

**[W] ~~WESTERN REFINING SOUTHWEST, INC.~~**  
**WESTERN REFINING PIPELINE, LLC**

**RULES AND REGULATIONS**

**GOVERNING**

**THE TRANSPORTATION**

**OF**

**CRUDE PETROLEUM**

**BY**

**PIPELINE**

**GENERAL APPLICATION**

The rules and regulations published herein apply only under tariffs making specific reference by FERC number to this tariff; such reference will include supplements hereto and successive issues hereof. Specific rules and regulations published in individual tariffs will take precedence over rules and regulations published herein.

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

Issued on **[W]** ~~2 days'~~ less than one day's notice under authority of 18 C.F.R. § 341.14. This tariff is conditionally accepted subject to refund pending a 30 day review period.

[N] Filed under the authority of 18 C.F.R. § 341.6 (Adoption of tariff by a successor). Effective August 6, 2018, Western Refining Pipeline, LLC ("WRPL") acquired certain assets of Western Refining Southwest, Inc. ("Western Southwest"). This tariff adopts Western Southwest's F.E.R.C. No. 6.0.0, which is brought forward unchanged unless otherwise indicated.

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**[C]** ~~Compiled and Issued by:~~  
~~Leonard Bloom~~  
~~Vice President Logistics Pipelines~~  
~~411 County Road 4990~~  
~~Bloomfield, NM 87413~~  
~~Tel (915) 534-1455~~

**[N]** Issued by:  
Don J. Sorensen  
Senior Vice President  
Andeavor Logistics LP  
19100 Ridgewood Parkway  
San Antonio, Texas 78259  
Phone: (210) 626-6000  
Don.J.Sorensen@andeavor.com

**[N]** Compiled by:  
Martin J. Marz  
Manager, Tariffs  
Andeavor Logistics LP  
19100 Ridgewood Parkway  
San Antonio, Texas 78259  
Phone: (210) 626-6517  
Martin.J.Marz@andeavor.com

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**ITEM 20 -- DEFINITIONS**

**Affiliate:** With respect to a Person, any other Person directly or indirectly controlling, controlled by, or under common control with such Person. For the purposes of this definition the term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of any Person whether through the ownership of voting securities, partnership interests, or by contract or otherwise.

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

**Assay:** A laboratory analysis of a Crude Petroleum to include API Gravity, Reid Vapor Pressure, pour point, BS&W content, sulfur content, viscosity at 100 degrees Fahrenheit, and other characteristics as may be reasonably required by Carrier.

**ASTM:** American Society for Testing Materials.

**Average Monthly Volume:** The average of a Regular Shipper's monthly volumes of Crude Petroleum tendered to Carrier's pipeline during the Base Period.

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

**Base Period:** The previous 12 months beginning with the 13<sup>th</sup> month prior to the current Proration Month, except that, during the initial 12 months of this Tariff's operation, the Base Period shall be as provided in Item 60(f). Previous Proration Months, as well as months in which no apportionment was in effect, will be included in the rolling 12-month Base Period.

**bpd:** Barrels per day.

**BS&W:** Shall have the meaning set forth in Item 25(a).

**Carrier:** ~~[W] Western Refining Southwest, Inc.~~ Western Refining Pipeline, LLC

**Common Stream:** Crude Petroleum moved through Carrier's pipeline and pipeline facilities which is commingled or intermixed with other Crude Petroleum.

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

**Crude Petroleum:** The direct production from crude oil or gas wells, or blend of such, in its natural form.

**Destination:** A location for the delivery of Crude Petroleum as provided for in Carrier's local rate tariff.

**Destination Release:** A written commitment of a Consignee or owner of Destination facilities to receive a proposed volume of Crude Petroleum nominated by a Shipper from Carrier's facilities.

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

**New Shipper:** Any Shipper who is not a Regular Shipper.

**Nomination:** A written request by a Shipper representing a commitment to Tender a specific quantity of Crude Petroleum to Carrier for transportation between the Origin and Destination pursuant to this tariff.

**Nomination Deadline:** 3:00 p.m. (CPT) on October 23, 2017 for the partial month of October, 2017. For November, 2017 and each subsequent month of operation, the twenty-fifth (25<sup>th</sup>) calendar day of the month prior to the month of delivery; provided, however, that in the event the twenty-fifth calendar day falls on a weekend or holiday, the Nomination Deadline shall be 3:00 p.m. (CPT) on the previous business day.

**Non-Conforming Crude Petroleum:** Shall have the meaning set forth in Item 25(a).

**Origin:** The location for the receipt of Crude Petroleum as provided for in Carrier's local rate tariff.

**Person:** An individual, partnership, limited liability company, corporation, trust, estate, unincorporated association, nominee, joint venture, or other entity.

**Proration Month:** Shall have the meaning set forth in Item 60(a).

**Regular Shipper:** A Shipper that meets the eligibility requirements for a Regular Shipper in Item 60(b).

**Reid Vapor Pressure:** The absolute vapor pressure at one-hundred degrees Fahrenheit (100°F) of volatile Crude Petroleum, herein expressed in pounds per square inch absolute (psia), as determined by test method ASTM D-323 or the latest revision thereof.

**Shipper:** A Person that contracts with Carrier for transportation of Crude Petroleum under the terms of this tariff.

**Tariff Effective Date:** The date on which this tariff is permitted by the Federal Energy Regulatory Commission to become effective.

**Tender:** The physical delivery of Crude Petroleum by a Shipper to Carrier.

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

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

**ITEM 25 -- SPECIFICATIONS AS TO QUALITY RECEIVED**

- (a) Shippers shall not deliver for transportation any Crude Petroleum that is not merchantable Crude Petroleum that is properly settled or that contains more than one percent (1%) of basic sediment, water ("**BS&W**") or other impurities, or any Crude Petroleum that has a temperature in excess of one hundred and twenty degrees (120°) Fahrenheit or whose gravity, viscosity, pour point, and other characteristics are such that it will not be readily susceptible to transportation through Carrier's existing facilities, or which may materially affect the quality of other shipments or cause disadvantage to other Shippers and/or Carrier. Notwithstanding the preceding sentence, Carrier may at its discretion accept Crude Petroleum from a Shipper that does not meet the foregoing specifications due to unusual circumstance, emergencies, or events of force majeure. In addition, no Shipper shall deliver (1) Crude Petroleum having (A) a Reid Vapor Pressure in excess of ten (10) pounds per square inch absolute, (B) an API Gravity in excess of 49.9° at the Origin, or (C) sulfur in excess of 0.4% by weight; or (2) Crude Petroleum where Shipper or Consignee has failed to comply with applicable laws, rules, and regulations made by government authorities regulating transportation of Crude Petroleum by pipeline. Notwithstanding the two (2) preceding sentences, if Shipper delivers for transportation any Crude Petroleum that fails to meet the specifications set forth in this Item 25 ("**Non-Conforming Crude Petroleum**") and Carrier has actual knowledge (without imposing any obligation on Carrier to test for conformance) of such failure, Carrier shall notify Shipper. Carrier reserves the right to reject any Non-Conforming Crude Petroleum.
- (b) Changes to Carrier's Crude Petroleum specification may be issued or reissued from time to time to the extent necessary to comply with changes in applicable laws and regulations.
- (c) If the quality specifications of a connecting carrier are more stringent than those of Carrier, Carrier may also apply the specifications of the connecting carrier if any of the Common Stream will be delivered into such connecting carrier.
- (d) Upon request of Carrier, Shippers are required to furnish Assays and/or other documentation reasonably acceptable to Carrier evidencing the source of the Crude Petroleum. Carrier will not accept Tenders of any material resulting from certain post production recovery operations (i.e. reclaimed or skimmed oil). If a Shipper fails to provide Carrier with such information, then Carrier shall not be obligated to accept Shipper's Crude Petroleum.
- (e) If, upon investigation, Carrier determines that a Shipper has delivered to Carrier's facilities Crude Petroleum that has been contaminated by the existence of and/or excess amounts of impure substances, including but not limited to, chlorinated and/or oxygenated hydrocarbons, arsenic, lead and/or other metals, such Shipper will be excluded from further entry into Carrier's facilities until such time as quality specifications are met to the satisfaction of Carrier. Further, Carrier reserves the right to dispose of any contaminated Crude Petroleum blocking its facilities. Disposal thereof, if necessary, may be made in any reasonable commercial manner, and any liability associated with the contamination or disposal of any Crude Petroleum shall be borne by the Shipper that introduced

the contaminated Crude Petroleum into Carrier's facilities.

- (f) Batches of Crude Petroleum will not be segregated by Carrier.

### **ITEM 30 – CORROSION INHIBITORS**

Carrier shall have the right, at its sole cost and expense, to inject oil-soluble corrosion inhibitor in Crude Petroleum to be transported through Carrier's facilities.

### **ITEM 35 -- ADDITIVES**

Carrier reserves the right to approve or reject the injection of viscosity or pour point depressants, drag reducing additives or other such additives in the Crude Petroleum to be transported through Carrier's facilities. A Shipper desiring to inject any additive into the Crude Petroleum it plans to Tender must receive written approval from Carrier in advance of the shipment. Otherwise, in addition to other remedies that may be established by this tariff, Carrier reserves the right to reject the shipment.

### **ITEM 40 -- NOMINATIONS, MINIMUM QUANTITIES**

Carrier will only transport Crude Petroleum which has been properly nominated by Shipper and accepted by Carrier for transportation between the established Origin and Destination. A Shipper desiring to ship Crude Petroleum through Carrier's pipeline must provide the following information in writing to nominate each shipment of Crude Petroleum: the quantity (in barrels) and name of Consignee (if applicable).

Unless otherwise stated in a tariff making reference to these rules and regulations, Nominations for the transportation of Crude Petroleum will be accepted into Carrier's facilities under this tariff in quantities of not less than five hundred (500) Barrels in aggregate from one or more Shippers as operations permit and provided such Crude Petroleum is of similar quality and characteristics as is being transported from the Origin to the Destination; except that Carrier reserves the right to accept any quantity of Crude Petroleum if such quantity can be consolidated with other Crude Petroleum such that Carrier can make a single delivery of not less than five hundred (500) Barrels. Carrier will not be obligated to make any single delivery of less than five hundred (500) Barrels. The term "single delivery" as used herein means a delivery of Crude Petroleum in one continuous operation to one or more Shippers or Consignees into a single facility to which Carrier is connected.

Any Shipper desiring to Tender Crude Petroleum for transportation shall make a Nomination to Carrier in writing before the applicable Nomination Deadline. The Nomination may be emailed or faxed. Unless such notification is made, Carrier is under no obligation to accept Crude Petroleum.

If space is available and operating conditions permit, Carrier may, in its discretion, accept monthly Nominations after the applicable Nomination Date. To the extent Carrier does accept a Nomination after the Nomination Deadline, it will transport such volumes only to the extent said Nomination meets all the requirements of Carrier's applicable tariffs and Carrier has sufficient pipeline capacity to accommodate the Nomination without adversely impacting the scheduling of other shipments and Carrier's need to perform maintenance on its system.

Shipper also must satisfy Carrier that its Nominations are in good faith and that shipments can be transported in conformance with this tariff.

In the event the total Nominations submitted for shipment in the pipeline exceed the

capacity of the pipeline, the capacity will be prorated among shipments according to the proration procedure set forth herein in Item 60.

#### **ITEM 45 -- SHIPMENTS, MAINTENANCE OF IDENTITY**

Carrier is not obligated to deliver to a Shipper the identical Crude Petroleum nominated by such Shipper; Carrier will deliver Crude Petroleum meeting the quality specifications of Item 25 that would otherwise be applicable to any Shipper without the benefit of any waiver to such requirements, and of the same grade it is regularly transporting as a Common Stream.

Except as provided in this Item 45 and in Item 100, Carrier shall have no responsibility in, or for, any revaluation or settlements which may be deemed appropriate by Shippers and/or Consignees because of mixing or commingling of Crude Petroleum shipments between the receipt and delivery of such shipments by Carrier within the same Common Stream.

#### **ITEM 50 -- SCHEDULING OF SHIPMENT**

For each calendar month, Carrier will establish a sequence for pumping Crude Petroleum based on the Nominations for such month. Carrier will inform each Shipper of the time(s) within each calendar month when Crude Petroleum will be received from such Shipper at the Origin and Carrier will inform each Shipper, or its Consignee, of the approximate time(s) within each calendar month when Crude Petroleum will be delivered to such Shipper or Consignee at the Destination. Such schedules may be modified from time to time in the manner and to the extent reasonably desirable to facilitate the efficient and economical use and operation of Carrier's facilities and to reasonably accommodate Shipper's needs for transportation.

Shipments in Carrier's system are subject to Transit Time. Transit Time is a function of the Origin and Destination of the shipment, the flow rate and volume of Crude Petroleum being transported between these two locations for all Shippers and the pipeline capacity (i.e., linefill) between these two locations. Carrier assumes no responsibility or liability for the length of time required to transport Shipper's Crude Petroleum from the Origin to the Destination.

Once a Nomination has been accepted by Carrier and a shipment schedule has been established, a Shipper must request any proposed changes in the shipment schedule in writing at least 72 hours prior to the scheduled receipt by Carrier at the Origin or delivery at the Destination. Any requested changes will be subject to the rates, rules and regulations applicable from the Origin to the Destination. Carrier shall not be obligated to accept any proposed change that adversely affects the efficient and economic operation of Carrier's system or existing shipment schedules established for other Shippers.

No out-of-line movements are allowed. In addition, Carrier will not make any backhaul movements (i.e., a movement in a direction opposite the pipeline flow).

#### **ITEM 55 -- SHIPPER INFORMATION**

- (a) At any time, upon written request of Carrier, on a non-discriminatory basis, any prospective or existing Shipper shall provide to Carrier information that will enable Carrier to enforce the terms of this tariff. Such information may include, but will not be limited to, the names of any Affiliates of Shipper or prospective Shipper, the legal business name of Shipper or prospective Shipper and the

registered business address of Shipper or prospective Shipper.

- (b) Carrier shall not be obligated to accept Crude Petroleum for transportation from an existing or prospective Shipper if Shipper or prospective Shipper fails to provide to Carrier any material information requested in accordance with Item 55(a) within ten (10) days of Carrier's written request, or if the Carrier reasonably determines that any of the material information provided pursuant to Item 55(a) is false.

## ITEM 60 -- PRORATIONING OF PIPELINE CAPACITY

- (a) **Proration Policy.** During any month in which the total Nominations submitted for shipment in the pipeline exceed the capacity of the pipeline (a "**Proration Month**"), the capacity of the pipeline will be prorated equitably among all Shippers as described in the following proration policy:
  - (i) **New Shippers.** Ten percent (10%) of the available capacity of the pipeline (or, if less in either case, capacity equal to the Nominations of the New Shippers), will be allocated among the Nominations of all New Shippers, if any, on a pro rata basis. The minimum quantity requirement in Item 40 shall not be applicable to such allocation to New Shippers for the Proration Month. New Shippers obtaining capacity via allocation in this Item 60(a)(i) must not be an Affiliate of any other Shipper receiving an allocation of capacity pursuant to this Item 60 in a given Proration Month. Any unused allocated capacity will become available for allocation among the Regular Shippers.
  - (ii) **Regular Shippers.** The available capacity of the pipeline remaining after the allocation in in Item 60(a)(i) will be allocated among the Nominations of all Regular Shippers proportionately based on the lesser of each Regular Shipper's Average Monthly Volume or its Nomination for the Proration Month. Any unused allocated capacity by a Regular Shipper will be reallocated among other Regular Shippers that have unsatisfied Nominations.
  - (iii) **Remaining Unsatisfied Nominations.** Any available capacity of the pipeline remaining after the allocations in Items 60(a)(i) and (ii) will be allocated to Shippers who were not allocated their full Nominations in accordance with Items 60(a)(i) and (ii) in proportion to their unsatisfied Nominations.
- (b) **Regular Shipper Eligibility.** For a Shipper to receive Regular Shipper status for purposes of prorating, the Shipper must have shipped Crude Petroleum on Carrier's pipeline in at least eight (8) of the twelve (12) months of the Base Period (or, during the transition period described in Item 60(f), two-thirds (2/3) of the months of the transition Base Period). To the extent a Shipper does not meet the foregoing eligibility requirements, it shall be treated as a New Shipper for prorating purposes.



- (c) **Transfer of Prorated Capacity.** Except as provided in the last sentence of this item 60(c), capacity allocated to a Shipper may not be assigned, conveyed, loaned, or transferred to, another Shipper. Any Shipper violating this provision will not be allowed to ship in the following month if proration continues. A Shipper's allocation may be transferred as a direct incident of the bona fide sale of all or a portion of Shipper's business related to this tariff or to a successor to Shipper's business.
- (d) **Binding Nomination.** During a Proration Month, once the Carrier has determined the capacity allocated to each Shipper for a given month under Item 60(a), it shall provide notice to each Shipper of such Shipper's allocated capacity for the month.
- (e) **Nomination Integrity.** If the pipeline has been in prorating for two (2) successive months, then, Carrier will notify Shippers in the notice of binding nomination given in accordance with Item 60(d) that, thereafter, for so long as the pipeline is in prorating, if a Shipper fails to deliver to Carrier at least 95% of its allocated capacity, Carrier will charge such Shipper an amount equal to the tariff rate applicable to Shipper multiplied by the allocated volume not received by Carrier. The requirement that the pipeline have been in prorating for two (2) successive months will apply only once and Carrier reserves the right to delete such requirement from this Item 60(e) once such two (2) successive months of prorating have occurred.
- (f) **Transition Rule for Determining Base Period.** During the initial twelve (12) months of this tariff's implementation, as measured from the Tariff Effective Date, the Base Period shall consist of each full calendar month since the Tariff Effective Date, but prior to the Proration Month. For example, if the Proration Month were to occur in the 7<sup>th</sup> month from the Tariff Effective Date, the Base Period would consist of the first six (6) months from the Tariff Effective Date. In all other respects, Item 60(a)-(e) remains in effect during the initial twelve (12) months of this tariff's implementation. This transition rule shall have no effect on and after the 13<sup>th</sup> full calendar month from the Tariff Effective Date.

## ITEM 65 -- ORIGINATION FACILITIES

Crude Petroleum shall be accepted for transportation only at the Origin established by Carrier in currently effective rate tariffs which reference these rules and regulations. Carrier does not provide storage or other facilities at the Origin. Crude Petroleum will be received only from pipelines, tanks or other facilities that are provided by Shipper or any Person other than Carrier, provided such pipelines, tanks or other facilities are available and satisfactory to Carrier and capable of delivering Crude Petroleum to Carrier at adequate minimum pressures and flow rates as to avoid delay and congestion on Carrier's system. Carrier will determine and advise Shippers of the size and capacity of pipelines, tanks and/or metering facilities required to be provided by Shipper at the Origin in order to meet the operating requirements established by Carrier at such Origin. Carrier will not accept Crude Petroleum for transportation at the Origin unless equipment and facilities have been furnished that are reasonably satisfactory to Carrier and which are capable of tendering Crude Petroleum to Carrier at adequate pressures and flow rates without delay.

**ITEM 70 -- DESTINATION FACILITIES**

Crude Petroleum shall be accepted for transportation only when nominated and tendered for shipment to the Destination established by Carrier in currently effective rate tariffs which reference this tariff. Carrier provides no storage facilities at the Destination. Crude Petroleum will be delivered only to destination facilities that are provided by parties other than Carrier. Carrier will determine and advise Shipper or Consignee (or other applicable parties) of the size and capacity of pipelines, equipment and/or metering facilities required to be provided at the Destination in order to meet the operating requirements established by Carrier at the Destination. Carrier will not accept Crude Petroleum for transportation unless pipelines, equipment and facilities are available and satisfactory to Carrier and are capable of receiving Crude Petroleum at the Destination from Carrier at adequate pressures and flow rates as to avoid delay or congestion on Carrier's system.

In the event Shipper or Consignee fails to accept delivery of a shipment on a timely basis, Carrier shall have the right on 24 hours' notice, to divert the shipment, subject to the rates, rules and regulations applicable from the Origin to actual final Destination, or make whatever arrangements for disposition as are deemed appropriate to clear Carrier's facilities, including the right of private sale for the best price reasonably obtainable given the distressed nature of the inventory.

Carrier may be a purchaser at such sale. Out of the proceeds of said sale, Carrier shall pay itself all transportation and other lawful charges and necessary expenses of the sale and any expense incurred in maintaining the Crude Petroleum inventory until disposed of and any costs associated with the disruption caused by Shipper or Consignee's failure to accept delivery of Crude Petroleum. Any proceeds remaining shall be held for whosoever may be lawfully entitled thereto.

When required, Carrier shall, with or without notice to a Shipper, appoint agent(s) to retain possession of such Shipper's Crude Petroleum on behalf of Carrier for the purpose of enforcing this Rule.

**ITEM 75 -- CONNECTION REQUIREMENTS**

All proposed receiving or delivery connections must meet tender, tankage, hourly flow rate conditions, and metering requirements as they exist at the time of requested connection and must also have provisions which will allow for increases to maximum line flow rate and pressure conditions. All proposed connection designs must be approved by Carrier, and for origins must include a connection to the connecting party's lease automatic custody transfer skid. All costs of connections shall be paid by the connecting party.

**ITEM 80 -- WARRANTY OF TITLE**

(a) The act of delivering Crude Petroleum into Carrier's pipeline for transportation shall constitute a warranty by Shipper that Shipper has title thereto free from encumbrances other than those that are created by statutory law and that such title shall remain with Shipper until such Crude Petroleum is delivered out of Carrier's pipeline.

(b) By tendering Crude Petroleum, Shipper warrants and guarantees that it has good title thereto and agrees to hold Carrier harmless for any and all loss, cost, liability, damage and/or expense resulting from failure of title thereto; provided, that acceptance for transportation shall not be deemed a representation by Carrier as to title.

(c) Carrier shall have the right to reject any Crude Petroleum when tendered for shipment which may be involved in litigation, the title of which may be in dispute, or which may be encumbered by lien or charge of any kind other than those that are created by statutory law. Further, Carrier may require Shipper's proof of perfect and unencumbered title or a satisfactory indemnity bond.

#### **ITEM 85 – MEASURING AND TESTING**

Carrier may conclusively rely on the measurement of Crude Petroleum at its injection into the origin point of the Conan Crude Oil Gathering Pipeline System. Carrier may from time to time sample or test Shipper's Crude Petroleum. All such samples and tests shall be determined by Carrier, but, in all cases, Shipper and Consignee or their representatives may be present to witness them. Carrier shall provide 24 hours' notice to Shipper prior to conducting tests. Failure of a Shipper or Consignee to have a representative present will constitute a waiver, and Shipper and Consignee shall be bound by the information and data on the test/sample results, absent fraud or manifest error.

#### **ITEM 90 -- EVIDENCE OF RECEIPTS AND DELIVERIES**

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

#### **ITEM 95 -- WORKING STOCK**

- (a) Each Shipper shall supply its quantity of Working Stock by types and volumes as reasonably determined from time to time by Carrier and provided for in the Nomination or, if applicable, binding nomination given in accordance with Item 60(d) each Month. Title to Working Stock provided by a Shipper shall remain with such Shipper.
- (b) In the event a Shipper fails to supply the Working Stock volumes as requested by the Carrier pursuant to Item 95(a), Carrier may obtain the deficient Working Stock volumes on such Shipper's behalf, and such Shipper shall pay for all charges incurred by Carrier to obtain the deficient Working Stock volumes upon receipt of Carrier's invoice therefor.
- (c) Subject to Carrier's operating conditions, Working Stock provided by a Shipper may be withdrawn after not less than sixty (60) days' advance written notice to Carrier of Shipper's intention to discontinue shipments of volumes through Carrier's facilities. The redelivery period for Working Stock shall be subject to Carrier's reasonable operating conditions.

#### **ITEM 100 – LIABILITY FOR NON-COMPLIANCE WITH QUALITY SPECIFICATIONS**

- (a) Carrier shall not be liable to Shipper for changes in gravity or quality of Shipper's Crude Petroleum which may occur from commingling or intermixing Shipper's Crude Petroleum with other Crude Petroleum in the same Common Stream while in Carrier's facilities except to the extent (1) Shipper delivered Crude Petroleum at the Origin that satisfied the quality specifications set forth in Item 25 and (2) Carrier delivers to Shipper at the Destination Crude Petroleum that does not

satisfy the quality specifications that would otherwise be applicable to any Shipper, including the aggregate gravity specification, without the benefit of any waiver to such requirements, set forth in Item 25. Carrier is, however, not obligated to deliver to shipper the identical Crude Petroleum nominated by Shipper.

- (b) A Shipper shall be liable to Carrier for any liability or losses Carrier incurs to other Shippers as a result of such Shipper delivering Crude Petroleum at the Origin that did not satisfy the quality specifications set forth in Item 25.

#### **ITEM 105 -- LIABILITY FOR LOSSES**

- (a) Carrier will not be liable for any loss of Crude Petroleum while in the possession of Carrier or for any delay in receiving or delivering Crude Petroleum, including any damages associated therewith, if caused by any of the following: Act of God, a strike or labor dispute, damage by the elements, storm, flood, fire, explosion, electrical blackout, third-party damage to Carrier's facilities, rebellions, insurrection, breakage or accident to machinery or equipment, act, regulation, or edict of any governmental authority, acts of any public enemy, quarantine, authority of law, strikes, riots, requisition by Government, war, the act or default of Shipper or Consignee, but only to the extent any of these causes or any other cause is not attributable to the negligence or willful misconduct of Carrier.
- (b) If such loss of Crude Petroleum occurs, then each Shipper shall share such loss in the proportion that the amount of Crude Petroleum in the custody of Carrier for the account of such Shipper immediately before the loss occurred, bears to the total amount of Crude Petroleum in the custody of Carrier immediately before the loss occurred, and Carrier will be obligated to deliver only that portion of Crude Petroleum remaining after such loss. Transportation charges will be made only on quantities of Crude Petroleum delivered.
- (c) If Crude Petroleum is lost while in the custody of Carrier due to a cause attributable to the negligence or the willful misconduct of Carrier, Carrier may either obtain and deliver to Shipper or its Consignee other Crude Petroleum of similar quantity and quality as that which was lost, or compensate Shipper for such loss (less deductions) in money. The dollar value of such loss shall be based upon the reasonable market price for Crude Petroleum of similar gravity and quality in effect on the date the Crude Petroleum was lost.
- (d) NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS TARIFF, NEITHER SHIPPERS NOR CARRIER WILL BE LIABLE OR RESPONSIBLE TO THE OTHER PERSON OR SUCH OTHER PERSONS' AFFILIATES FOR ANY CONSEQUENTIAL, INCIDENTAL, OR PUNITIVE DAMAGES (INCLUDING LOSS OF PROFITS OR REVENUES) INCURRED BY SUCH OTHER PERSONS OR THEIR AFFILIATES THAT ARISE OUT OF OR RELATED TO THIS TARIFF, REGARDLESS OF WHETHER SUCH CLAIM ARISES UNDER OR RESULTS FROM CONTRACT, TORT OR STRICT LIABILITY.

**ITEM 110 -- DUTY OF CARRIER**

Carrier holds itself out in this tariff solely to: receive Crude Petroleum at the Origin; transport this Crude Petroleum with reasonable diligence over pipelines owned or operated by Carrier in common carriage in a manner consistent with the efficient and economic operation of its pipeline system; and deliver Crude Petroleum, as defined by this tariff, at the Destination.

**ITEM 115 -- RATES APPLICABLE**

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

**ITEM 120 -- PAYMENT OF TARIFF RATE AND OTHER CHARGES**

Carrier will invoice Shipper each month for transportation and other tariff charges on Crude Petroleum delivered by Carrier at the Destination during the previous month. Unless Shipper elects to receive invoices via electronic mail at an address specified by such Shipper in writing to Carrier, invoices shall be deposited in the U.S. Post Office, postage prepaid, and sent to the last address provided to Carrier by Shipper. Shipper shall be liable for the payment of transportation charges, fees, and other lawful charges accruing to or due Carrier by Shipper, including but not limited to, penalties, interest and late payment charges. All accrued charges are due the later of the 25th of the month after the month of delivery of Crude Petroleum by Carrier at the Destination or ten (10) calendar days after receipt of such invoice. Shipper shall pay Carrier the amount due pursuant to such statement or invoice by wire transfer or ACH transfer, at Shipper's election.

If such charges are not paid by the due date stated on the invoice, Carrier shall have the right to assess finance charges on the entire past due balance (including principal and accumulated but unpaid finance charges) until paid in full at the rate per annum equal to the prime rate of interest reported from time to time by The Wall Street Journal (or a successor publication) as of the due date, plus two percent (2%) per annum or the maximum interest rate allowed by law, whichever is less.

Carrier reserves the right to set-off any such charges against any monies owed to Shipper by Carrier or any Crude Petroleum of Shipper in Carrier's custody.

**ITEM 125 -- FINANCIAL ASSURANCES**

At any time, upon the request of Carrier, any prospective or existing Shipper shall provide reasonable information to Carrier that will allow Carrier to determine the prospective or existing Shipper's capacity to perform any financial obligations that could arise from the transportation or other handling of such shipper's Crude Petroleum under the terms of this tariff, including the payment of transportation or other charges. Carrier shall not be obligated to accept Crude Petroleum for transportation from an existing or prospective Shipper if such shipper fails to provide the requested information to Carrier within ten (10) days of receipt of Carrier's written request, or if Carrier's review of the requested information reveals that such shipper does not have the capacity to perform any financial obligations that could arise from the transportation of that shipper's Crude Petroleum under the terms of this tariff, including the payment of transportation and other charges.

Carrier, upon notice to any prospective or existing Shipper, may require one or more of the following Financial Assurances for the payment of all charges and costs as provided for in this tariff, or otherwise lawfully due to Carrier, to be provided at the expense of such shipper: (i) prepayment; (ii) a letter of credit in favor of Carrier in an amount sufficient to ensure payment of all costs and charges that could reasonably accrue due to Carrier, in a form and from an institution acceptable to Carrier; (iii) a guaranty in an amount sufficient to ensure payment of all such costs and charges that could reasonably accrue due to Carrier, in a form and from a third party acceptable to Carrier; or (iv) such other enforceable collateral security, including but not limited to security interests in the assets of Shipper, in a form acceptable to Carrier (the "**Financial Assurances**").

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

#### **ITEM 130 -- PAYMENT PRIOR TO DELIVERY**

Carrier may require Shipper or Consignee to pay charges, transportation charges, fees and other lawful charges accruing to or due Carrier by Shipper or Consignee, including, but not limited to, overdue transportation charges, penalties, interest and late payment charges, before making delivery of the Crude Petroleum if it appears that the value of the Crude Petroleum remaining in the custody of Carrier for Shipper's account after making such delivery will not exceed the total of all such charges.

#### **ITEM 135 -- LIENS**

Carrier shall have a lien on all of a Shipper's Crude Petroleum in Carrier's facilities. Such lien shall take effect at the Origin at which the Crude Petroleum is received into Carrier's pipeline. Such lien shall secure the payment of any and all transportation charges, fees, and other lawful charges as provided for or referenced in this tariff relating to the transportation of Shipper's Crude Petroleum by Carrier, including but not limited to, penalties, interest and late payment charges. Such lien shall be in addition to any and all other rights and remedies Carrier has at law or in equity.

If charges for the transportation of Shipper's Crude Petroleum remain unpaid for ten (10) business days after notice of demand for payment of such charges is sent to such Shipper by Carrier, Carrier shall have the right to remove and sell any or all of such Shipper's Crude Petroleum that is in the possession of Carrier in such lawful manner as deemed appropriate by Carrier. Carrier may be a purchaser at such sale. Out of the proceeds of said sale, Carrier shall pay itself all transportation and other lawful charges and necessary expenses of the sale and any expense incurred in maintaining the Crude Petroleum inventory until disposed of and any costs associated with the disruption caused by Shipper's failure to pay charges. Any proceeds remaining shall be held for whomsoever may be lawfully entitled thereto.

#### **ITEM 140 -- TIME LIMITATION OF CLAIMS**

As a condition precedent to recovery for loss or delay, claims must be filed in writing

with Carrier within nine (9) months and one (1) day after delivery of the property, or in case of failure to make delivery, within nine (9) months and one (1) day after a reasonable time for delivery has elapsed, and suits shall be instituted against Carrier only within two (2) years and one (1) day from the day when notice in writing is given by Carrier to the claimant that Carrier has disallowed the claim or any part or parts thereof specified in the notice. Where claims are not filed or suits are not instituted thereon in accordance with the foregoing provisions, Carrier will not be liable and such claims will not be paid by Carrier.

**ITEM 145 -- INTRASYSTEM TRANSFERS**

Carrier shall not be obligated to recognize and record changes in ownership of Crude Petroleum during any month unless the transferor and transferee shall, on or before the 15th day of the preceding calendar month, each provide written notice to Carrier containing data relative to the kind, quantity, source, location, transferor and transferee of the Crude Petroleum. Carrier shall not be obligated to accept any modification in said notice unless confirmed in writing by the transferor and transferee on or before the last day of the preceding calendar month.

Notice of change in ownership of Crude Petroleum in Carrier's custody shall be recognized and recorded by Carrier only at the Origin to which such Crude Petroleum is Tendered to Carrier's pipeline and only on a monthly basis. A charge of one quarter of one cent (\$0.0025) per barrel, with a Fifty Dollar (\$50.00) minimum, will be payable by the party directing any such transfer.

When the quantity of the Crude Petroleum received from transferor during the operating month is not equivalent to the quantity of the Crude Petroleum subject to the notice of change in ownership, Carrier shall not be required to recognize and record the change in ownership beyond the extent of the quantity received.

A notice of change in ownership of Crude Petroleum shall be deemed: (a) a warranty that the transferor has unencumbered title to the Crude Petroleum identified in its notice at the time of change in ownership, and (b) a representation that the change in ownership is effective as of 8:00 o'clock a.m. CPT on the first day of the operating month.

A transfer of a Shipper's rights and obligations under this Item 145 respecting its Crude Petroleum will not be binding or effective on Carrier until Carrier has accepted the transaction. Carrier will not accept a transfer until such time as the transferee has satisfied Carrier of its capacity to undertake the transferor's obligations and has provided any Financial Assurances requested by the Carrier in accordance with Item 125 of this tariff. The transferee shall then become the Shipper of record.

**EXPLANATION OF ABBREVIATIONS**

- API ..... American Petroleum Institute
- CPT ..... Then-prevailing time in the Central Time Zone.
- FERC ..... Federal Energy Regulatory Commission
- No. . . . . Number
- U.S. . . . . The United States of America.