada Keystone Pipeline, LP~~ and its successors or assigns.

“**Commencement Date**” means (i) in the case of transportation service under a Contract with a Term Shipper, the “Commencement Date” as defined in the Contract between Carrier and each Term Shipper, and (ii) in the case of transportation service for all other Shippers, the date upon which Petroleum is first Tendered to Carrier at the Receipt Point and authorized by Carrier for transportation service hereunder.

“**Contract**” means a Petroleum Transportation Service and Throughput Agreement between Carrier and a Shipper for the transportation and delivery of Petroleum for any portion of the Pipeline System.

“**Contract Delivery Point**” means any Delivery Point specified by Term Shipper in Appendix ‘A’ of a Contract.

“**Contract Volume**” means the daily volume of Petroleum specified by Term Shipper in Appendix ‘A’ of a Contract, whereby Term Shipper commits to ship on the Pipeline System under the terms of such Contract.

“**Cubic Meter**” (m³) means the volume of Petroleum which occupies one cubic meter when such Petroleum is at a temperature of fifteen degrees Celsius (15C) and at a pressure of 101.325 kiloPascals and equals 264.1721 United States gallons and 6.2898108 barrels, under the same conditions.

“**Day**” means a period of 24 consecutive hours, beginning and ending at 7:00 a.m. Mountain Standard Time. The reference date for any Day shall be the calendar date upon which the 24 hour period shall commence.

“**Default Notice**” has the meaning set out in Section 12.1.

“**Default Period**” has the meaning set out in Section 12.1.

“**Defaulting Party**” has the meaning set out in Section 12.1.

“**Deliver**” and any derivative thereof, means the delivery of Petroleum by Carrier to Shipper at a Delivery Point pursuant to the Tariff.

“**Delivery Point(s)**” means the outlet meter at one or more of the locations on the Pipeline System as designated by Shipper to Carrier from time to time as the destination for the Petroleum to be shipped hereunder and recognized by Carrier as a Delivery Point.

“**FERC**” means the Federal Energy Regulatory Commission or any regulatory or governmental authority having similar jurisdiction in substitution thereof.

“**Financial Assurances**” has the meaning set out in Section 20.1.

“**Financial Information**” has the meaning set out in Section 20.1.

“**Force Majeure**” has the meaning set out in Section 15.2.

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“**Gross Standard Volume**” means the volume of Petroleum measured in Cubic Meters in accordance with the most current standards established by ASTM.

“**Heavy Crude**” means Petroleum having a density from and including 876 kilograms per Cubic Meter (kg/m^3) up to and including 940 kg/m^3 , and a viscosity from and including 20 square millimeters per second (mm^2/s) up to and including $350 \text{ mm}^2/\text{s}$.

[C] ~~“**Keystone Canada**” means TransCanada Keystone Pipeline GP Ltd., as general partner on behalf of TransCanada Keystone Pipeline Limited Partnership and its successors and assigns.~~

“**Keystone Canada Pipeline System**” means the Petroleum receipt, delivery, pipeline, pumping, monitoring, control and ancillary facilities owned by Keystone Canada, commencing at or near Hardisty, Alberta and which connect to the Pipeline System at the international boundary at or near Haskett, Manitoba, as such facilities may be modified, expanded or extended from time to time.

“**Keystone Customer Portal**” means the internet-based interface between the Carrier and Shippers. The Keystone Customer Portal may be accessed at [W] <https://www.southbow.com/operations/keystone-pipeline-system-shipper-info>~~https://www.teenergy.com/operations/oil-and-liquids/keystone-pipeline-system-shipper-info~~.

“**kiloPascal**” (kPa) is equivalent to 0.1450377 pounds per square inch (psi).

“**Light Crude**” means Petroleum having a density up to but not including 876 kilograms per Cubic Meter (kg/m^3), and a viscosity up to but not including 20 square millimeters per second (mm^2/s).

“**Month**” means the period beginning at the first Day of the calendar month and ending at the same hour on the first Day of the next succeeding calendar month.

“**Monthly Nomination**” has the meaning set out in Section 7.1.

“**Monthly Revenue Commitment**” means the product of the Monthly Volume multiplied by the term shipper commitment rate as described in Appendix “B” of a Contract.

“**Monthly Volume**” means the product of the Contract Volume multiplied by the number of Days in the applicable Month.

“**Net Standard Volume**” means the Gross Standard Volume minus the sediment and water component.

“**Nomination**” and any derivative thereof, means the volume of Petroleum specified by Shipper in the Notice of Shipment as described in Section 7.1.

“**Non-Term Shipper**” means a Shipper that is not a Term Shipper.

“**Notice of Shipment**” means the form prescribed by Carrier from time to time to be used by Shipper to notify Carrier of proposed Tenders for the following Month, as such form may be amended by Carrier from time to time. A Notice of Shipment may include, without limitation, Shipper’s name, contact person and contact information, Month of shipment, volume and Type of Petroleum to be Tendered in such Month, and the designated Receipt Point and Delivery Point(s). Keystone’s Notice of Shipment can be

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accessed in the Keystone Customer Portal.

“**Party**” means Carrier or a Shipper, as applicable, and “**Parties**” means both Carrier and a Shipper.

“**Payment Due Date**” means the date that is the 25th day of each month. If the 25th day is not a Banking Day, then the Payment Due Date shall be the first Banking Day immediately after the 25th day of such month.

“**Person**” means any natural person, firm, trust, partnership, corporation, limited liability company, joint venture, association, joint stock company, enterprise, unincorporated entity, government, governmental agency or other entity.

“**Petroleum**” means the direct liquid product of oil wells, oil processing plants, oil sands, or a mixture of such products, but does not include natural gas or natural gas liquids or refined petroleum products. For the purposes of this definition, “oil” includes crude oil, synthetic crude oil, or a bitumen blend consisting of bitumen blended with synthetic crude oil, condensate or both, that is recovered in processing and that is in a liquid state at the conditions under which its volume is measured or estimated.

“**Pipeline System**” means the Petroleum receipt, delivery, pipeline, pumping, monitoring, control and ancillary facilities owned by Carrier which are connected to the Keystone Canada Pipeline System commencing at the international boundary at or near Haskett, Manitoba, and terminating at or near Patoka, Illinois and Port Arthur and Houston, Texas, as such facilities may be modified, expanded or extended from time to time.

“**Position Settlement**” means the Monthly process used by Carrier to balance Shipper positions by financially settling individual Shipper overages and shortages (including losses for shrinkage and evaporation incident to Carrier transportation) on the Pipeline System for the preceding month, thereby resulting in the balancing of all Shipper positions from one Month to the next.

“**Position Settlement Cost Recovery**” means the pro-rata allocation method used to distribute the aggregated financial gain or loss resulting from Position Settlement, among all Shippers subject to Position Settlement, for a Month, as described in Section 5.4.

“**Prime Rate**” means the variable annual rate of interest charged by Bank of America, New York, New York (or its successor) as its reference rate of interest for calculating interest on variable rate commercial loans made in U.S. dollars in the United States to its most creditworthy customers.

“**Receipt Point**” means the point of interconnection between the Pipeline System and the Keystone Canada Pipeline System at the international boundary at or near Haskett, Manitoba where Petroleum enters the Pipeline System.

“**Shipper**” means any Person who uses the transportation service of the Pipeline System pursuant to the Tariff.

[W] “South Bow Canada” means South Bow GP (Canada) Ltd., as general partner on behalf of South Bow (Canada) Limited Partnership and its successors and assigns.

“**Special Damages**” means, collectively, any indirect, consequential (including loss of revenue or loss of

profit), incidental, punitive or exemplary damages.

“**Standard Conditions**” is defined as a density at a reference temperature of fifteen (15) degrees Celsius and pressure of 101.325 kPa-absolute.

“**Tariff**” means these Rules and Regulations and any other rate tariffs filed at the FERC by Carrier, all as may be amended from time to time.

“**Tender**” and any derivative thereof, means the delivery by a Shipper to Carrier at the Receipt Point of a stated quantity and Type of Petroleum for transportation from such Receipt Point to a Delivery Point pursuant to a Nomination, with the actual volume for such Tender for invoicing purposes determined in accordance with Item 8.

“**Term Shipper**” means a Shipper that is a party to a Contract.

“**True Vapor Pressure**” means the resulting temperature dependent vapor pressure as measured in accordance with ASTM D6377 (most current version), specifically applied as $VPCR_4(X)$ where VPCR is the vapor pressure of the crude, (4) is the vapor/liquid ratio of the test condition and (X) is the equilibrium temperature at which the test is conducted.

“**Type**” in relation to Petroleum, means Light Crude or Heavy Crude, as applicable.

“**Uncommitted Rate**” means the rates and charges charged to a Shipper pursuant to the Tariff.

“**Working Stock**” means the volume of Petroleum required to be held by Carrier within the Pipeline System for operational and scheduling purposes as determined by and specified from time to time by Carrier.

“**Year**” means a period of 365 consecutive Days; provided however, that any year which contains the date February 29 shall consist of 366 consecutive Days.

1.2 **Construction.** In construing these Rules and Regulations;

- (i) unless otherwise specified, references to Items and Sections refer to Items and Sections of these Rules and Regulations,
- (ii) no consideration shall be given to the captions of any Items or Sections, which are inserted for convenience in locating the provisions of these Rules and Regulations and not as an aid in their construction, and
- (iii) the singular shall be deemed to include the plural and *vice versa*.

ITEM 2 – COMMODITY AND STANDARD

2.1 Commodity. The Tariff applies to the transportation of Petroleum by Carrier and Carrier shall have no obligation to transport any commodity other than Petroleum.

2.2 Standard. Carrier shall act as a reasonable and prudent operator in the discharge of Carrier’s

duties hereunder.

ITEM 3 – ORIGIN AND DESTINATION

3.1 Acceptance and Delivery. Petroleum will be accepted for transportation only when Tendered at the Receipt Point and Nominated for Delivery to the Shipper or its consignee or designee at a Delivery Point pursuant to the Tariff.

3.2 Delivery Facilities. Petroleum will be accepted for transportation only when the Shipper has provided or made arrangements for the necessary facilities and transportation service satisfactory to Carrier at the specified Delivery Point for handling the Petroleum at the rate of flow at which Carrier is then operating the Pipeline System at such Delivery Point.

3.3 Information To Be Maintained By Shipper. Each Shipper shall be responsible to maintain all information, including, but not limited to, any information pertaining to the source (including the country of origin), value, and quantity, regarding Shipper's Petroleum or its respective components that is received by, transported through or stored in the Pipeline System in accordance with all applicable laws, including for the purposes of complying with any customs and trade laws. At no time will Carrier be required to maintain or provide any such information unless specifically mandated by law.

ITEM 4 – QUALITY

4.1 Permitted Petroleum. Only that Petroleum having properties that conform to the specifications of Petroleum described in Sections 4.2, 4.3 and 4.4 will be permitted in the Pipeline System. Shipper will not Tender to Carrier, and Carrier will have no obligation to accept, transport or Deliver Petroleum which does not meet said specifications.

4.2 Specifications of Petroleum. For the purposes of Section 4.1, the specifications of the Petroleum shall be as follows:

- (i) True Vapor Pressure shall not exceed sixty nine (69) kPa absolute (kPa-a) at 37.8 degrees Celsius as measured in accordance with the most recent version of ASTM D6377;
- (ii) Sediment and water shall not exceed one-half of one percent (0.5%) of volume, as determined by the centrifuge method in accordance with ASTM D4007 standards (most current version) or by any other test that is generally accepted in the petroleum industry as may be implemented from time to time;
- (iii) The temperature at the Receipt Point shall not exceed thirty-eight degrees Celsius (38°C)
- (iv) The density at Standard Conditions shall be a minimum density of eight hundred and twenty five (825) kilograms per Cubic Meters (kg/m³) and not exceed nine hundred and forty (940 kg/m³);
- (v) The kinematic viscosity shall not exceed three hundred and fifty (350) square millimeters per second (mm²/s) determined at the Carrier's reference line temperature as posted on Carrier's website; and

- (vi) Shall have no physical or chemical characteristics that may render such Petroleum not readily transportable by Carrier or that may materially affect the quality of other Petroleum transported by Carrier or that may otherwise cause disadvantage or harm to Carrier or the Pipeline System, or otherwise impair Carrier's ability to provide service on the Pipeline System.

4.3 Modifications to Specifications. Notwithstanding Sections 4.1 and 4.2, or any other provision in these Rules and Regulations to the contrary, Carrier shall have the right to make any reasonable changes to the specifications under Section 4.2 from time to time to ensure measurement accuracy and to protect Carrier, the Pipeline System, or Carrier's personnel, or to ensure compliance with federal, state or local requirements, provided that Carrier shall give Shipper reasonable notice of such changes prior to filing.

4.4 Freedom from Objectionable Matter. Petroleum shall not contain sand, dust, dirt, gums, impurities or other objectionable substances in quantities that may be injurious to Carrier, the Pipeline System or downstream facilities, or which may otherwise interfere with the transportation of Petroleum in the Pipeline System.

4.5 Failure to Conform to Specifications. If Carrier determines that a Shipper does not comply with the provisions of Section 4.2, 4.3 or 4.4 of these Rules and Regulations, then, upon notice from Carrier, such Shipper shall, at Shipper's sole cost and expense, remove its off-specification Petroleum from the Pipeline System as and when directed by Carrier, acting reasonably.

4.6 Failure to Remove Objectionable Matter. If a Shipper fails to remove its off-specification Petroleum from the Pipeline System in accordance with the provision of Section 4.5, then, in addition to any other remedy available to Carrier under the Tariff, at law or in equity, Carrier shall have the right to remove and sell such Petroleum in any manner deemed appropriate by Carrier. Carrier shall pay from the proceeds of such sale all costs and expenses incurred by Carrier with respect to the storage, rates and charges for any removal or Delivery, or pending removal or Delivery, of the Petroleum (as contemplated in Section 9.5), and sale of such Petroleum and Carrier shall be entitled to retain a reasonable pre-estimate of any damages, losses, costs, expenses and other charges incurred or anticipated to be incurred by Carrier in respect of the presence of such objectionable matter. The remainder of such proceeds, if any, shall be promptly paid by Carrier to the Shipper or as directed in writing by Shipper. 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 Pipeline System that is attributable to the presence of such objectionable matter. Shipper shall indemnify and save harmless Carrier in accordance with Section 11.2 of these Rules and Regulations for any adverse impact to downstream facilities imposed on Carrier that is attributable to the presence of such objectionable matter.

ITEM 5 – MEASUREMENTS

5.1 Measurement Base. The volumetric measurement base of all Petroleum referred to in the Tariff shall be one (1) Cubic Meter.

5.2 Metering. All Petroleum received by Carrier for transportation shall be gauged or metered and tested by a representative of Carrier prior to its acceptance at Hardisty on the Keystone Canada Pipeline System and at the Delivery Point(s). The Shipper may have a representative present at the gauging, metering and testing. If tank calibration tables are used for such purpose, quantities will be computed

from the most recent, regularly compiled tank calibration tables showing one hundred percent (100%) of the full capacity of the tanks. Such tank calibration tables shall be maintained in accordance with API MPMS 653. Carrier shall prove all meters situated at both Hardisty and the Delivery Points at least once each month and Shipper may have a representative present to witness such proving. In addition, Shipper shall have the right to request that a meter(s) be proven if it has reasonable grounds to believe that such meter is not functioning properly. Should any meter be determined by Carrier to be functioning improperly, Carrier shall promptly notify each Shipper affected thereby. Whenever there is substantial evidence of meter malfunctions in a custody transfer measurement, the parties involved in the custody transfer shall negotiate an appropriate adjustment on the basis of the most reliable and accurate information available. Such adjustments may only be claimed for a period of up to one hundred twenty (120) Days after the date that the affected Party discovers and advises the other Party of the meter malfunction.

5.3 Meter Tickets. All Petroleum shall be received and Delivered with documented meter tickets or the accepted electronic equivalent, showing:

- (i) Gross Standard Volume and Net Standard Volume received and Delivered;
- (ii) kinematic viscosity and associated temperature;
- (iii) weighted average density;
- (iv) weighted average pressure; and
- (v) sediment and water.

All measurement procedures are to be conducted in accordance with applicable API MPMS/ASTM standards (most current version) and pipeline industry practice or such other tests as may be agreed upon by Carrier and Shippers.

5.4 Overages and Shortages. Carrier shall deliver and account to each Shipper for one hundred percent (100%) of Petroleum Tendered for its account subject to any actual Pipeline System gains or losses due to evaporation or shrinkage due to normal pipeline operations on the Pipeline System. Adjustments for overages or shortages (including losses for shrinkage and evaporation incident to Carrier transportation), will then be based on the proportion that such Shipper's total Deliveries from the Carrier bears to the total Deliveries of all Shippers from the Carrier. Overages or shortages will be calculated and prorated to Net Standard Volumes for Petroleum shipped on a Monthly basis.

Shipper position imbalances will be settled using the two step process referred to as Position Settlement and Position Settlement Cost Recovery. Position Settlement will only involve settlement of commodity value. In accordance with Carrier's Position Settlement Cost Recovery, a Shipper subject to Position Settlement for a Month will be charged or credited in an amount equal to that Shipper's pro-rata share of its deliveries off the Pipeline System for a given Month, multiplied by the total cost of settlement during the same Month. If conditions so require, Carrier may suspend Position Settlement or settle less than 100% of a Shipper's position in a non-discriminatory fashion.

5.5 Carrier Right of Access. Subject to applicable laws and government regulations applicable to Shipper's premises, Carrier's representative, upon reasonable notice to Shipper, shall have the right to

enter upon the Shipper's premises where Petroleum is stored and have access to any and all tankage situated therein for the purpose of making any examination, inspection, measurement or test provided for under the Tariff; provided, however, Shipper shall not be liable to Carrier for any loss, injury, or damage to or suffered by Carrier or Carrier's representative during such entry or access unless and to the extent caused by Shipper's negligence.

5.6 Crude Type. Petroleum shall be classified by Type by Carrier on the basis of measured density and viscosity at the time of Tender. Where the density of the Petroleum falls within the density range of one Petroleum Type and the viscosity of the Petroleum falls within the viscosity range of another Type, then the Petroleum shall be deemed to be of the Type with the higher transportation rate.

ITEM 6 – SEGREGATION AND CHANGES IN QUALITY

6.1 Delivery of Types of Petroleum. Carrier shall endeavour to Deliver substantially the same Type and quality of Petroleum as that received by Carrier from Shipper. Notwithstanding the foregoing, Carrier shall not be obligated to make Delivery of Petroleum of identical quality or specification Tendered by Shipper.

6.2 Alterations of Specifications. Shipper acknowledges and accepts that any Petroleum Tendered for transportation will be received by Carrier only on the condition that such Petroleum shall be subject to such changes in density, specification, quality and characteristics while in transit as may result from the transportation thereof in the Pipeline System, including, without limitation, the mixture of said Petroleum with other Petroleum (meeting the specifications set forth in Section 4.2) in the Pipeline System. Carrier shall not be liable for any Special Damages resulting from any alteration in density, specification or other quality or characteristic of Petroleum transported by Carrier, and shall not be liable for any direct damages resulting from any such alteration, except where such direct damages are directly caused by the negligence or wilful misconduct of Carrier.

6.3 Segregated Movement. If the Petroleum Nominated by a Shipper is of a Type or quality not then being transported through the Pipeline System but meets the specifications set out in Item 4, Carrier may, in its reasonable discretion and as operating conditions permit, at the request of Shipper, attempt to make Delivery of substantially the same Type and quality of Petroleum at the Delivery Point Nominated by Shipper. Notwithstanding the foregoing, Carrier's efforts under this Section 6.3 shall not constitute a waiver, release or amendment of the provisions set forth in Sections 6.1 and 6.2, which provisions shall nonetheless apply to the transportation and Delivery of Petroleum by Carrier under this Section 6.3. To the extent the transportation of such Petroleum causes the Pipeline System or Carrier to incur extraordinary costs not normally incurred for other Types or quality of Petroleum typically transported through the Pipeline System, such Shipper shall be liable for, and shall indemnify Carrier for, all such costs.

ITEM 7 – NOMINATIONS, TENDERS AND APPORTIONMENT

7.1 Monthly Nominations. Each Month, in respect of transportation service for the following Month, subject to Section 7.14, Shippers shall submit their respective Nominations (each a "**Monthly Nomination**") to Carrier on a Notice of Shipment delivered no later than 7:00 a.m., Mountain Standard Time, on Carrier's designated Monthly Nomination date which date shall be posted on a schedule of nomination dates listed on Carrier's website. Shippers shall submit the Notice of Shipment in the

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Nominations application located within the Keystone Customer Portal. Only one Notice of Shipment is required for the Pipeline System and the Keystone Canada Pipeline System. A Notice of Shipment is accepted by Carrier upon Carrier posting a status of "Accepted" on the Notice of Shipment within the Keystone Customer Portal, subject to the following:

- (i) Except as expressly provided in a Contract, if a Shipper fails to Nominate any volume, the Shipper's Monthly Nomination will be deemed to be zero.
- (ii) If Shipper's Tenders have been curtailed pursuant to Item 13 of these Rules and Regulations, Shipper shall be deemed to have submitted a Nomination equal to its Monthly Nomination reduced by the level of curtailment.
- (iii) Except as otherwise provided in a Contract, Shipper shall not be responsible for any payments on that curtailed portion of Monthly Nomination.
- (iv) In support of a Shipper's Monthly Nomination:
 - (a) Carrier may, at its discretion, on a non-discriminatory basis, and at its own behest where Carrier has reasonable grounds, seek to verify; or
 - (b) Upon notice from Carrier, Shipper shall provide written verification of Shipper's ability to 1) Tender Petroleum at the Receipt Point; and 2) Remove or have removed such Petroleum at the Delivery Point(s) (which removal verification shall be made by a relevant third party). Carrier shall not be obligated to accept Shipper's Monthly Nomination where such verification is, in the reasonable discretion of Carrier, unacceptable to Carrier.

7.2 Allocation of Available Capacity. Following the receipt by Carrier of Monthly Nominations, Carrier shall determine the capacity available at the Receipt Point and each Delivery Point on the Pipeline System for transportation service in that Month ("**Available Capacity**"). In the event Monthly Nominations exceed Available Capacity, then, having regard to the operating conditions of the Pipeline System, as determined by Carrier, ninety-five percent (95%) of the Available Capacity shall be allocated by Carrier on a non-discriminatory historical basis to all Shippers, with an individual Shipper's entitlement based on the greater of the volumes transported or paid for during a representative period, provided however, for the first six (6) Months following in-service of Keystone XL (as such term is referenced from time to time on the Carrier's website) the Monthly Volume of a Term Shipper which has executed a Contract for transportation service to Port Arthur or Houston on Keystone XL shall be the basis of determining such Term Shipper's minimum historical entitlement to Available Capacity at Port Arthur. For those Months in the representative period where transportation service to Port Arthur or Houston for Term Shippers which have executed a Contract for transportation service to Port Arthur or Houston was unavailable to such Term Shippers as a result of Keystone XL not yet being completed and placed into service, the volumes transported by any Shippers to Port Arthur or Houston shall be excluded from the representative period.

The remaining five percent (5%) of the Available Capacity shall be allocated on a pro rata basis to new Shippers. Any new Shipper shall not be allocated more than one percent (1%) of the Available Capacity. If aggregate Monthly Nominations by all new Shippers is less than five percent (5%) of Available

Capacity, all new Shippers shall be allocated their Monthly Nominations and the remaining Available Capacity shall be allocated to historical Shippers which transported or paid for volumes during the representative period. For the purposes of this Section 7.2, historical Shippers are deemed to be those Shippers that transported or paid for volumes during a representative period.

During instances of allocation, a Shipper will be deemed to have submitted a revised Notice of Shipment, containing a Nomination equal to its Allocated Volume determined by Carrier. Following the posting of the Allocated Volume, Shipper will have an opportunity to advise Carrier which nominations on its submitted Notice of Shipment are to be revised to match its Allocated Volume. In the event that a Shipper does not so advise Carrier by the deadline posted by Carrier on the Notice of Shipment form, the Shipper's nominations on its submitted Notice of Shipment shall be reduced pro-rata by Carrier to match Shipper's Allocated Volume. A revised Notice of Shipment is accepted upon Carrier posting a status of "Accepted" on the Notice of Shipment within the Keystone Customer Portal.

7.3 Mid-Month Apportionment. In the event the Carrier is required to curtail, interrupt or reduce transportation service for reasons described in Item 13 and/or unable to perform its obligations due to Force Majeure events described in Item 15 during the month where Available Capacity is reduced after Monthly Nominations have been allocated, the remaining tenders of Term and Non-Term Shippers will be reduced pro-rata by the amount of Available Capacity reduction.

7.4 Batch Size. A Shipper's Tender will be accepted only when the total quantity covered thereby will be Tendered to Carrier at a Receipt Point for transportation within said Month at a daily rate, or in quantities and at times to be specified or accepted by Carrier. Except as hereunder provided, Carrier will not accept a batch size of less than sixteen thousand Cubic Meters (16,000 m³) (100,000 bbls) or a batch size of greater than thirty-two thousand cubic meters (32,000 m³) (200,000 bbls). Carrier may, in its sole discretion, acting reasonably, (i) agree to accept Tenders of Petroleum in batch sizes less than 16,000 m³ (100,000 bbls) or in batch sizes greater than 32,000 m³ (200,000 bbls) and (ii) outline procedures or criteria under which it may accept Tenders of Petroleum in such batch sizes.

7.5 Tenders. A Shipper desiring to Tender Petroleum for transportation shall make such Tender in accordance with Carrier's batch schedule. The projected batch schedule will be posted in the Keystone Customer Portal as necessary. Upon Carrier's request, if Shipper is unable to provide Carrier with reasonable evidence of Shipper's ability to remove from a Delivery Point the volume of Petroleum to be Tendered, Carrier may reduce the amount of Petroleum received from Shipper at a Receipt Point to the amount determined by Carrier which Shipper has verified it will be able to remove at the Delivery Point.

7.6 Late Nominations. If capacity is available and operating conditions permit, as determined by Carrier in its reasonable sole discretion, Carrier may accept Nominations after Carrier's designated Monthly Nomination date. Shippers shall submit such Nominations by submitting a Late Nomination Form, which can be accessed in the Keystone Customer Portal. A Late Nomination Form is accepted by Carrier upon Carrier posting a status of "Accepted" on the Late Nomination Form within the Keystone Customer Portal. Late Nominations shall be accepted on a non-discriminatory basis, subject to operating conditions.

7.7 Revised Nominations. If capacity is available and operating conditions permit, as determined by Carrier in its reasonable sole discretion, Carrier may accept revised Nominations after Carrier's designated Monthly Nomination date. Shippers shall submit such revised Nominations by submitting a

Change Request Form which can be accessed in the Keystone Customer Portal. A Change Request Form is accepted by Carrier upon Carrier posting a status of "Accepted" on the Change Request Form within the Keystone Customer Portal. Revised nominations shall be accepted on a non-discriminatory basis, subject to operating conditions.

7.8 Working Stock. As of the Commencement Date, a Non-Term Shipper is not required to supply Working Stock for the Pipeline System, and a Term Shipper is required to supply Working Stock for the Pipeline System pursuant to the terms of the Term Shipper's Contract when required by operating conditions. Carrier may, from time to time, change the Working Stock requirements on the Pipeline System on a non-discriminatory basis, in which case it will notify Shippers of their Working Stock requirements through the Keystone Customer Portal.

7.9 Term Shipper Nominations. Except as provided in Section 7.1, in the event that a Term Shipper fails to Nominate or Tender a volume of Petroleum equal to the Monthly Volume, it shall nonetheless pay to Carrier the Monthly Revenue Commitment and all other rates and charges set forth in the Contract.

7.10 Term Shipper Make Up Rights. Term Shippers who fail to meet their Monthly Volume requirements in a Month will be subject to uniform provisions with respect to their ability to make up those volumes in subsequent Months, in the manner described in the Contract. Any make-up volumes to be Tendered by Term Shippers pursuant to the Contract shall be Nominated and ranked equally with all volumes Nominated for the purpose of allocating Available Capacity on the Pipeline System pursuant to Section 7.2.

7.11 Non-Term Shippers. The transportation of Petroleum by Carrier for Non-Term Shippers shall be in accordance with and subject to the terms and conditions of the Tariff. Each Non-Term Shipper shall in each Month Tender to Carrier a volume of Petroleum equal to its Allocated Volume. Except as provided in Item 8, Non-Term Shippers shall pay to Carrier each Month:

- (i) an amount equal to the product of (a) the Uncommitted Rate, multiplied by (b) the actual volume of Non-Term Shipper's Tendered Petroleum; and
- (ii) if applicable, a deficiency payment equal to the product of (a) the Uncommitted Rate multiplied by (b) the positive difference between (A) ninety-five percent (95%) of Non-Term Shipper's Allocated Volume, and (B) such Non-Term Shipper's Tendered Petroleum as measured at the receipt point(s) on the Keystone Canada Pipeline System.

7.12 Uniform Tenders. Each Shipper shall endeavor to Tender Petroleum to Carrier in each Month in accordance with Carrier's rateable batch schedule to make up its Allocated Volume and having such Petroleum specifications as will reasonably be compatible with Pipeline System operations. Carrier may curtail receipts of Petroleum from a Shipper if such Shipper attempts to Tender in excess of volumes equal to its Allocated Volume in accordance with Carrier's rateable batch schedule.

7.13 Flow Rates and Volumes. Carrier will normally take full stream receipts at the Receipt Point and will make full stream Deliveries of Petroleum at Delivery Point(s) at flow rates and volumes compatible with the Pipeline System operations.

7.14 Deemed Nominations, Tenders and Custody Transfer. Shipper shall be deemed to have

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submitted its Monthly Nomination and Notice of Shipment in accordance with Section 7.1 provided that Shipper, or its Affiliate, who is either a party to a Canadian Contract, or in the case of a Non-Term Shipper, has otherwise satisfied the requirements of the Canadian Tariff to be a Shipper on the Keystone Canada Pipeline System, has submitted a nomination and notice of shipment in accordance with the provisions of the Canadian Tariff. For greater certainty, the monthly volumes of Petroleum deemed nominated and Tendered by Shipper for transportation by Carrier on the Pipeline System and monthly volumes received by Carrier at the Receipt Point is deemed to be the Petroleum nominated and tendered by Shipper, or its Affiliate, and received by South Bow Canada at Hardisty, Alberta for transportation by South Bow Canada on the Keystone Canada Pipeline System in accordance with the provisions of the Canadian Tariff.

7.15 Alternate Delivery Point. Carrier shall, upon written request of Shipper, subject to the operating conditions and Available Capacity and at Carrier's discretion: (i) allow a Term Shipper to Nominate an alternate Delivery Point from the Contract Delivery Point to another Delivery Point in the Tariff; or (ii) allow a Shipper to change the Delivery Point designated in its Nomination to an alternate Delivery Point in the Tariff ("Alternate Delivery Point"), provided that in either case, such Shipper will be responsible for any applicable rates and charges payable for Petroleum delivered to such Alternate Delivery Point.

ITEM 8 – APPLICATION OF RATES

8.1 Effective Rates and Actual Volumes for Invoicing Purposes. Petroleum accepted for transportation shall be subject to the Uncommitted Rate, except as such Uncommitted Rate may be discounted pursuant to Section 8.2 below, or the rates set forth in a Contract, and interest if applicable, in effect or agreed upon for the Month such Petroleum is Nominated for Tender to the Carrier at the Receipt Point, irrespective of the date of Nomination, the date of Tender or date of Delivery at the Delivery Point(s), unless otherwise specified in the rate Tariff. The actual volumes of such Tenders to which such rate is applied for invoicing purposes shall be based on the Net Standard Volume as measured at the Delivery Point(s), unless otherwise stated in the Tariff.

8.2 Discounted Uncommitted Rates. Carrier may discount the Light Crude or Heavy Crude Uncommitted Rates reflected on the currently effective rate tariff in a not unduly discriminatory manner. Any discount will be reflected on a rate tariff, which shall be filed as soon as possible, but on no less than one day's notice, and which will not become effective until after the day on which Carrier receives a Tender of Light Crude or Heavy Crude eligible for such discount.

ITEM 9 – PAYMENT OF TARIFF RATES AND OTHER CHARGES AND LIEN FOR UNPAID CHARGES

9.1 Invoicing and Payment. Shipper shall pay to Carrier the applicable Monthly Revenue Commitment and all other rates and charges payable in accordance with the Tariff on or before the Payment Due Date. On or before the 15th day of each calendar month, Carrier will electronically issue to Shipper an invoice detailing:

- (i) the rates payable to Carrier pursuant to the Tariff for service provided during the previous Month, and
- (ii) any other charges for which Shipper is liable under a Contract or the Tariff (including,

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without limitation, any applicable taxes). Invoice payments shall be made on or before the Payment Due Date to the account of Carrier at Bank of America, New York, New York, or such other bank or financial institution as Carrier may designate in writing.

9.2 Carrier's Lien. Carrier shall have a lien, charge and security interest on all Petroleum in its possession Tendered by or on behalf of Shipper, and on all proceeds of such Petroleum, to secure the performance of all obligations of Shipper under the Tariff, including without limitation, the payment of any and all unpaid rates and other charges that are due Carrier and unpaid by Shipper. Carrier may withhold such Petroleum from Delivery until all such unperformed obligations or unpaid rates and charges have been performed or paid in full, as the case may be. The lien, and other remedies contained in this Section 9.2, are in addition to any other remedies available to Carrier at law, in equity, or under a Contract or the Tariff.

9.3 Carrier Remedies. Should Shipper fail to pay the full amount of any invoice described in this Item 9 on or before the Payment Due Date, in addition to any other remedy Carrier may have under a Contract, the Tariff, at law or in equity:

- (i) interest on the unpaid portion of the invoice shall accrue daily, commencing on the Day immediately following the Payment Due Date, at a rate of interest per annum equal to the Prime Rate; and
- (ii) Carrier may, upon five (5) Banking Days written notice to Shipper, suspend further receipt and Delivery of Petroleum from and to Shipper until such amount is paid in full, provided however, that any such suspension shall not relieve Shipper from any obligation to pay any further rates, charges or other amounts payable to Carrier under the Tariff. If, at any time during such suspension, Shipper pays the full amount payable to Carrier, Carrier shall, within two (2) Banking Days of receipt of payment, recommence receipt and Delivery of Shipper's Petroleum. If Shipper fails to pay the full amount payable to Carrier after such suspension, Carrier may, at its option at any time, in addition to any other remedy that may be available to it under a Contract, the Tariff, at law or in equity, upon three (3) Banking Days written notice to Shipper, (a) seize and sell any of Shipper's Petroleum then in Carrier's possession pursuant to Section 9.4, and (b) for a Term Shipper, terminate the Contract with such Term Shipper, provided however, if Carrier terminates the Contract, Term Shipper shall remain liable for and shall, to the extent permitted by applicable law and subject to Carrier's obligation to mitigate, pay to Carrier within five (5) Banking Days of such termination, pursuant to Carrier's invoice, the net present value of the aggregate of: (A) the monthly charges payable under the Contract or the Tariff (including, without limitation, the Monthly Revenue Commitment), for the unexpired term(s) of such Contract, (B) all applicable taxes, (C) all amounts owing under the Contract in respect of Petroleum Delivered but for which all rates and any other charges are not yet paid, and (D) all other amounts for which Term Shipper is obligated to pay Carrier pursuant to the Tariff.

9.4 Seizure and Sale by Carrier. Pursuant to Sections 9.3, 10.2 and 12.2, Carrier shall have the right itself or through an agent, to seize and sell at public auction, or, if not permitted by applicable law, by such other lawful means available to Carrier in its discretion, any Petroleum delivered to the Carrier by the Shipper and then in the possession of Carrier or its agent, or otherwise traceable and lienable by Carrier. Such sale may occur on any Day not a legal holiday, provided that the sale takes place not less

than forty-eight (48) hours after publication of notice of such sale in a daily newspaper of general circulation published in the area of the proposed sale. Such notice shall state the time, place of sale and quantity, Type, and location of Petroleum to be sold. Shipper covenants and agrees not to dispose of its Petroleum other than subject to the lien, charge and security interest granted to Carrier hereby. At such sale, Carrier shall have the right to bid and, if the highest bidder, to become the purchaser of the Petroleum. From the proceeds of the sale of the Petroleum, Carrier will pay itself the rates, charges, damages and other amounts payable to Carrier under the Tariff, including, without limitation, reasonable storage expenses pending sale of such Petroleum, rates and charges for any removal or Delivery, or pending removal or Delivery, of the Petroleum (as contemplated in Section 9.5), and all costs and expenses incident to the sale, and the balance remaining, if any, shall be held for whomever may be lawfully entitled thereto, without any obligation to pay interest thereon. Any such funds may be commingled in any account or accounts maintained by Carrier from time to time. Carrier is authorized by Shipper to retain possession of Petroleum Tendered by Shipper or to take Delivery of Petroleum at a Delivery Point for the purpose of enforcing its rights under and pursuant to the Tariff.

9.5 Deemed Deliveries upon Removal/Seizure. In the event of removal, seizure, or seizure and sale of Petroleum in accordance with the terms of the Tariff or a Contract, including as provided for in Sections 4.5, 4.6, 9.3(ii), or 9.4, or in the event Shipper otherwise fails to take Delivery of Petroleum, Petroleum shall be deemed Delivered to Shipper at the time removed from the Pipeline System or Delivered to a third party (as part of seizure or seizure and sale) and Carrier shall be entitled to invoice Shipper for all applicable rates and charges under the Tariff and the applicable Contract in relation thereto (not otherwise recovered by Carrier pursuant to Section 9.4).

9.6 Disputed Invoices. If Shipper disputes any amount payable under an invoice, Shipper shall nonetheless pay to Carrier the full amount of such invoice on or before the Payment Due Date, except in the case of manifest error, in which case Shipper shall notify Carrier of such manifest error before the Payment Due Date and Carrier shall issue a corrected invoice. If it is finally determined that Shipper's invoice was incorrect and that an overpayment has been made, Carrier shall reimburse Shipper for such overpayment, together with interest calculated from the date such overpayment was made until the date of reimbursement at the Prime Rate.

ITEM 10 – DELIVERY AND ACCEPTANCE

10.1 Delivery. Carrier will transport Petroleum with reasonable diligence and dispatch and Shipper shall with reasonable diligence and dispatch accept and remove its Petroleum from the facilities of Carrier upon Delivery of the Petroleum at a Delivery Point.

10.2 Acceptance. If Shipper fails to remove its Petroleum from the Pipeline System with reasonable diligence and dispatch upon Carrier's Delivery, then Carrier, or its agent, shall have the right to remove and sell such Petroleum pursuant to Section 9.4. Carrier may retain from the proceeds of such sale (i) all costs and expenses incurred by Carrier with respect to the storage, removal and sale of such Petroleum, and (ii) all rates and other charges due and payable to Carrier under the Tariff including rates and charges for any removal or Delivery, or pending removal or Delivery, of the Petroleum (as contemplated in Section 9.5). The remainder of such proceeds, if any, shall be held by Carrier for the Shipper and any other Person lawfully entitled to such proceeds and may be commingled in any account or accounts maintained by Carrier from time to time, without any obligation to pay interest thereon.

ITEM 11 – LIABILITY OF SHIPPER

11.1 Liability of Shipper. If Shipper fails to remove its 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 and all expenses, costs, damages and losses whatsoever are incurred or suffered by Carrier in connection with such disruption unless the non-removal of such Petroleum is due to Carrier's negligence or willful misconduct.

11.2 Carrier Indemnification. Shipper shall indemnify Carrier for any and all damages, losses, expenses and costs incurred or suffered by Carrier and any other Person as a result of such Shipper's failure to comply with any material provision of the Tariff, unless Shipper's failure to comply is due to Carrier's negligence or willful misconduct.

11.3 Associated Costs. Shipper shall pay or cause to be paid any and all taxes, duties, charges, levies and other assessments made or imposed by any governmental or regulatory authority having jurisdiction with respect to the Petroleum to be transported by Carrier for such Shipper's account and shall indemnify and save harmless Carrier from any such taxes, duties, charges, levies and assessments so made or imposed.

ITEM 12 – DEFAULT, SUSPENSION AND TERMINATION

12.1 Default. Subject to Item 15, if Carrier or Shipper (a "**Defaulting Party**") shall fail to perform any of the material covenants or obligations imposed upon it under a Contract or the Tariff, other than Shipper's failure to pay an invoice on or before the Payment Due Date (which circumstance is addressed in Item 9), then in addition to any other remedies the non-Defaulting Party may have under a Contract, the Tariff, at law or in equity, the non-Defaulting Party may terminate the Contract in the following manner: The non-Defaulting Party shall deliver a written notice (a "**Default Notice**") to the Defaulting Party, stating the relevant default, and declaring it to be the intention of the non-Defaulting Party giving the Default Notice to terminate such Contract. The Defaulting Party shall have (i) in the case of a default of a monetary nature (which includes, without limitation, a default pursuant to Item 20), ten (10) Days after receipt of the Default Notice, or (ii) in the case of a default of a non-monetary nature, thirty (30) Days after receipt of the Default Notice (in either case, the "**Default Period**") in which to remedy or remove the cause or causes of the default stated in the Default Notice. If such default is remedied within the Default Period, or if the Defaulting Party fully indemnifies by payment to the non-Defaulting Party or otherwise secures the non-Defaulting Party (in form and substance satisfactory to the non-Defaulting Party) for any and all consequences of such default, then the Default Notice shall be withdrawn and the Contract shall continue in full force and effect provided that such indemnity or security remains in place.

12.2 Remedies. If the Defaulting Party does not remedy the default or does not indemnify by payment to the non-Defaulting Party or otherwise secure the non-Defaulting Party for any and all consequences of such default within the Default Period referred to in Section 12.1, then, the non-Defaulting Party may terminate the Contract. Any termination of the Contract pursuant to the provisions of this Section 12.2 shall be without prejudice to the right of Carrier to collect any amounts then due to it for transportation service provided up to and including the date of the termination and shall be without prejudice to the right of Shipper to receive any Petroleum which has not been received but for which the rates and charges for transportation service have been paid prior to the date of termination, and without waiver of any other remedy to which the non-Defaulting Party may be entitled for breaches of the Contract. If

Carrier terminates a Contract pursuant to this Section 12.2:

- (i) Term Shipper shall remain liable for and shall, to the extent permitted by applicable law and subject to Carrier's obligation to mitigate, pay to Carrier within five (5) Banking Days of such termination, pursuant to Carrier's invoice, the net present value of the aggregate of: (a) the Monthly Revenue Commitment payable under the Contract or the Tariff for the unexpired term(s) of such Contract, (b) all applicable taxes, (c) all amounts owing under the Contract in respect of Petroleum Delivered but for which rates are not yet paid, and (d) all other amounts for which Shipper is obligated to pay Carrier pursuant to these Rules and Regulations; and
- (ii) Carrier, or its agent, shall have the right to remove and sell such Petroleum pursuant to Section 9.4. Carrier may retain from the proceeds of such sale (a) all costs and expenses incurred by Carrier with respect to the storage, removal and sale of such Petroleum, and (b) all rates and other charges due and payable to Carrier under the Tariff including rates and charges for any removal or Delivery, or pending removal or Delivery, of such Petroleum (as contemplated in Section 9.5). The remainder of such proceeds, if any, shall be held by Carrier for the Defaulting Party and any other Person lawfully entitled to such proceeds and may be commingled in any account or accounts maintained by Carrier from time to time, without any obligation to pay interest thereon.

12.3 Carrier Additional Remedies. If a Shipper is the Defaulting Party, Carrier may, in addition to any other remedy it may have under a Contract, the Tariff (including, without limitation, under Section 20.1), at law or in equity, upon three (3) Banking Days written notice to Shipper, suspend further receipt and Delivery of Petroleum from and to Shipper until such Shipper remedies the default or otherwise indemnifies by payment to Carrier or otherwise secures Carrier for any and all consequences of such default, provided however, that any such suspension shall not relieve Shipper from any obligation to pay any further rates, charges or other amounts payable to Carrier under a Contract or Tariff. If, at any time during such suspension, Shipper remedies the default or otherwise indemnifies or secures Carrier for any and all consequences of such default as contemplated in this Section 12.3, Carrier shall, within two (2) Banking Days of Shipper delivering written notice to Carrier confirming that the default has been remedied, or Carrier receiving such indemnity or other form of security satisfactory to Carrier, recommence receipt and Delivery of Shipper's Petroleum.

12.4 Rejected Nominations. Carrier may, in its reasonable sole discretion and without limiting any other remedy that may be available to it under the Tariff, at law or in equity, reject a Nomination from and deny service to any Non-Term Shipper if such Non-Term Shipper has failed to pay within five (5) Banking Days of the Payment Due Date, any invoice issued by Carrier to such Non-Term Shipper pursuant to the Tariff.

12.5 No Waiver. No waiver by Carrier or Shipper of any one or more defaults by the other Party in the performance of any provisions of the Tariff shall operate or be construed as a waiver of any continuing or future default or defaults, whether of a like or different character.

ITEM 13 – INTERRUPTION AND CURTAILMENT

13.1 Interruption and Curtailment. Carrier may interrupt, curtail or reduce transportation service to

Shippers for such periods of time as it may reasonably require for the purpose of effecting or allowing any repairs, maintenance, replacement, upgrading or other work related to the Pipeline System, Carrier's other facilities, or downstream facilities in circumstances which do not constitute Force Majeure. If such interruption is due to a planned outage, Carrier shall give Shippers prior notice of such interruption and curtailment as soon as reasonably possible. If such interruption is unforeseen, Carrier shall give Shippers notice of such interruption and curtailment as soon as reasonably possible. Carrier shall use reasonable commercial efforts to minimize the extent and duration of any interruption and the impact of such interruption on the operation of the Pipeline System.

13.2 Curtailed Service and Allocation of Available Capacity. During periods of interruption pursuant to Section 13.1, Carrier shall curtail transportation service and allocate Available Capacity in accordance with Item 7.

ITEM 14 – LIABILITY OF CARRIER

14.1 Limitation of Liability. Notwithstanding anything in the Tariff to the contrary, Carrier shall not be liable to Shipper for any losses, damages, claims, costs, expenses or delay incurred or suffered by Shipper unless caused by Carrier's breach, negligence or willful misconduct and in any event Carrier shall have no liability whatsoever to Shipper for Special Damages.

14.2 Physical Losses to Petroleum. If damage to or loss of Petroleum occurs while Carrier is in possession of such Petroleum, then Carrier may apportion the cost of such damage or loss on a pro rata basis among all Shippers provided such damage or loss is not caused by the breach, negligence or willful misconduct of Carrier. Each Shipper's share of such cost shall be determined by Carrier based on the proportion of the volume of the Shipper's Petroleum in the possession of Carrier on the date of such loss to the total volume of all Shippers' Petroleum in the possession of Carrier on the date of such loss.

14.3 Shipper Liability for Losses. All Shippers shall be responsible for their proportionate share of physical losses of Petroleum resulting from normal Pipeline System operations, including line losses and shrinkage.

ITEM 15 – FORCE MAJEURE

15.1 Performance Excused. If either Carrier or Shipper fails to perform, in whole or in part, its obligations under a Contract or the Tariff due to an event of Force Majeure, then such failure shall be deemed not to be a breach of such obligations.

15.2 Force Majeure Definition. The term "Force Majeure", as used herein and for all purposes relating hereto, shall mean any act of God, war, civil insurrection or disobedience, acts of the public enemy, sabotage, acts of terrorism, strikes, lockouts or other industrial disturbances, blockades, riots, epidemics, landslides, lightning, earthquakes, explosions, fires, floods, storms, civil disturbances, the act, regulation, order, direction or requisition of any governmental or other legal authority having jurisdiction, breakdown or failures of pipe, plant, machinery or equipment, inability to obtain or the curtailment of electric power, water or fuel, or other event, cause or occurrence whether of the kind enumerated or otherwise which in all cases are not within the reasonable control of the Party claiming suspension, and which by the exercise of due diligence such Person is unable to prevent or overcome.

15.3 Excluded Items. The following shall not, under any circumstance, constitute an event of Force

Majeure:

- (i) Shipper's inability to purchase Petroleum;
- (ii) lack of funds;
- (iii) availability of more attractive markets for Petroleum;
- (iv) absence of a market for Petroleum; or
- (v) availability of alternative Petroleum transportation systems.

15.4 Remedy of Force Majeure. A Person that fails to perform any obligation under a Contract or the Tariff where such failure is caused by an event of Force Majeure shall promptly remedy the cause of the Force Majeure insofar as it is reasonably able to do so, provided that the terms of the settlement of any strike, lockout or other industrial disturbance shall be wholly in the discretion of the Person claiming suspension of its obligations hereunder by reason thereof.

15.5 Limitations. Notwithstanding the above provisions, no event of Force Majeure shall:

- (i) relieve any Person from any obligation under a Contract or the Tariff unless such Person gives notice with reasonable promptness of such event to the other Person; or
- (ii) relieve any Person from any obligation under a Contract or the Tariff after the expiration of a reasonable period of time within which, by the use of its due diligence, such Person could have remedied or overcome the consequences of such event of Force Majeure.

15.6 No Payment Relief. Except as otherwise expressly provided in a Contract and notwithstanding anything in this Item 15 to the contrary, no event of Force Majeure shall relieve any Shipper from its obligations under a Contract or the Tariff to make payments pursuant to Item 9 or to provide Financial Assurances pursuant to Item 20 to Carrier under the Tariff during the continuance of such Force Majeure event.

15.7 Extension of Contract Terms. In respect of Term Shippers who have executed a Keystone Pipeline Expansion/Extension Contract, where the event of Force Majeure is declared by Carrier as a result of such event occurring on the Pipeline System, then the term then in effect for such Contract will be extended by the aggregate amount of time the Carrier has declared each such Force Majeure event, for the period required to transport, at the Contract Volume, a volume equivalent to the aggregate volumes forming part of the Monthly Volumes as were excused by such relevant events of Force Majeure.

ITEM 16 – ADVERSE CLAIMS AGAINST PETROLEUM

16.1 Adverse Claim Against Petroleum and Legal Disputes. Shipper shall not Tender Petroleum which is in any way subject to litigation, the ownership of which may be in dispute, or which is subject to a security interest, lien or charge of any kind (other than the lien of Carrier pursuant to the Tariff) (each an “**Adverse Encumbrance**”) unless Shipper provides written notification to Carrier of such Adverse Encumbrance not less than twenty (20) Days before such Tender is made to Carrier. Shipper shall provide written notice to Carrier if at any time while its Petroleum is in the possession of Carrier, such

Petroleum becomes subject to an Adverse Encumbrance. Carrier shall not be obligated to accept receipt from Shipper of any Petroleum that is subject to an Adverse Encumbrance. Upon demand by Carrier, Shipper shall provide a bond or other form of indemnity satisfactory to Carrier that fully protects and indemnifies Carrier against any liability, loss, cost or expense that may arise as a result of such Adverse Encumbrance and secures the payment to Carrier of all rates and other charges which would become payable under the Tariff if Carrier were to transport such Petroleum.

ITEM 17 – CLAIMS, SUITS AND TIME FOR FILING

17.1 Condition Precedent. As a condition precedent to the payment by Carrier of any claims for loss, damage or delay asserted by Shipper in connection with the transportation of Petroleum Tendered for shipment under the Tariff, Shipper must submit such claim in writing to Carrier within one hundred eighty (180) Days after Delivery of the Petroleum involved in such claim, or, in the case of failure to make Delivery, then within one hundred eighty (180) Days after a reasonable time for Delivery has elapsed. Any suits arising out of such claims must be instituted against Carrier within two (2) Years from the date when notice in writing is given by Carrier to Shipper that Carrier has disallowed the claim or any part or parts thereof as specified in the notice. Claims advanced beyond such two (2) Year period shall be null and void as between Shipper and Carrier. In Tendering Petroleum to be transported under the Tariff, Shipper agrees to be bound by the provisions of this Section 17.1 and waive any rights which it might otherwise have at common law, in equity or otherwise, to make a claim after the expiration of said period of one hundred eighty (180) Days or to bring an action after the expiration of the said period of two (2) Years. Nothing contained in this Section 17.1 shall be construed as constituting a waiver or release of any rights or defences which Carrier may have at law, in equity or pursuant to the Tariff, in respect of any claim or demand asserted by Shipper.

17.2 No Special Damages. Except as expressly provided in this Tariff, neither Party nor its respective Affiliates shall have any liability or responsibility to the other Party or the other Party's Affiliates for any Special Damages incurred by such Person that arise out of or otherwise relate to this Tariff or the subject matter of this Tariff or any Contract, regardless of whether such claim arises under or results from contract, tort or strict liability; provided that, subject to Sections 6.2 and 14.1, such limitation is not intended, nor shall it affect or limit liability for, Special Damages imposed in favor of Persons that are not a Party or an Affiliate of a Party.

ITEM 18 – REPRESENTATIONS, WARRANTIES AND OTHER COVENANTS

18.1 Shipper Representations. Shipper represents and warrants that: (i) it has in place for all Tendered Petroleum all required approvals, permits and authorizations for the receipt, transportation and Delivery of Petroleum hereunder; (ii) that it owns, controls or otherwise has the right to Tender and deliver or have Tendered and delivered for its account, the Petroleum that is Tendered to Carrier for the purpose of transportation pursuant to the Tariff, (iii) that the performance by Shipper of its obligations under the Tariff (and Contract, if a Term Shipper) has been duly authorized by all necessary corporate action and does not require any approval or consent of any other Person or entity; (iv) Petroleum Tendered to Carrier will not be subject to any Adverse Encumbrance; (v) that, in respect of Term Shippers, the Contract is in full force and effect, has been duly executed and delivered on behalf of Term Shipper and constitutes the legal, valid and binding obligation of Term Shipper, enforceable against Term Shipper in accordance with its terms; and, (vi) that, in respect of Non-Term Shippers, the obligations of Shipper in this Tariff constitute legal, valid and binding obligations of such Non-Term Shipper upon

acceptance by Carrier of a Monthly Nomination, enforceable against Non-Term Shipper in accordance with the terms hereof.

ITEM 19 – GOVERNING LAW

19.1 Governing Law. The Tariff is subject to the provisions of the Interstate Commerce Act or any legislation passed in amendment thereto or substitution thereof.

19.2 Construction and Application. The Contract shall be construed and applied in accordance with and be subject to the laws of the Province of Alberta, and the laws of Canada applicable therein, but shall be subject to the rules, regulations, decisions and orders of any regulatory or legislative authority having jurisdiction over the matters contained herein including, without limitation, FERC. Other than matters falling within the jurisdiction of FERC, no Person will institute any action, suit or other proceeding with respect to the Contract, other than in the Alberta Court of Queen’s Bench in the judicial district of Calgary, or, if that court for any reason lacks subject matter jurisdiction, the appropriate court for the Province of Alberta, or Canada, as applicable. In that regard, each Person subject to the Contract hereby irrevocably attorns to the jurisdiction of such courts in the event of any such action, suit or other proceeding by the other Party. **ALL PERSONS SUBJECT TO THE CONTRACT OR THE TARIFF SPECIFICALLY AND KNOWINGLY WAIVE ANY TRIAL BY JURY AND ANY SUCH CONTROVERSY SHALL BE LITIGATED BEFORE A TRIAL JUDGE.**

ITEM 20 – FINANCIAL INFORMATION AND ASSURANCES

20.1 Financial Information and Assurances. Except as provided in a contract, Shipper shall provide to Carrier, at any time:

- (i) upon Carrier’s request, information (“**Financial Information**”) that will allow the Carrier to evaluate (or re-evaluate) and establish Shipper’s capacity to perform any financial obligations that could arise from the transportation of Shipper’s Petroleum on the Pipeline System; and
- (ii) upon Carrier’s reasonable request, financial security for the payment of the rates and other charges to be paid by Shipper to Carrier in respect of transportation or other service (“**Financial Assurances**”).

If Shipper fails to provide Financial Information or Financial Assurances to Carrier within four (4) Banking Days of Shipper’s receipt of Carrier’s written request for such Financial Information or Financial Assurances, Shipper shall thereupon be deemed to be in default and Carrier may, in addition to any other remedy it may have under a Contract, the Tariff, at law or in equity, upon three (3) Banking Days written notice to Shipper, suspend further receipt and Delivery of Petroleum from and to Shipper until such Financial Information or Financial Assurances are provided by Shipper to Carrier; provided however, that any such suspension shall not relieve Shipper from any obligation to pay any further rates, tolls, charges or other amounts payable (including taxes) to Carrier under the Tariff. If, at any time during such suspension, Shipper provides the requested Financial Information or Financial Assurances to Carrier, Carrier shall, within two (2) Banking Days of receipt of such Financial Information or Financial Assurances, recommence receipt and Delivery of Shipper’s Petroleum.

20.2 Creditworthiness. For the purposes of Section 20.1(ii), Carrier may make a reasonable request

for Financial Assurances on the following grounds:

- (i) Carrier has reasonable grounds for insecurity regarding the performance of any obligation under the Contract or the Tariff;
- (ii) the rating given to Shipper's senior unsecured long term debt, excluding any third party enhancement, is lower than any of the following as applicable: (a) "BBB-" from Standard & Poor's, a division of The McGraw Hill Companies, Inc.; (b) "Baa3" from Moody's Investors Service, Inc.; or (c) "BBB (low)" from Dominion Bond Rating Service Limited, or any of such rating agencies' respective successors in interest; or
- (iii) any Financial Assurances previously provided by Shipper no longer provide adequate support for the performance of Shipper's obligations that could arise under the Tariff.

20.3 Financial Assurances. The Financial Assurances that Carrier may request from Shipper pursuant to the Tariff shall be limited to the following:

- (i) for Term Shippers, an irrevocable standby letter of credit or other form of financial assurance (which assurance could include without limitation, a financial guarantee), in an amount no greater than twelve (12) Months of rates and other charges based on the Monthly Volume, plus all applicable taxes; and
- (ii) for Non-Term Shippers, at the sole discretion of Carrier, either prepayment of the rates and other charges and taxes applicable to Shipper's Allocated Volume or an irrevocable standby letter of credit or such other financial assurance sufficient in amount for the payment of all rates and other charges based on Shipper's Allocated Volume for applicable Months, plus all applicable taxes.

Financial Assurances shall remain in effect for not less than ninety (90) Days beyond the termination of the service or of the period for which volumes are Tendered, as the case may be.

20.4 Required Elements. The following aspects of any Financial Assurances must be acceptable to Carrier, acting reasonably:

- (i) the terms of any letter of credit;
- (ii) the adequacy (including terms) of any proposed financial assurance; and
- (iii) the creditworthiness of the issuer of any letter of credit or other financial assurance.

ITEM 21 – IN-LINE TRANSFERS

21.1 Transfer Rights. Subject to Section 21.2 21.3 and 21.4 and at the Carrier's reasonable discretion Shipper may transfer its rights to a Tendered batch of Petroleum to another Shipper, provided such initial transferring Shipper retains all liabilities and obligations under the Tariff relating to the transferred batch.

21.2 Limitations. No in-line transfers of any Petroleum Tendered by Shipper shall be permitted until the entire batch of Petroleum enters the Pipeline System. In this regard, such in-line batch transfers shall

[W] South Bow (USA) LP

~~TransCanada Keystone Pipeline, LP~~

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be deemed to take place immediately south of the Canada/U.S. international boundary. The in-line transfer will be based on the Net Standard Volume of Petroleum delivered by Shipper or Shipper's Affiliate on the Keystone Canada Pipeline System to South Bow Canada at Hardisty, Alberta.

21.3 Financial Settlement. For in-line transfers involving financial settlement between Shippers, the transfer (i) may involve different commodity types; and (ii) may be one way or an exchange. For in-line transfers involving non-financial settlement between approved Shippers, the transfer (i) must be an exchange; (ii) must involve the same commodity type; and (iii) must occur within the same month that the balances of Shippers are settled by Carrier for the Pipeline System.

21.4 Change Requests Forms. Both Shippers involved in an in-line transfer must execute and submit to Carrier a Change Request Form, which can be accessed within the Keystone Customer Portal. A Change Request Form is accepted by Carrier upon Carrier posting a status of "Accepted" on the Change Request Form within the Keystone Customer Portal.

Explanation of reference marks:

[C] Cancel, [N] New, [W] Change in Wording.