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Gas Services Department  
Railroad Commission of Texas

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**Texas Intrastate No. 1.0.0**

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**KINETIK HOLDINGS LP**

Local Pipeline Tariff

Containing

**RATES, RULES AND REGULATIONS**

Applying on the Intrastate Transportation of

**PRODUCT**

Transported by Pipeline

From and To Points in Texas

All rates published in this Tariff are for the intrastate transportation of Products within the State of Texas, being expressed in cents per Barrel of 42 U.S. Gallons and are subject to change as may be provided by law, and are governed by the provisions found under the Rules and Regulations herein.

Operated by Enterprise Products Operating LLC, (P5 # 253368) under T-4 Permit Nos. 09743 and 09781.

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**EFFECTIVE: June 21, 2022**

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ISSUED AND COMPLIED BY:

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## RULES AND REGULATIONS

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### ITEM 1 DEFINITIONS

“Adverse Encumbrance” shall have the meaning given in Item 12 of this tariff.

“Affiliate” shall mean any entity that directly or indirectly (i) controls a Shipper; (ii) is controlled by a Shipper; or (iii) is controlled by the same entity that controls a Shipper. For purposes of this definition, the terms “controls” and “controlled by” mean the power to direct or cause the direction of the management of and policies of another entity whether through the ownership of shares, a contract, trust arrangement or any other means, either directly or indirectly, that results in control in fact, but notwithstanding the foregoing includes, with respect to the control of or by a corporation, partnership or limited liability company, the ownership of shares or equity interests carrying not less than 50% or more of the voting rights regardless of whether such ownership occurs directly or indirectly. Without limitation, any one or more of the following shall conclusively evidence that entities are Affiliates of each other: (a) use of shared mailing or business addresses; (b) use of shared business telephone numbers; (c) use of common bank account(s); (d) the same or substantially the same management, general partner or managing member; and/or (e) one Shipper directing or conducting business on behalf of another Shipper.

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

“Base Shipment Percentage” for each Regular Shipper means the total deliveries of Product by the Regular Shipper during the Base Period on the Pipeline divided by the total deliveries the Pipeline during the Base Period.

“Base Period” means the 12-calendar month period immediately preceding the Calculation Month.

“BPD” shall mean Barrels per Day.

“Calculation Month” means the calendar month immediately preceding the Proration Month.

“Carrier” shall mean Kinetik Holdings LP, a Delaware limited partnership.

“Central Clock Time” or “CCT” shall mean Central Standard Time, as adjusted for Central Daylight Time.

“Collateral” shall have the meaning given in Item 13 of this tariff.

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

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

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

“Current Nomination Basis” means that the portion of System Capacity available to New Shippers and to be allocated among all New Shippers in proportion to each New Shipper’s Nomination received by Carrier for the Proration Month.

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

“Demethanized Mix” shall mean a mixture of any or all of the following components: ethane, propane, isobutane, normal butane, and natural gasoline.

“Destination Point” shall mean the destination point(s) set forth under Item 100 - Table of Rates.

“EStream” shall mean the integrated business operating system utilized by Carrier for the coordination of all business conducted on Carrier’s pipelines and facilities.

“Financial Assurances” shall have the meaning given in Item 13 of this tariff.

“Financial Obligations” shall have the meaning given in Item 13 of this tariff.

“Force Majeure” shall mean an event or occurrence beyond the reasonable control of Carrier that interferes with or prevents Carrier's performance of any obligation or condition under this tariff, under a transportation service agreement, interconnect agreement, or other agreement affecting Carrier or Carrier's facilities, including but not limited to (i) actions, orders, regulations, or requests of any governmental authority having jurisdiction over the Pipeline, Carrier, or this tariff; (ii) insurrections, wars, rebellion, riots, disturbances, sabotage, acts of public enemies, blockades, embargoes, expropriation, condemnation, epidemics, strikes, lockouts, or labor disturbances or difficulties (the settlement of strikes, lockouts, or labor difficulties being entirely within Carrier's discretion); (iii) weather conditions or anticipated weather conditions and actions of the elements, including, without limitation, fires, explosions, earthquakes, storms, floods, freezing conditions, washouts, lightning, hurricanes, tornadoes, or landslides; (iv) disruptions to, breakages of, or destruction of all or any portion of Carrier-owned, Affiliate-owned, or third party-owned machinery, lines of pipe, or facilities relied upon or contributing to provision of transportation service under this tariff, including the inability to obtain electric power, water, fuel, equipment, parts, repairs, or other items or services; and (v) fires, explosions, freezing conditions, breakdowns or failure of pipe, plant, machinery, or equipment. An event similar to the foregoing that interferes with or prevents Carrier's performance of its obligations shall be deemed an event of Force Majeure.

“Gas” shall mean any mixture of gaseous hydrocarbons, consisting essentially of methane and heavier hydrocarbons and inert and noncombustible gases that are extracted from the subsurface of the earth.

“Linefill” shall mean the quantity of Product required by Carrier needed to occupy the physical space in Carrier's facilities to provide working stock and storage receptacle bottoms, if applicable, as determined by Carrier and as required by Item 18.

“Losses” shall have the meaning given in Item 3 of this tariff.

“Month” shall mean a period commencing at 7:00 a.m., CCT, on the first Day of a calendar month and ending at 7:00 a.m., CCT, on the first Day of the next calendar month.

“Monthly Ratable Basis” shall mean the delivery of Product throughout each Month in Daily quantities that are approximately equal to the volume of Product delivered during the Month, divided by the number of Days in that Month.

“Monthly Throughput” shall mean the actual number of Barrels of Product received by Carrier from Shipper at an Origin Point and transported to a Destination Point in a Month.

“New Shipper” means any Shipper that is not a Regular Shipper.

“Nomination” shall mean a written communication (in form and context specified by Carrier) made by a Shipper to Carrier of a quantity of Product for transportation on the Pipeline in accordance with the terms of this tariff.

“Noncompliant Product” shall have the meaning given in Item 3 of this tariff.

“Non-Routine Product Losses” has the meaning set forth in Item 14 of this tariff.

“Obligations” shall have the meaning given in Item 13 of this tariff.

“Operator” shall mean Enterprise Products Operating LLC.

“OPIS Index” shall mean the Monthly average of the Daily average (AVG) prices per gallon, for the Month of delivery, as quoted by Oil Price Information Service (“OPIS”) in the OPIS-LP-Gas Report for “Any Current Month” under “Mont Belvieu Spot Gas Liquids Prices” using (i) the Non-TET prices for the propane, isobutane, normal butane, and natural gasoline Components and (ii) the Purity Ethane price for the ethane Component. No value will be given to CO<sub>2</sub> or other impurities or for methane in excess of the Product Specifications.

“Origin Point” shall mean the origin point(s) set forth under Item 100 - Table of Rates.

“Person” shall mean any natural person, corporation, company, partnership (general or limited), limited liability company, trust, joint venture, joint stock company, unincorporated organization, or other entity or association.

“Pipeline” shall mean the portion of capacity on the Shin Oak Pipeline owned by Breviloba, LLC that is leased to Carrier and used to provide service under this tariff or any tariff making reference hereto.

“Product(s)” shall mean Demethanized Mix meeting the Product Specifications.

“Product Specifications” shall have the meaning given in Item 3 of this tariff.

“Proration Month” shall mean the Month for which System Capacity is to be allocated in accordance with Item 17.

“Referee Sample” shall have the meaning given in Item 8 of this tariff.

“Regular Shipper” means a Shipper that has shipped Product through the Pipeline during each consecutive month of the Base Period.

“Shipper” shall mean the party who contracts with Carrier for transportation of Product under the terms of this tariff.

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

“Shipper Sample” shall have the meaning given in Item 8 of this tariff.

“System Capacity” shall mean the amount of capacity available on the Pipeline at any applicable point in time.

“Testing Sample” shall have the meaning given in Item 8 of this tariff.

“Total Net Volume” shall mean the aggregate Component Net Volume of all Components identified for a given volume of Product.

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

## **ITEM 2 SCHEDULING OF RECEIPT AND DELIVERY**

Shippers desiring to transport Product shall furnish a Nomination to Carrier via EStream no later than the 15th calendar day of the Month preceding the Month in which Shipper desires transportation. Carrier may, but is under no obligation to, consider nominations furnished after this date.

A Nomination shall specify the Origin Point and Destination Point of the Product offered for transportation on the Pipeline. If Shipper does not furnish such Nomination, then Carrier will be under no obligation to accept such Product for transportation.

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

Carrier will transport and deliver Product with reasonable diligence and dispatch considering the quantity, distance of transportation, safety of operations, and other material factors, but Carrier

provides no guarantees with respect to timing for delivery of the Product and will accept no Product to be transported in time for any particular market.

Enhanced facilities or services may be required by a Shipper and may be provided for in a required contract in accordance with Item 19.

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

Carrier will accept only good faith Nominations from Shippers, and Carrier shall use whatever reasonable means necessary to determine whether Nominations are made in good faith. Good faith means the non-contingent ability and willingness of Shipper to deliver to Carrier at the Origin Point specified in the Nomination all of the Barrels to be tendered during the month for which the Nomination is made.

### **ITEM 3 PRODUCT SPECIFICATIONS**

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

Carrier may, on a not unduly discriminatory basis, refuse to accept any Product for transportation which falls within one or more of the following categories (“Noncompliant Product”): (1) Product that does not meet Carrier's Product specifications (the “Product Specifications”), which are available upon request; (2) Product that is not in compliance with applicable Federal, state or local regulations; (3) Product that poses a health or safety hazard to Carrier's employees or to the public; or (4) Product that is incompatible with Carrier's transportation system, method of operation or transportation of other petroleum products.

Carrier reserves the right to modify its Product Specifications from time to time. In the event Carrier makes modifications to its Product Specifications, Carrier will provide Shippers with notice of such modifications and provide a copy of, or access to, the modified Product Specifications.

In addition to meeting the Product Specifications and subject to Carrier’s discretion, the Ethane content of Demethanized Mix tendered by Shipper to Carrier at an Origin Point for transportation to the Destination Point may be less than ten percent (10%), at Carrier's sole discretion, and no more than sixty-five percent (65%) by liquid volume.

Shipper may be required to furnish Carrier with a certificate setting forth the specifications of each shipment of Product to be transported in Carrier's facilities. If Shipper fails to provide Carrier with such certificate, Carrier shall not be obligated to accept Shipper's Product. Carrier reserves the right to sample and/or test any such shipment prior to acceptance or during receipt, and in the event of variance between Shipper's certificate and Carrier's test, the latter shall prevail.

If, upon investigation, Carrier determines that Shipper has delivered to Carrier's facilities Noncompliant Product, Carrier may treat or otherwise dispose of all such Noncompliant Product

in any reasonable commercial manner at Shipper's sole expense. Carrier may require Shipper to stop delivery of such Noncompliant Product to Carrier until such time as Carrier determines by additional testing that such noncompliance has been cured and the Product meets the Product Specifications. Carrier may collect its actual treating and handling charges plus an additional twenty percent (20%) of such charges.

In addition to Shipper's obligation to deliver Product meeting the Product Specifications, and Carrier's right to dispose of Noncompliant Product as provided for herein, Shipper shall pay any reasonable fees set forth by Carrier for the incident and shall indemnify, defend, reimburse, and hold Carrier harmless from and against all claims, penalties, losses, costs, expenses, liabilities or damages of any kind or nature whatsoever (including reasonable attorneys' fees and court costs associated therewith) (collectively, "Losses"), whether the Losses be suffered by Carrier or any third party, arising out of or related to Shipper's delivery to Carrier of Noncompliant Product, including without limitation, Losses to Carrier's property, the property of others (including other Shippers), or treating or blending fees.

#### **ITEM 4 MINIMUM TENDER AND RATABLE DELIVERY**

The minimum quantity of Product which will be accepted at the Origin Point from a Shipper shall be 150,000 Barrels per Month. Carrier shall have the right to accept shipments of less than the required quantities of Product for transportation subject to delay until Carrier has accumulated the required quantities of Product at the same Origin Point from the same or other Shippers.

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

#### **ITEM 5 APPLICATION OF RATES**

Carrier shall assess transportation and all other lawful charges accruing on Product accepted for transportation at the rate in effect on the date Product is accepted for transportation by the Carrier. Carrier will invoice Shipper for transportation charges and all other lawful charges accruing on Product accepted in accordance with Item 13 of this tariff at the rates published herein.

#### **ITEM 6 ORIGIN AND DESTINATION FACILITIES**

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

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

## **ITEM 7 DEMURRAGE**

Shipper shall remove Product, or cause Product to be removed, from Carrier's facilities following transportation to a nominated destination. In the event failure to remove Product threatens or prevents delivery of succeeding shipments into or out of Carrier's facilities, and/or threatens or causes congestion at pipeline destinations, Carrier shall have the right, without liability to Shipper, to make such disposition of unremoved Product as is necessary for the efficient operation of the pipeline, and Shipper shall pay, Carrier all charges and costs associated with such disposition the same as if Shipper had authorized such, together with any associated additional costs and damages borne or incurred by Carrier. Shipper shall indemnify and hold Carrier harmless from any loss sustained by Carrier by reason of Shipper's inability to take delivery of unremoved Product out of the Pipeline. In addition to the foregoing remedies, in the event pipeline flow rates are reduced due to Shipper's inability to take delivery of Product, Carrier shall have the right to charge and Shipper shall pay, if charged by Carrier, an hourly demurrage penalty equal to the product of a) the current tariff rate from the affected pipeline segment origin to the furthest destination on such segment and b) the pipeline hourly flow capacity and c) the number of hours that Shipper's Product remains in the pipeline.

## **ITEM 8 MEASUREMENT AND QUALITY**

Observed volumes of Product shall be corrected to net component volumes at 60°F and equilibrium vapor pressure by the use of flowing mass, a component analysis of a sample accumulated from the flowing stream, and component densities from the latest GPA 2145 Standard. Shipper will receive credit for Product as a net allowable.

Carrier and/or Operator will use meter proving data and other data it deems reliable and accurate to correct measurement error. Notwithstanding the foregoing, Carrier's and/or Operator's measurement data shall be deemed final unless it is contested by Shipper in writing within ninety (90) days of the end of the applicable ticket period or, when corrections are applied by Carrier or Operator, as applicable, within ninety (90) days of the date of correction(s) by Carrier or Operator, whichever is later.

Carrier and/or Operator shall determine whether Shipper's Product conforms to the Product Specifications during a particular ticket period by analyzing a sample of Shipper's Product that is captured by a designated composite sampler during the ticket period ("Testing Sample"). Carrier and/or Operator shall also use the Testing Sample to determine the component composition of any Product Shipper transports during the ticket period. The results of Carrier's or Operator's, as applicable, analysis of the Testing Sample shall be final unless it is contested by Shipper, in writing, within twenty-five (25) days following the last date of a ticket period

At the same time it obtains the Testing Sample, Carrier or Operator shall also obtain two other samples of Shipper's Product from the same composite sampler. If present, Shipper or its designated representative shall be entitled to retain one of those samples ("Shipper Sample") so that it may conduct its own analysis regarding whether the Product conforms to the Product Specifications and the component composition of the Product. If Shipper or its designated representative is either not present at the time the samples are taken or does not request a sample of the Product, then Carrier or Operator shall be under no obligation to retain the Shipper Sample.



The other sample shall be held by Carrier or Operator as a referee sample (“Referee Sample”). Carrier or Operator will retain the Referee Sample for thirty (30) calendar days following the last date of the applicable ticket period.

If the results of Shipper’s analysis of the Shipper Sample conflict with the results of Carrier’s or Operator’s, as applicable, analysis of the Testing Sample with respect to an issue of compliance with the Product Specifications or component composition, Shipper may, within thirty (30) days following the last date of the applicable ticket period, contest the results of Carrier’s or Operator’s, as applicable, analysis by delivering a written request to Carrier and Operator to analyze the Referee Sample. Following receipt of such a request, Carrier and/or Operator shall arrange for a third party laboratory to analyze the Referee Sample for compliance with the Product Specifications and/or for component composition, as applicable. The results of the third party laboratory’s analysis shall be accepted by Shipper, Carrier and Operator as final and conclusive with respect to the question at issue. Charges for analyzing the Referee Sample shall be borne equally between Shipper and Carrier.

#### **ITEM 9 PRODUCT COMPONENT BALANCING**

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

If Carrier requires Shipper participation in the Product Component Imbalance process described herein, Shippers will be required to cash out any Component Imbalance from the prior Month to zero and will be notified by Carrier of its Shipper Cash Out Position.

#### **ITEM 10 IDENTITY OF SHIPMENTS**

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

#### **ITEM 11 TITLE TO PRODUCT, POSSESSION, CONTROL AND RISK OF LOSS**

- (A) Title. Title to the Product tendered by Shipper to Carrier for transportation on the pipeline will remain with Shipper.
- (B) Possession, Control, and Risk of Loss. Shipper shall be deemed to be in exclusive possession and control of all Product for which services are provided hereunder upstream of the Origin Point and downstream of the Destination Point. As between

Shipper and Carrier, Carrier shall be deemed to be in exclusive possession and control of all Product at and downstream of the Origin Point and at and upstream of the Destination Point. Risk of loss for all Product for which services are provided hereunder shall pass from Shipper to Carrier and back to Shipper in the manner outlined in the prior sentence.

## **ITEM 12 ACCEPTANCE FREE FROM LIENS AND CHARGES**

Shipper shall not deliver Product which is in any way subject to litigation, the ownership of which may be in dispute, or which is subject to a security interest, lien or charge of any kind, other than the lien of Carrier pursuant to the tariff (each an "Adverse Encumbrance"), unless Shipper provides written notification to Carrier of such Adverse Encumbrance no later than the tenth (10th) calendar day of the Month preceding the Month in which delivery is made to Carrier. Shipper shall provide written notice to Carrier if at any time while Shipper's Product is in the possession of Carrier, such Product becomes subject to an Adverse Encumbrance. Carrier shall not be obligated to accept receipt from Shipper of any Product that is subject to an Adverse Encumbrance unless Shipper shall provide a bond or other form of indemnity satisfactory to Carrier that fully protects and indemnifies Carrier against any liability, loss, cost or expense that may arise as a result of such Adverse Encumbrance.

## **ITEM 13 PAYMENT OF CARRIER CHARGES, LIEN FOR UNPAID CHARGES AND FINANCIAL ASSURANCES**

Shipper shall pay all charges and costs as provided for in this tariff or otherwise lawfully due to Carrier, and, if required by Carrier, shall pay the same before acceptance or delivery by Carrier of Shipper's Product. Carrier may invoice Shipper for charges and costs on a Weekly basis, or more frequently if, in Carrier's judgment, reasonable grounds for insecurity exist in accordance with this Item 13. Shipper shall pay all invoiced amounts within ten (10) days of the date of invoice from Carrier. If any amounts owed by Shipper are not paid by the due date of Carrier's invoice,

Carrier shall have the right to assess an interest charge on the entire past due balance until paid in full at the rate equal to the lesser of (i) 18% per annum, or (ii) the maximum non-usurious interest rate which may then be charged under Texas law. Carrier may require that all payments to Carrier be sent by wire transfer in accordance with the instructions on Carrier's invoice to Shipper.

Shipper hereby grants and assigns to Carrier a continuing security interest in, lien upon and assignment of, all of the following, whether now or hereafter existing or acquired, as collateral security for the prompt and complete payment and performance of the Obligations (as defined below): (a) all Product of Shipper in the possession of Carrier or its agents; (b) all other property of Shipper in the possession of Carrier or its agents; (c) all of Shipper's pre-payments, deposits, balances, and credits with, and any of its claims against, Carrier, at any time existing; and (d) all proceeds of any of the foregoing property in any form (collectively, "Collateral"). The foregoing grant and assignment of Collateral secures all of the following obligations of Shipper (collectively, the "Obligations"): (i) any and all charges and costs owed to Carrier by Shipper under this tariff or otherwise lawfully due to Carrier, including penalties, interest, and late payment charges, whether or not invoiced; (ii) the reimbursement of any amounts Carrier may advance or spend for the storage, preservation, removal or sale of the Collateral; and (iii) all amounts owed under any

modifications, renewals, or extensions of any such obligations. The security interest, lien and assignment provided in this tariff is in addition to any lien or security interest provided by applicable law and any and all other rights and remedies Carrier may have at law or in equity. If any amounts accruing and owed to Carrier remain unpaid ten (10) days after written notice and demand therefor, then Carrier or its agent shall have the right, in addition to and not in limitation of its other rights and remedies, to sell any or all of the Collateral at public auction on any day not a legal holiday. The date for the sale shall be at least forty-eight (48) hours after publication of notice of such sale in a daily newspaper of general circulation published in the town or city where the sale is to be held, stating the time, place of sale, and a description and the location of the Collateral to be sold. At such sale, Carrier or any of its Affiliates shall have the right to bid, and if the highest bidder, to become the purchaser. Carrier shall apply the proceeds of any such sale to the payment of Obligations accruing or due to Carrier and to the reimbursement of expenses associated with the sale of the Collateral, and the balance remaining, if any, shall be paid to or held for whomsoever may be lawfully entitled thereto. Carrier may, with or without notice to Shipper, appoint agent(s) to retain possession of Shipper's Product on behalf of Carrier for the purpose of enforcing this security interest, lien and assignment. Carrier shall have the right to file all such documents as it deems appropriate in order to perfect or maintain the perfection of the security interest. lien and assignment granted herein and Shipper shall cooperate and execute all such documents as may be reasonably requested by Carrier.

If Shipper fails to satisfy when due any Obligations to Carrier, then Carrier shall have the right, until all such Obligations, including interest thereon, are paid in full to: (i) refuse to provide Shipper access to Carrier's facilities or provide transportation services for Shipper's Product (ii) set-off (including by set-off, offset, recoupment, combination of accounts, deduction, retention, or counterclaim) any amounts owing to Carrier against any monies owed by Carrier to Shipper or any of its Affiliates under this tariff, any contract, or against any Product of Shipper in the custody of Carrier or its agents; and (iii) exercise any other rights or remedies under this tariff, any contract with Shipper or under applicable law or in equity. In addition, Shipper shall pay all documented costs incurred by Carrier to collect any unpaid Obligations, including reasonable attorney fees and costs incurred by Carrier.

At any time, upon the request of Carrier, any prospective or existing Shipper shall provide information to Carrier that will allow Carrier to determine the prospective or existing Shipper's capacity to perform any financial obligations that could arise under the terms of this tariff or a TSA (collectively, "Financial Obligations:"). Carrier shall not be obligated to accept Product for transportation from or to provide access to Carrier's facilities to an existing or prospective Shipper if Shipper or prospective Shipper fails to provide the requested information to Carrier within five (5) business days of Carrier's written request, or if Carrier determines that the existing or prospective Shipper does not have the capacity to perform the Financial Obligations.

Unless otherwise set forth in a Pipeline contract, if Carrier, in its sole judgment, has reasonable grounds for insecurity regarding the ability of Shipper or Shipper's guarantor (if any) to perform its obligations hereunder or make payment of charges and fees when due (including without limitation, the occurrence of a material change in the creditworthiness of Shipper or its guarantor (if any), Carrier, upon notice to Shipper, may require one or more of the following financial assurances ("Financial Assurances") for the payment of the Financial Obligations, to be provided at the expense of Shipper:

- (1) prepayment (which will be held by Carrier without interest accruing thereon) in an amount and in a form satisfactory to Carrier;
- (2) a standby irrevocable letter of credit in favor of Carrier in an amount and in a form reasonably satisfactory to Carrier and issued by a financial institution reasonably acceptable to Carrier;
- (3) a guaranty in an amount and in a form satisfactory to Carrier and provided by a guarantor acceptable to Carrier; or
- (4) other enforceable collateral security or credit support, in form and substance acceptable to Carrier.

In the event Carrier determines that:

- (1) the existing or prospective Shipper's financial condition is or has become impaired or unsatisfactory;
- (2) any Financial Assurances previously provided by a Shipper no longer provide adequate security for the performance of such Shipper's Financial Obligations; or
- (3) Carrier otherwise reasonably determines that it is necessary to obtain additional Financial Assurances from Shipper;

then Shipper shall provide, at Shipper's expense, Financial Assurances satisfactory to Carrier for the payment of Shipper's Financial Obligations.

Carrier shall not be obligated to accept Product for transportation from or to provide access to Carrier's facilities to an existing or prospective Shipper if Shipper or prospective Shipper fails to deliver the Financial Assurances as required hereunder to Carrier within five (5) business days of Shipper's receipt of Carrier's written request for such Financial Assurances or if Shipper fails to cooperate with Carrier or execute documents to perfect or maintain the perfection of the security interest, lien and assignment granted by Shipper herein.

#### **ITEM 14 LIABILITY OF CARRIER**

Except to the extent otherwise set forth in a Pipeline contract, Carrier agrees to indemnify and save Shipper harmless from any loss, claims, or damages for injury or death of any person and for damage to property of Carrier, Shipper, and/or third party resulting from or arising out of any material breach of any provision of this tariff by Carrier, its agents, employees, or representatives or the negligence of Carrier, its agents, employees, or representatives.

Carrier shall not be liable for any loss of Product as described herein or damage thereto, delay caused by an event of Force Majeure, default of Shipper, or from any other cause not due to the negligence of Carrier ("Non-Routine Product Losses"). Non-Routine Product Losses shall be charged proportionately to each Shipper in the ratio that such shipment, or portion thereof, received and undelivered at the time of the loss or damage occurs, bears to the total of all shipments or portions thereof, then in the custody of Carrier for shipment via the lines or other facilities in which

the loss or damage occurs, provided that if such Non-Routine Product Losses are due to the default of a Shipper, such Shipper shall be responsible for such Non-Routine Product Losses. Shipper shall be entitled to receive only that portion of its shipment remaining after deducting its proportion of such loss or damage determined as aforesaid and shall be required to pay transportation charges only on the quantity delivered. Carrier will not be liable for discoloration, contamination, or deterioration of Product transported hereunder unless resulting from the negligence of Carrier.

Carrier operates under this tariff solely as a provider of transportation services and not as an owner, manufacturer or seller of the Product transported hereunder, and Carrier expressly disclaims any liability for any expressed or implied warranty for products transported hereunder, including any warranties of merchantability or fitness for intended use. Carrier shall not be liable to Shipper or Shipper's customers for any special, incidental, consequential, punitive, exemplary or similar damages and shall not be liable for damages for failure to timely deliver Shipper's product.

#### **ITEM 15 LIABILITY OF SHIPPER**

As a condition precedent to Carrier's acceptance of Product for transportation under this tariff, each Shipper agrees to indemnify and save Carrier harmless from any loss, claims, or damages (including but not limited to consequential damages and attorneys' fees and costs, except to the extent otherwise set forth in a Transportation Services Agreement between Carrier and Shipper) for injury or death of any person and for damage to property of Carrier, Shipper, and/or third party resulting from or arising out of (1) any material breach of any provision of this tariff by Shipper, its agents, employees, or representatives; (2) the negligence of Shipper, its agents, employees, or representatives; (3) the injection of contaminants of any kind by Shipper, its agents, employees, or representatives into the Pipeline; and/or (4) failure of Shipper's Product delivered or accepted for transportation to meet the Product Specifications.

#### **ITEM 16 CLAIMS TIME FOR FILING**

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

#### **ITEM 17 ALLOCATION OF PIPELINE CAPACITY, PRORATION POLICY**

When Carrier receives more Nominations in a Month for transportation of Product on the Pipeline than Carrier is able to transport, Carrier shall allocate the System Capacity under the provisions of this Item 17.

- (A) Up to five (5) percent of the total System Capacity shall be made available to New Shippers. Each New Shipper will be allocated an amount of capacity equal to the lesser of: (a) the New Shipper's Nomination; (b) one (1) percent of the total available System Capacity; or (c) if the total Nominations submitted by all New

Shippers exceed five (5) percent of the total available System Capacity, the New Shipper's pro-rata share based on a Current Nomination Basis.

- (B) Following the allocation of capacity to New Shippers under Item 17(A) above, any remaining portion of System Capacity shall be allocated among Regular Shippers in proportion to their Base Shipment Percentages. In the event the capacity that would be allocated to a Regular Shipper on the basis of its Base Shipment Percentage is greater than the quantity stated in its Nomination, the Regular Shipper will be allocated a portion of capacity equal to its Nomination, and the difference between the capacity allocation calculated on the basis of its Base Shipment Percentage and the quantity nominated will be reallocated among all other Regular Shippers having unmet Nominations in proportion to their Base Shipment Percentages.
- (C) If a Shipper does not use the portion of System Capacity allocated to it under this Item 17 at the times and in the amounts designated by Carrier, Carrier shall have the right to use Shipper's unused portion of System Capacity to fulfill the unmet Nominations of other Shippers. Any remaining capacity not allocated through the application of subsections (A) and (B) above shall be allocated to all Shippers having remaining unmet Nominations in proportion to each Shipper's unmet Nomination.
- (D) Carrier will only accept good faith Nominations from Shippers, and Carrier shall use whatever reasonable means necessary to determine whether Nominations are made in good faith. No nomination shall be considered beyond the amount which the person requesting the shipment has ready for shipment. Carrier will not recognize for apportionment purposes any Nomination by a Shipper which exceeds Carrier's System capacity.
- (E) Basis for Allocation. When prorationing of System Capacity is in effect:
  - (1) Carrier shall allocate System Capacity on a Monthly basis; however, if prorationing of System Capacity becomes necessary during a Proration Month, Carrier may allocate System Capacity on a Daily basis; and
  - (2) Carrier will notify each Shipper of its allocation in advance of the Proration Month or as soon as reasonably possible if prorationing of System Capacity becomes necessary during a Proration Month.
- (F) Failure of Shipper to Use Allocated System Capacity.
  - (1) A Shipper that fails to use all of its allocated System Capacity during a Proration Month may have its allocation of System Capacity reduced in each subsequent Proration Month until the total reductions equal the amount of the deficiency. The amount of any such reduction shall be treated as unused allocated System Capacity and shall be reallocated among other Shippers in accordance with Item 17(C).

- (2) Reduction of such Shipper's allocation for failure to use its allocated System Capacity during a Proration Month may be waived, in whole or in part, if Carrier determines that Shipper's failure to use all or some of its allocated System Capacity was due to an event of Force Majeure.
  
- (G) System Capacity allocated to a Shipper may not be assigned, conveyed, loaned, transferred to, or used in any manner by another Shipper. However, a Shipper's allocation may be transferred as an incident of the bona fide sale of the Shipper's business or to a successor to the Shipper's business by the operation of law, such as an executor or trustee in bankruptcy. A Shipper may not use an affiliated or cooperating entity to obtain an increased allocation of capacity in order to pool two or more allocations to the benefit of the Shipper.

In no event will an allocation to a Shipper be used in such a manner that will enhance the allocation of another Shipper beyond the allocation that such Shipper would be entitled to under this policy. Carrier may require written assurances from a responsible officer of Shipper regarding its use of its allocated portion of System Capacity stating that Shipper has not violated this policy.

#### **ITEM 18 LINEFILL REQUIREMENTS**

Carrier shall provide initial Linefill sufficient for the operation of the Pipeline. In the event Carrier determines that additional Linefill is needed for the operation of the Pipeline, Carrier reserves the right to require Shippers to provide such additional amount of linefill on a pro rata basis determined as a percentage of such Shippers' Monthly Nominations.

#### **ITEM 19 PIPELINE CONTRACTS REQUIRED**

A proposed Shipper may be required to execute a separate pipeline contract, including without limitation: (A) a transportation services agreement covering further details of the transportation service offered hereunder before any duty of transportation shall arise and (B) a pipeline connection agreement, if Carrier determines that fulfillment of Carrier's duties requires the execution of such agreements.

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**ITEM 100 - TABLE OF RATES**  
**(In Cents per Barrel)**

<b>ORIGIN POINT</b>	<b>DESTINATION POINT</b>	<b>Rate</b>
Kinetik Diamond Complex	Enterprise Mont Belvieu	378.00