

Statement of Operating Conditions
of
B&W Pipeline, LLC
(A Hinshaw Company)

B&W Pipeline, LLC (“Transporter”) is a Hinshaw gas pipeline company within the State of Tennessee. Transporter’s Statement of Operating Conditions (“Statement”) for natural gas transportation is filed pursuant to the Federal Energy Regulatory Commission’s (“FERC”) regulations under 18 C.F.R. Sections 284.123 and 284.224. B&W Pipeline, LLC was granted a blanket certificate in Docket No. CP17-78 to engage in the sale or transportation of natural gas in interstate commerce.

Interruptible gas transportation service on Transporter’s intrastate transmission system shall be provided by Transporter, pursuant to Section 311(a)(2) of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. §§ 3301 *et seq.*, and the FERC’s implementing rules, regulations and orders, to qualified shippers who comply with the conditions set forth in this Statement.

STATEMENT OF OPERATING CONDITIONS

Schedule of Specific Conditions Applicable to Transportation Service

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1. **PRELIMINARY STATEMENT**

Transporter is first and foremost an intrastate pipeline. Therefore, any Section 311(a)(2) service which Transporter provides will be consistent with and shall not infringe upon either its status as an Hinshaw pipeline or the intrastate services which it provides. It shall be the policy of Transporter to render Qualified Transportation Service subject to available capacity and pursuant to written contracts ("Transportation Agreements") containing terms and conditions generally acceptable to Transporter as set forth herein, executed after consideration of its existing and future commitments, pipeline design capacity and available pipeline capacity, Points of Receipt and Points of Delivery, and other factors deemed material by Transporter. Transporter reserves the right to add, delete or modify conditions in this Statement without prior notice, in accordance with FERC's regulations under 18 C.F.R. Part 284. In the event any contract term or provision is inconsistent with the FERC's regulations or this Statement, the rules and regulations of this Statement will control and the contract will be deemed modified accordingly.

2. RATE SUMMARY

The fair and equitable rates for NGPA Section 311(a) interruptible transportation service shall consist of the following rates:

<u>Rate Schedule</u>	<u>Minimum</u>	<u>Maximum</u>
Interruptible Transportation Service	\$0.0000/Mcf	\$2.7172/Mcf

Transporter will retain from all Shippers a pro rata share of company use and lost-and-unaccounted-for Gas. In addition, a Shipper will incur a pro rata share of actual compressor fuel for fuel consumed in Shipper's designated transportation path. These charges will be calculated and charged on a monthly basis.

3. **DEFINITIONS**

- a) The term “Business Day,” shall mean any day during a year, except Saturday, Sunday or Transporter’s holidays.
- b) The term, “Btu,” shall mean British Thermal Unit and, where appropriate, the plural thereof.
- c) The term, “Central Receipt Point,” shall mean a Receipt Point on Transporter’s system where measurement custody transfers to Transporter from a Shipper that has multiple wellheads upstream.
- d) A “Cubic Foot of Gas,” shall mean for purpose of measurement of the gas delivered hereunder is the amount of gas necessary to fill a cubic foot of space at a pressure of 14.65 pounds per square inch, and at a temperature of sixty degrees (60°) Fahrenheit. The average atmospheric pressure shall be assumed to be 14.65 pounds per square inch absolute.
- e) The term, “Day,” shall mean a period of twenty-four (24) consecutive hours beginning and ending at 9:00 a.m. Central Clock Time. “Day” may, for the purpose of changing of field charts, be extended to a period covered by the chart.
- f) The term “Delivery Point” or “Point of Delivery,” shall mean a point at the outlet side of Transporter’s facilities at a point of interconnection between the facilities of Transporter and the facilities of Shipper or its designee.
- g) The term “FERC” or “Commission,” shall mean the Federal Energy Regulatory Commission.
- h) The term “Fuel,” shall mean the quantity of gas for Transporter’s use, line loss and other unaccounted-for losses on Transporter’s Pipeline System.
- i) The term, “Gas,” shall mean natural gas as produced in its natural state that meets the quality standards contained in these general terms.
- j) The term, “Interruptible” or on an “Interruptible Basis,” shall mean that the transportation of Gas for the account of Shipper is subject to Transporter having sufficient capacity on the Pipeline System to transport such Gas at the time the Gas is tendered.
- k) The term, “Mcf,” shall mean one thousand (1,000) cubic feet of gas.
- l) The term, “MMcf,” shall mean one million (1,000,000) cubic feet of gas.
- m) The term, “Month,” shall mean a period beginning on the first (1st) day of the calendar month and extending to the first (1st) day of the following calendar month.

- n) The term, "NGPA," shall mean the Natural Gas Policy Act of 1978.
- o) The term, "New Taxes," shall mean any tax (other than ad valorem, income or excess profit taxes), license, fee or charge hereafter levied, assessed or made by any governmental authority on the gas itself or on the act, right or privilege of producing, severing, gathering, processing, transporting, handling, selling or delivering gas which is measured by the quantity, value or sales price of the gas.
- p) The term, "Pipeline System," shall mean all pipelines, compressors, and related facilities owned and operated by Transporter.
- q) The term, "Qualified Transportation Service," shall mean Transportation Service provided to qualified Shippers who meet the provisions of this Statement and execute a Transportation Service Agreement as provided hereunder.
- r) The term, "Receipt Point" or "Point of Receipt," shall mean a point at the inlet side of Transporter's facilities at a point of interconnection between the facilities of Transporter and the facilities of Shipper or its designee.
- s) The term, "Shipper," shall mean any party that has executed a Transportation Service Agreement with Transporter for transportation service subject to this Statement.
- t) The term, "Thermally Equivalent," shall mean an equal amount of heating value, expressed in Btu and measured under the specifications and conditions contained hereunder.
- u) The term, "Transportation Service," shall mean interruptible transportation service provided by Transporter pursuant to Section 311(a)(2) of the NGPA.
- v) The term, "Transportation Service Agreement" or "Transportation Agreement," shall mean any contract of Transporter providing Transportation Service to a Shipper.
- w) The term, "Transporter," shall mean B&W Pipeline, LLC.

For purposes of this Statement, lower-cased versions of the above-defined terms shall have the same meaning as capitalized versions of the above-defined terms unless the context clearly indicates otherwise.

4. **TRANSPORTATION RATE**

The rate to be paid by Shipper for service provided hereunder shall be the maximum rate for transportation service as shown in Section 2 – Rate Summary. The Transporter may agree to provide service at a discount to any Shipper on a non-discriminatory basis. The Transporter shall not provide service at a rate exceeding the maximum rate approved for the service.

Transporter's maximum rate for Transportation Service pursuant to Section 311(a)(2) of the NGPA shall be determined pursuant to FERC's regulation. Transporter reserves the right to file for a higher rate at any time.

To the extent that it is legally permissible, Transporter shall in addition have the right to charge Shipper:

- A For the costs of any facilities installed by Transporter to receive or deliver natural gas for the account of Shipper;
- B For any and all fees, as shown in Section 2 – Rates Summary, required in connection with Shipper's transportation agreement that Transporter is obligated to pay to the FERC or any other governmental authority having jurisdiction;
- C For any natural gas gathering, occupation, production, severance, sales, first use, gross receipts, or tax, as shown in Section 2 – Rates Summary, which may be imposed or assessed against Transporter by any lawful authority as a result of the transportation of natural gas pursuant to this Statement or the production for gathering of such natural gas;
- D For any charges, as shown in Section 2 – Rates Summary, which Transporter incurs from other parties in rendering service for Shipper which charges are related to the transportation services rendered to Shipper pursuant to this Statement; and
- E Shipper's pro rata share, as shown in Section 2 – Rates Summary, for the cost of compressor fuel, heater fuel, flare, company use and lost and unaccounted-for Gas used by Transporter on any day excluding any quantities for which fuel reimbursement has been received pursuant to any other provisions of this Statement.

5. **FUEL AND TAXES**

A Fuel may be paid in kind at Shipper's Receipt Point(s) or in dollars per MMBtu for Transportation Service, as set forth in Shipper's Transportation Service Agreement.

B Shipper shall be liable for and shall pay, cause to be paid, or reimburse Transporter if Transporter has paid, causes to be paid or becomes obligated to pay, any Taxes or Governmental Fees attributable to or associated with any or all of the following:

i any transportation service or transaction governed by this Statement performed by Transporter or its designee; and

ii any of the facilities if Transporter or its affiliate(s) used to provide any service or transaction governed by this Statement.

C "Taxes" means any existing or hereafter enacted ad valorem, property, occupation, severance, production, extraction, first use, conservation, Btu or energy, gathering, transport, utility, gross receipts, gas or oil revenue, gas or oil import, privilege, sales, use, consumption, excise, lease, transaction, and other taxes or New Taxes, governmental charges or fees, licenses, fees, permits and assessments, or increases herein, and any interest or penalties on such taxes, charges, licenses, fees permits, New Taxes based on such taxes, charges, licenses, fees, permits, and new taxes, and assessments, other than taxes based on net income or net worth and Governmental Fees.

D "Governmental Fees" means any and all privilege, franchise fees, charges, user fees or rentals levied by the governmental entities in exchange for the grant of privileges relating to use or improvements thereon.

6. **GENERAL TERMS AND CONDITIONS**

6.1 **QUALIFIED SHIPPERS**

In addition to other conditions contained in this Statement, Qualified Transportation Services provided by Transporter are available only to Shippers who enter into a mutually acceptable Transportation Agreement with Transporter. All transactions on behalf of interstate pipelines or local distribution companies served by interstate pipelines must qualify under the provision of Section 311(a)(2) of the NGPA and the FERC's implementing rules, regulations and orders. If, in the opinion of Transporter, the qualified status of a Shipper or its transactions is in doubt, then Transporter may require an affidavit from Shipper attesting to its qualified status or require Shipper to apply for and receive a final, non-appealable declaratory order from the FERC or successor agency thereto, affirming the qualifying status of Shipper and its transaction prior to the commencement of transportation services by Transporter. In addition, Transporter shall not be required to transport for a Shipper unless Transporter is satisfied with the Shippers financial position, using reasonable standards of creditworthiness consistently applied per Section 6.16.

6.2 **GOVERNMENTAL REGULATION**

The transportation arrangement will be subject to all valid existing and future laws, orders, rules, regulations, or proclamations of duly constituted authorities having jurisdiction or control over the parties thereto or the subject matter thereof including, without limitation, the provisions of Subpart C of Part 284 of FERC's regulations implementing Section 311(a)(2) of the NGPA. If any such governmental authority shall take any action which will or has the effect of (i) prohibiting Transporter from collecting specific rates for the services provided under the Transportation Service Agreement, or (ii) will subject or other subjects either party or any of its pipeline or related facilities to any greater or different regulation or jurisdiction than that existing on the date of the contract (or thereafter as such regulation or jurisdiction may have changed and been accepted by such party), then upon written notice to the other, which notice shall not be provided more than 30 days after such governmental action, the party so affected may terminate the Transportation Service Agreement effective one (1) day prior to the effective date of such governmental action without further obligation to the other party except, in the case of Shipper, to make payment for services rendered and, in the case of either Transporter or Shipper, to correct any gas imbalance existing on the date of such termination.

6.3 TERM

Service will be provided for a term as agreed upon by Transporter and Shipper; provided, however, Transporter shall have the right to terminate or suspend service immediately upon prior notice of such termination or suspension given to Shipper in the event (i) Transporter, on a non-discriminatory basis, shall also concurrently terminate or suspend, as the case may be, all of its NGPA Section 311(a) transportation service of the type provided for under the Transportation Service Agreement which, in the absence of such termination or suspension, would in Transporter's sole discretion cause Transporter to be subject to the open and non-discriminatory access provisions contained in Part 284 of the FERC's regulation, or (ii) deliveries of Gas for transportation under the transportation arrangement, once commenced, have ceased for any period of ninety (90) consecutive days or more and not resumed.

6.4 REQUESTS FOR TRANSPORTATION

Transporter will accept as valid only those requests which, in Transporter's sole judgment, are sufficiently specific with respect to the following information, all of which must be provided as set forth below:

- A The quantity of Gas for which Transportation Service is requested, stated in both Mcf and MMBtu per day.
- B Receipt Points:
 - i Point(s) of Receipt into Transporter's System.
 - ii Name of Entity Delivering into Transporter's System.
- C Delivery Points:
 - i Point(s) of Delivery by Transporter.
 - ii All Entities Receiving Gas Downstream of Transporter.
- D Term of Proposed Service:
 - i Date Service Requested to Commence.
 - ii Date Service Requested to Terminate.
- E A certification that the Shipper has a current contractual right to take possession of the Gas to be delivered to Transporter for transportation and will enter into those arrangements necessary to assure all upstream and downstream transportation will be in place prior to the execution of a Transportation Agreement.

F The name, addresses, title, and telephone number of the officer of Shipper who will execute the Transportation Agreement with Transporter and to whom the original(s) of that agreement should be sent.

G A statement of "on behalf of" entities Shipper warrants to meet the provisions of Section 284 of FERC's regulations for Section 311 service.

Unless waived by Transporter, requests for Transportation Service hereunder will be invalid and will not be considered if a Transportation Service Agreement is not entered into within forty-five (45) days of the date of receipt of the information specified in Section 2.8, provided, however, that in no event will Transporter be required to perform service hereunder prior to such time that Shipper satisfies such condition. Requests which cannot be provided due to insufficient capacity, or because of a failure to satisfy the terms of this Statement within forty-five (45) days of the date of the request is made, shall not be of a continuing nature and shall be deemed a nullity for all present and future purposes.

Shipper may request and Transporter may agree to add or delete Points of Delivery and Points of Receipt.

6.5 QUALITY OF GAS

Gas delivered or redelivered hereunder shall be commercially free of dust, gums, gum-forming constituents, gasoline, water, and any other substance that may become separated from the Gas during the handling hereof. All gas delivered or redelivered hereunder shall conform to the following specifications:

- A Dust, rust, and other solids – None
- B Carbon Dioxide – Not more than 3% by volume
- C Oxygen – Not more than 0.2% by volume
- D Hydrogen Sulfide – Not more than ¼ grain per 100 cubic feet
- E Total Sulfur – Not more than 20 grains per 100 cubic feet
- F Free Water – None
- G Heating Value – Not less than 967 Btus nor greater than 1180 Btus per cubic foot
- H Temperature – Not more than 120° Fahrenheit; not less than 40° Fahrenheit
- I Water Vapor – Not more than 7 pounds per million cubic feet
- J Total Inerts – Not more than 4% by volume including carbon dioxide and nitrogen
- K Nitrogen – Not more than 2% by volume
- L Hydrocarbon Dewpoint – Not more than 40° Fahrenheit

In the event the gas delivered at any of the Receipt or Delivery Points hereunder should fail to meet any of the quality specifications stated above, then the receiving Party shall notify the delivering Party and the delivering Party shall make a diligent effort to correct the situation. The receiving Party may, at its option in its sole discretion, choose to accept such gas for so long as the delivering Party is unable to deliver gas conforming to such specifications or the specifications of downstream transporters. Any acceptance of any such non-conforming gas shall not be construed as a waiver of Transporter's rights to refuse any future deliveries of non-conforming gas.

6.6 OPERATIONS

A Upon request of Transporter, Shipper shall be required from time to time or any time to submit estimates of the daily, monthly and annual quantities of Gas to be transported, including peak day requirements, together with the estimated amounts thereof applicable to the Point(s) of Receipt and Delivery and such other operating data as Transporter may require in order to plan its operations, to meet its system requirements, and to render adequate service to its customers. Shipper shall be obligated to notify Transporter's gas control department at least twenty-four (24) hours in advance of any substantial change in the daily quantity of Gas Shipper delivers to Transporter for transportation hereunder.

B Shipper shall deliver or cause to be delivered to Transporter daily quantities of Gas as nearly as possible at uniform hourly rates. Such daily quantities shall be received and delivered hereunder at the same rate, and Shipper shall not, in any manner, utilize Transporter's pipeline system for storage or peaking purposes. If on any day Shipper delivers to Transporter a quantity of Gas in excess of the quantity of Gas being concurrently re-delivered by Transporter, Transporter shall have the right to reduce and/or discontinue its receipts of Gas from Shipper until such time as arrangements have been made by Shipper to balance such excess. If on any day Shipper is re-delivered a quantity of Gas in excess of the quantity of Gas being concurrently delivered to Transporter, Transporter shall have the right to reduce and/or discontinue re-deliveries of Gas to Shipper until such arrangements have been made by Shipper to balance such excess. Transporter, to the extent practicable, will deliver each day a quantity of Gas Thermally Equivalent to the quantity received by Transporter that day, less Fuel, if applicable.

C Shipper shall deliver Gas or cause Gas to be delivered to Transporter at the Point(s) of Receipt at a pressure sufficient to allow the Gas to enter Transporter's pipeline as such pressure shall vary from time to time and from place to place. Transporter shall not be required to compress into its pipeline Gas transported hereunder. At each Point(s) of

Receipt Shipper shall provide, or cause to be provided, at Transporter's request, equipment acceptable to Transporter, which will prevent over pressuring of Transporter's pipeline.

i All Gas delivered hereunder by Transporter shall be delivered at pressures sufficient to enter the downstream facilities at the working pressures maintained at the Delivery Points from time to time. Transporter shall not be obligated to deliver Gas hereunder at pressures exceeding the maximum allowable operating pressures of the facilities or pressures prescribed under any applicable governmental regulations. Notwithstanding the foregoing, Transporter shall at no time be required, unless otherwise agreed in writing, to construct or modify facilities currently existing, including compression, to affect such delivery including, but not limited to, instances when the downstream facility changes its operating conditions from those in effect at the time the interconnection was completed.

ii All Gas delivered at the Delivery Point(s) shall be delivered at pressure sufficient to enter the receiving party's facilities at such point; provided however, Transporter shall not be required to compress Gas or obligated to construct or modify currently existing facilities.

D Transporter shall not be required to provide any requested Transportation Services which would require construction or acquisition by Transporter of any new facilities or expansion of Transporter's existing facilities. Transporter, in its sole discretion, may agree to construct or acquire new facilities or expand existing facilities, to provide service requested by any Shipper. In such event, Shipper agrees to reimburse Transporter for the total incremental cost of the new facilities or expansion of existing facilities, unless otherwise mutually agreed in writing. Transporter shall determine method of reimbursement, either lump sum or installment.

E To the extent Transporter agrees to construct or acquire any new facilities or expand existing facilities, any such facilities shall be contracted, maintained, owned, and operated by Transporter, except as may otherwise be mutually agreed in writing. The design and installation of all facilities shall be in accordance with the specifications determined by Transporter in its sole, reasonable discretion.

F Transporter shall deliver Gas at each Point(s) of Delivery to or for the account of Shipper at the pressure, which shall be available from time to time in Transporter's pipeline after required measurement, flow control, and/or regulation. Transporter shall not be required to compress Gas to be delivered hereunder.

G Shipper shall not increase the daily quantities of Gas that Shipper delivers or causes to be delivered to Transporter if such increase would cause the reduction of or otherwise require interruption of service for existing quantities of Gas flowing on Transporter's

system, regardless of the maximum transportation quantity set forth in the Transportation Agreement, except with the consent of Transporter.

H Any and all Transportation Service to Shipper under this Statement shall be subject to interruption from time to time and at any time and is otherwise subject to the availability of capacity sufficient to provide service without detriment or disadvantage to (1) any sales customers of Transporter, (2) any Shippers receiving firm transportation service, and (3) other Transportation Service customers of Transporter pursuant to contracts for such service as such obligations existed on the date of Shipper's valid request for service. Notwithstanding the foregoing, Transporter may interrupt service and may allocate capacity as operational circumstances dictate, including but not limited to accepting any allocations made by transporters upstream of Transporter with respect to the quantities delivered to Transporter.

6.7 NOMINATIONS

A If Shipper desires service under its Transportation Service Agreement on any day, Shipper shall give written notice of Shipper's nomination to Transporter specifying the quantity of Gas Shipper requests under each of Shipper's Transportation Service Agreement for each day of the service month. Such nomination should reflect the service for each Receipt Point and each Delivery Point, any imbalance correction quantities and any scheduled daily variations. Shipper shall furnish such nomination to Transporter by facsimile or other electronic means and such nomination shall also specify information as Transporter determines is necessary in order to perform the service requested by Shipper. Receipts and deliveries of Gas herewith shall be at uniform hourly rates of flow unless otherwise mutually agreed by Shipper and Transporter.

B For a Shipper's initial nomination to be accepted for the first (1st) day of the service month, Shipper's nomination must be received by Transporter by 11:30 a.m. Central Clock Time on the fourth (4th) Business Day prior to the last day of the month preceding the service month. For Shipper's nominations at all other Receipt or Delivery Points to be accepted for the first (1st) day of the service month, Shipper's nominations must be received by Transporter by 11:30 a.m. Central Clock Time on the second (2nd) Business Day prior to the last day of the month preceding the service month.

C Shipper shall have the right, on or after the first (1st) day of the service month, to submit a new nomination or revise their existing nomination for any day during the service month provided such nomination is received by Transporter prior to 11:30 a.m. Central Clock Time on the Business Day prior to the day such new or revised service is requested to commence. Such new or revised nomination shall specify Shipper's anticipated service requirements for the remainder of the service month. New or revised nominations shall be

scheduled and implemented by Transporter on a prospective basis and only to the extent the Transporter is able to confirm the receipt and delivery of such Gas with the operator of the Receipt and Delivery Points. If a conflict arises between Shipper's new or revised nomination and the operator's confirmation, Shipper understands and agrees such Receipt or Delivery Point operator's confirmation shall control.

D Transporter may, in its sole, reasonable discretion, accept Shipper's new or revised nomination if such nomination is received by Transporter after 11:30 a.m. Central Clock Time on the Business Day prior to the day such new or revised service is requested to commence. Such new or revised nomination shall specify Shipper's anticipated service requirements for the remainder of the service month. New or revised nominations shall be scheduled and implemented by Transporter on a prospective basis and only to the extent the Transporter is able to confirm the receipt and delivery of such Gas with the operator of the Receipt or Delivery Points. Such scheduling and implementation shall not "bump" any previously scheduled service. If a conflict arises between Shipper's new or revised nominations and the operator's confirmation, Shipper understands and agrees such Receipt or Delivery Point operator's confirmation shall control.

E All nominations will designate a person who will be responsible for coordinating notices between Transporter, well operator(s) and operators of the Shipper's Receipt and Delivery Points in accordance with these procedures.

6.8 SCHEDULING

A Capacity in Transporter's Pipeline System shall be scheduled each day in the following order and manner:

i For Interruptible Service provided under this Statement, Transporter shall schedule nominated service on a chronological basis based upon the date Shipper executes a Transportation Service Agreement, subject to the conditions in this Statement, the terms contained in the applicable Transportation Service Agreements, the availability of sufficient system capacity, Transporter's existing or future contractual obligations, and other operational constraints.

ii Imbalance correction quantities nominated under any Transportation Service Agreement shall receive lower priority. Within this category, Transporter shall schedule nominated service on a pro rata basis.

6.9 BALANCING

A Transporter shall deliver to Shipper or its designee at the Delivery Point on a daily basis, quantities Thermally Equivalent to quantities received, less Fuel, if applicable,

unless otherwise mutually agreed to in writing. Transporter, upon notice to Shipper which shall be given at least twenty-four (24) hours in advance unless exigent circumstances dictate otherwise, may issue "Operational Flow Orders" to require adjustments to Shipper's daily scheduling of receipts and/or deliveries over a reasonable period of time in order to maintain a concurrent balance when the operational integrity and/or safe operation of Transporter's Pipeline System would otherwise be threatened or result in inefficient or unreliable service.

B If Shipper is advised by any upstream or downstream Transporter or operator to reduce or suspend deliveries for transportation, Shipper shall immediately notify Transporter orally, and shall confirm such notification in writing of such reduction or suspension, and adjust its nominations at Receipt Points and/or Delivery Points in order to maintain a balanced position.

C Shipper shall be responsible for and shall bear any penalties imposed, claims made, or judgments imposed (collectively called "Liability") by either (i) upstream and downstream Transporters for imbalances between Receipt and Delivery Points; or (ii) well operators or well interest owners for production imbalances among the interest owners in a well. Shipper shall indemnify and hold Transporter harmless from all such Liability, including court costs and reasonable attorney fees, unless such Liability is found to be the direct result of Transporter's negligence.

D Prior to initiating corrective action, Transporter will provide to Shipper information regarding any current or potential imbalance situation, and Shipper shall adjust nominations at Receipt Points and/or Delivery Points in order to maintain a balanced position. However, if conditions threaten the integrity or safe operation of Transporter's Pipeline System then corrective action may be immediately taken. If Shipper believes such information is inaccurate, it shall immediately provide Transporter the information it believes to be contrary to Transporter's conclusion for verification prior to corrective action.

6.10 CURTAILMENT

A Transporter shall have the right to curtail or discontinue transportation services in whole or in part on all or a portion of its system at any time for reasons of force majeure or when in Transporter's sole judgment, capacity or operating conditions so require, or it is desirable or necessary to make modifications, repairs or operating changes to its system.

B Transporter shall provide Shipper such notice of the curtailment as is reasonable under the circumstances. In the event curtailment of transportation service is required, service quantities shall be curtailed in reverse order of the priority in effect at the time of

curtailment established during scheduling as set forth in the "Scheduling" section of these General Terms and Conditions.

6.11 **FORCE MAJEURE**

A In the event Transporter or Shipper is rendered unable, wholly or in part, by reason of force majeure to carry out its obligations under the Transportation Service Agreement (other than the obligation to make payment of amounts due hereunder), it is agreed that such party shall give notice and reasonably full particulars of such Force Majeure, in writing, by telephone, facsimile, or other electronic means to the other party within a reasonable time after the occurrence of the cause relied on, and the obligations of the party giving such notice, so far as they are affected by such Force Majeure, shall be suspended during the continuance of any inability so caused, but for no longer period, and such cause shall, so far as possible, be remedied with all reasonable dispatch.

B The term "Force Majeure," as employed herein shall mean acts of God; strikes, lockouts, or other industrial disturbances; conditions arising from a change in governmental laws, orders, rules, or regulations; acts of public enemy; wars; blockades; insurrections; riots; epidemics; landslides; lightning; earthquakes; fires; storms; floods; washouts; arrests and restraints of governments and people; civil disturbances; explosions; breakage or accident to machinery or lines of pipe; freezing of lines of pipe or processing facilities; and any other causes, whether of the kind herein enumerated or otherwise, not reasonably within the control of the party claiming relief hereunder, and which by the exercise of due diligence, such party is unable to prevent or overcome. Such terms shall likewise include: (i) those instances where either Transporter or Shipper is required to obtain servitudes, rights-of-way, grants, permits or licenses to enable such party to fulfill its obligations under the Transportation Service Agreement; the inability of such party to acquire, or the delays on the part of such party in acquiring, at reasonable costs, and after the exercise of reasonable diligence, such servitudes, rights-of way, grants, permits, or licenses; (ii) those instances where either Transporter or Shipper is required to furnish materials and supplies for the purpose of constructing or maintaining facilities or is required to secure permits or permissions from any governmental agency to enable such party to fulfill its obligations under the Transportation Service Agreement, the inability of such party to acquire, or the delays on the reasonable diligence, such materials and supplies, permits and permissions' and (iii) in those instances in which Transporter utilizes facilities of another entity or entities to transport Gas under the Transportation Service Agreement, the failure of such other entity or entities to transport such Gas. Force Majeure shall not include failure of Gas supply due to pricing considerations.

C It is understood and agreed that the settlement of strikes or lockouts shall be entirely within the discretion of the party having the difficulty, and that the above requirement that any Force Majeure shall be remedied with all reasonable dispatch shall not require the settlement of strikes or lockouts by acceding to the demands of the opposing party when such course is inadvisable in the discretion of the party having the difficulty.

D Notwithstanding the foregoing, it is specifically understood and agreed by Transporter and Shipper that Force Majeure shall, in no way, terminate the parties' obligations to resolve imbalances in accordance with the terms provided for herein.

6.12 **BILLING AND PAYMENT**

A For the purpose of billing and account for the Gas delivered hereunder, the day shall begin at 9:00 a.m. Central Clock Time and extend to 9:00 A.M. the following day, and the month (hereinafter referred to as "Billing Month") shall begin at 9:00 a.m. Central Clock Time on the first day of the calendar month and extend to 9:00 a.m. on the first day of the following calendar month.

B On or before the twentieth (20th) Business Day of each month, Transporter shall render or cause to be rendered, by mail or facsimile, or other electronic means, to all Shippers an invoice of the amount due for the preceding month setting forth the total quantity of Gas delivered by Transporter to Shipper at the Delivery Points and rates for transportation hereunder during such Billing Month. Billings for quantities transported shall be determined on a dry basis. In computing the amounts due, Transporter may utilize estimates of the quantity of Gas received from or delivered for the account of Shipper during a month, in place of actual quantities when actual quantities are not reasonably available; provided that adjustments shall be made in later statements for differences between such estimated and actual quantities. When information necessary for billing purposes is in control of Shipper, Shipper's Gas seller, or Shipper's downstream pipeline or purchaser, Shipper shall furnish such information to Transporter on or before the fifth (5th) day of the calendar month following the month of transportation.

C Within ten (10) days from the date of invoice, Shipper shall pay Transporter the amount due for all Gas delivered by Transporter for the account of Shipper at the Delivery Points during the preceding month. Payments to Transporter shall be made by check mailed to the administrative offices of the Transporter or by wire transfer to Transporter's bank, crediting Transporter, such that funds are available to Transporter on or before the tenth (10th) day after the date of the invoice. If rendering of an invoice by Transporter is delayed after the twentieth (20th) day of the month, then the time of payment shall be extended accordingly unless Shipper is responsible for such delay.

D **Good Faith Dispute:** If a portion of an invoice is disputed, Shipper shall pay when due the portion of the invoice not in dispute and shall at the same time provide Transporter with documentation supporting its dispute. If Shipper, in good faith, disputes the amount of any such bill or part hereof and pays to Transporter such amounts as Shipper concedes to be correct, and furnishes and maintains a good and sufficient surety bond in an amount and with sureties satisfactory to Transporter conditioned upon the payment of any amounts ultimately found due upon such bills after a final determination, then Transporter shall not be entitled to suspend further delivery due to failure to pay such bills.

E **Late Payment:** In the event Shipper shall fail to pay any amount due Transporter when the same is due, Transporter shall have the option of accruing interest on such unpaid amount at an interest rate equal to the current FERC interest rate, as defined in Section 154.501(d) of FERC's regulations, from the date due until the date payment is received by Transporter.

F Shipper shall not be required to pay interest on any amount billed which is in good faith disputed in writing by Shipper and is ultimately determined to be in error; provided, however, interest shall be due if such amount billed is found not to be in error. If such failure to pay continues for thirty (30) days after payment due date Transporter may suspend deliveries of Gas, subject to Transporter providing forty-eight (48) hours written notice, during normal working hours, of such intention to suspend deliveries. In the event Transporter pursues collection on late payment, Shipper shall be liable for all expenses and costs, including court costs and attorney fees, incurred as a result of Transporter's attempts to collect such funds not timely paid.

6.13 **POSSESSION OF GAS**

A As between the parties hereto, Shipper shall be deemed to be in control and in possession of the Gas prior to such Gas being delivered to Transporter at the Point(s) of Receipt, and responsible for any injuries or damages caused thereby until such Gas is delivered to Transporter hereunder for the account of Shipper, except any injuries and damages which shall be occasioned solely and proximately by the negligent act or omission of Transporter for which Transporter shall be responsible. After Shipper's delivery of said Gas to Transporter, Transporter shall thereafter be deemed to be in exclusive control and possession of such Gas and responsible for any injuries or damages caused thereby, until its deliveries hereunder to or for the account of Shipper, except injuries and damages which shall be occasioned solely and proximately by the negligent act or omission of Shipper, for which Shipper shall be responsible. Shipper and Transporter specifically understand and acknowledge that title to all Gas transported hereunder shall never vest in Transporter. Each party expressly notifies the other that the Gas delivered to the Receipt and Delivery Points hereunder is not odorized. In the event

either party, at its own election or pursuant to laws, orders, rules or regulations of any governmental body having jurisdiction, elects or is required to odorize the Gas deliverable hereunder, then such party shall give prior written notice to the other of its intention to odorize such gas.

6.14 TITLE AND RISK OF LOSS

A Shipper warrants for itself, its successors and assigns, that it will have at the time of delivery of Gas at the Receipt Point hereunder either good title or all rights necessary and appropriate to have the Gas transported. Shipper warrants for itself, its successors and assigns, that the Gas it delivers hereunder shall be free and clear of all liens, encumbrances and claims on the title to the Gas; and that it will indemnify and hold harmless Transporter, its officers, agents, employees and contractors from and against any and all suits, claims, liability, loss, damages, costs (including attorney's fees and court costs) or encumbrances whatsoever arising directly or indirectly from and with respect to the title and/or right to Gas tendered to Transporter hereunder. Transporter warrants that at the time of delivery to the Shipper at the Delivery Point the Gas delivered hereunder shall be free and clear of all liens, encumbrances and claims on the title to the Gas; and that it will indemnify and hold harmless Shipper, its officers, agents, employees, and contractors against any and all suits, claims, liability, loss, damages, costs (including attorney's fees and court costs) or encumbrances whatsoever arising directly or indirectly from or with respect to the title and/or right to Gas delivered to Shipper as a result of Transporter's possession or transportation hereunder. Title and/or rights to all Gas delivered by Shipper to Transporter for transportation, hereunder will remain with Shipper during transport by Transporter; provided, however, it is understood and agreed that the Gas delivered at the Point(s) of Delivery will not be identical Gas that was delivered to Transporter for transportation, hereunder, but such Gas will be a part of the commingled delivery of Gas and, for the purpose of Shipper's Transportation Service Agreement, the commingled Gas may be substituted for Shipper's Gas on a heat-equivalent basis.

6.15 RECEIPT AND DELIVERY POINTS

A The Point(s) of Receipt and Delivery for all Gas tendered to Transporter for transportation hereunder shall be at the interconnection of Transporter's and Shipper's (or any third-party as may be applicable) facilities, or at such other point(s), as specified in Shipper's Transportation Agreement with Transporter.

6.16 CREDITWORTHINESS

A In the event Shipper (i) makes an assignment or any general arrangement for the benefit of creditors, (ii) defaults in the payment or performance of any obligation to Transporter under this Agreement, (iii) files a petition or otherwise commence, authorize, or acquiesce in the commencement of a proceeding or cause under any bankruptcy or similar law for the protection of creditors or has such petition filed or proceeding commenced against it, (iv) otherwise becomes bankrupt or insolvent (however evidenced), (v) is unable to pay its debts as they fall due, or (vi) fails to give adequate security for or assurance of its ability to perform its obligations under this Agreement within forty-eight (48) hours of a reasonable request by Transporter, then Transporter shall have the right to suspend services or to terminate services without prior notice and without prejudice to any and all claims for damages or other rights or remedies available or pursuant to law and without liability of any kind or character to Shipper.

B If, during the term of this Agreement, Shipper fails to pay for Transportation services according to provisions hereof and/or Transporter, in its sole judgment reasonably exercised, determines that the creditworthiness or financial responsibility of Shipper has become impaired or unsatisfactory, then Transporter may, upon written notice to Shipper, require Shipper to pay for the transportation of Gas hereunder in cash in advance for up to three months of Transporter's Transportation Services thereof or request other security satisfactory to Transporter before further Transportation Services are provided.

6.17 MISCELLANEOUS

A Transporter reserves the right to add, delete or modify conditions in this Statement at any time in accordance with the FERC's regulations. A copy of this Statement will be furnished to Shippers upon request.

B The rules and regulations of the FERC govern all services provided hereunder, and in the event any contract term or provision is inconsistent with such rules or regulations or this Statement, the rules and regulations or this Statement will control and the contract will be deemed modified accordingly.

C **Governing Law.** The interpretation and performance of any Transportation Service Agreement that is subject to this Statement shall be governed by, construed, interpreted and enforced in accordance with the substantive laws of the State of Tennessee, without reference to its choice of law doctrine.

D **Assignment.** Any transaction entered into that is governed by this Statement shall be binding upon and inure to the benefit of the successors, assigns, personal representatives, and heirs of the respective Shipper and Transporter. No assignment of

such transaction, in whole or in part, shall be made by Shipper without the prior written consent of Transporter, which consent will not be unreasonably withheld, provided, however, Shipper may transfer its interest to any affiliate by assignment, merger or otherwise without prior written consent of Transporter as long as such entity has a credit status which, in Transporter's sole opinion, is at least equal to or higher than that of Shipper.

E **Dispute Resolution.** In the event the Transporter and Shipper are unable to resolve any dispute regarding the application or interpretation of any provision of a Transportation Service Agreement or related transaction, such dispute shall be resolved through mandatory Arbitration under the Rules of the Center for Public Resources Institute for Dispute Resolution, to the extent not inconsistent with the rules specified herein.

i Within twenty (20) Business Days of either Transporter's or Shipper's written election to the other to arbitrate any disputes which arise under this Agreement, each party shall choose one (1) arbitrator, and within ten (10) Business Days after both such arbitrators are chosen, such arbitrators shall choose a third arbitrator thus completing the whole arbitration panel. Any arbitrator chosen shall be a disinterested party with knowledge of the industry. Any arbitration hereunder shall be conducted in Nashville, Tennessee.

ii The arbitrator(s), once chosen, shall consider any evidence which the arbitrators deem necessary and shall then accept sealed written resolutions of the subject dispute from each party on a confidential basis to be submitted within twenty (20) Business Days of establishment of the arbitration panel. The written submissions shall be in a form and subject to limitations as may be prescribed by the arbitrators. The arbitrators shall then choose only one of the proposed solutions, (without modification) as the fairest solution to the dispute within ten (10) Business Days of receipt of the written submissions of both parties. In the event of a three-member arbitration panel, a majority vote shall govern. The decision of the arbitrators shall be final and non-appealable.

iii Any expenses incurred in connection with hiring the arbitrators and performing the arbitration shall be shared and paid equally between the parties. Each party shall bear and pay its own expenses incurred in connection with the arbitration, unless otherwise included in a solution chosen by the arbitration panel. In the event either party must file a court action to enforce an arbitration award under this Section, the prevailing party shall be entitled to recover its court costs and reasonable attorney fees. In respect of any suit, action, claim or proceeding relating to this Transportation Service Agreement, each party hereby waives, to the fullest extent permitted by law, any right to jury trial. The existence, contents or results of any arbitration hereunder may not be disclosed without the prior written consent of both parties. The parties submit to the non-exclusive jurisdiction of the courts of the State of Tennessee.

F **Limitations of Remedies, Liability and Damages.** No party shall be liable for consequential, incidental, punitive, exemplary or indirect damages, lost profits or other business interruption damages, by statute, in tort or contract, under any indemnity provision or otherwise. The limitations imposed on remedies and the measure of damages is without regard to the cause or causes related thereto, including the negligence of any party, whether such negligence be sole, joint or concurrent, or active or passive.