



Enbridge Pipelines (FSP) L.L.C.

RULES AND REGULATIONS

GOVERNING THE TRANSPORTATION OF

CRUDE PETROLEUM

BY PIPELINE

GENERAL APPLICATION

The Rules and Regulations published herein apply only under tariffs making specific reference by FERC number to this tariff; such reference will include supplements hereto and successive issues hereof.

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

ISSUED: November 30, 2015

EFFECTIVE: January 1, 2016

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1. **DEFINITIONS**

As used in this tariff, the following terms have the following meanings:

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

“API” means American Petroleum Institute.

“API MPMS” means the API Manual of Petroleum Measurement Standards.

“ASTM” means American Society for Testing and Materials.

“Barrels” means 42 United States gallons at sixty degrees (60°) Fahrenheit.

“Business Day” means any day other than Saturday, Sunday, and any other day when banks are closed for business in Texas.

“Carrier” means Enbridge Pipelines (FSP) L.L.C.

“Carrier Force Majeure Credit Volumes” means Make-up Volumes generated by Committed Volumes that could not be shipped as a result of an event of Force Majeure that prevented the Carrier from providing all or part of the Services for which a Committed Shipper paid Shortfall Payments.

“Carrier Force Majeure Extended Volume” means a volume of Crude Petroleum equal to the Committed Volumes that were not shipped by a Committed Shipper in an earlier month(s) (and for which the Committed Shipper was not required to pay Shortfall Payments) as a result of an event of Force Majeure that prevented the Carrier from providing all or part of the Services.

“Committed Shipper” means a Shipper that has contracted for transporting a Committed Volume or otherwise paying the applicable Shortfall Payment, pursuant to the terms of a TSA entered into with the Carrier during the open commitment periods that occurred in 2011 and 2012.

“Committed Volume” means, with respect to a Committed Shipper, the minimum daily volume of Crude Petroleum set out in Schedule A to the Committed Shipper’s TSA.

“Crude Petroleum” means the direct liquid product of oil wells, oil processing plants, the indirect liquid petroleum products of oil or gas wells, oil sands, or a mixture of such products.

“Delivery Points” means the delivery points provided for in the Rates Tariff.

“FERC” means the Federal Energy Regulatory Commission.

“Financial Assurances” has the meaning set forth in Rule 22.

“Force Majeure” means any of the following events not reasonably within the control of an entity: acts of God; acts or delays of any Governmental Authority; compliance with rules, regulations or orders of any

Governmental Authority; strikes, lockouts or other industrial disturbances; acts of the public enemy, acts of terrorism, wars, blockades, insurrections, riots, and civil disturbances; epidemics; landslides, lightning, earthquakes, fires, extreme temperatures, storms, hurricanes, floods, or other adverse weather conditions; freezing of wells or lines of pipes; washouts; arrests and restraint of rulers and people; explosions, breakage or accident to machinery or lines of pipes; requisitions, directives, diversions, embargoes, priorities or expropriations of Governmental Authorities, legal or de facto, whether purporting to act under some applicable law, rules or regulations or otherwise; failure of pipelines or other carriers to transport or furnish facilities for transportation; failures, disruptions, or breakdowns of machinery or of facilities for production, manufacture, transportation, distribution, processing or consumption (including, but not by way of limitation, the Pipeline); the necessity for making repairs, alterations, enlargements or connections to, or performing maintenance on, machinery or facilities of production, manufacture, transportation, distribution, processing or consumption (including, but not by way of limitation, the Pipeline); inability to secure, or delays in securing, rights of way and permits; transportation embargoes or failures or delays in transportation or poor road conditions; any partial or entire failure of Crude Petroleum supply, and, without limitation by enumeration, any other cause or causes, whether of the kind herein enumerated or otherwise not reasonably within the control of an entity.

“Governmental Authority” means any government, any governmental, administrative or regulatory entity, authority, commission, board, agency, instrumentality, bureau or political subdivision and any court, tribunal or judicial or arbitral body (federal, state or local or, in the case of an arbitral body, whether governmental, public or private).

“Make-up Volumes” means Barrels for which a Shortfall Payment has been paid and which are Nominated by a Committed Shipper for transportation in a subsequent month in accordance with Article 7 of the TSA.

“Minimum Volume” is defined as a minimum continuous volume of 60,000 Barrels of Crude Petroleum received or delivered at one time.

“Minimum Nomination Volume” means for movements on the Pipeline in December 2014 the Minimum Volume, and for movements thereafter two times the Minimum Volume.

“Monthly Volume” means the product of the Committed Volume multiplied by the number of days in the relevant month (or partial month).

“Nomination” or “Nominate(d)” means an offer by a Shipper to the Carrier in accordance with this tariff for the transportation of a stated quantity of Crude Petroleum from the Receipt Point to a Delivery Point.

“Observed Viscosity” means the Crude Petroleum property which offers resistance to flow (kinematic viscosity) as determined at the measured Crude Petroleum receipt temperature per ASTM D7042, D445 or any other test approved by the Carrier.

“Open Commitment Terms” means the features and terms for committing to service made on the Pipeline in 2011 and 2012, as amended or supplemented from time to time.

“Pipeline” means Carrier’s pipeline system, including any leased capacity, for the transportation of Crude Petroleum from Flanagan, Illinois to Delivery Points in the U.S gulf coast.

“Rates Tariff” means the Carrier’s local rates tariff for the Pipeline, on file and in effect with the FERC, as such rates tariff may be amended or supplemented from time to time.

“Receipt Point” means the point at Flanagan, Illinois set forth in the Rates Tariff, which is (a) the interconnection point between the Pipeline and the applicable upstream pipelines for volumes that originate upstream of Flanagan, and (b) the receipt point for uncommitted volumes that originate at Flanagan.

“Reference Kinematic Viscosity” means the property which offers resistance to flow as determined at the Carrier’s posted reference temperature at the time of receipt as per ASTM D7042, D445 or any other test approved by Carrier.

“Reid Vapor Pressure” means the absolute vapor pressure at one-hundred degrees Fahrenheit (100° F) of volatile Crude Petroleum herein expressed in pounds per square inch, as determined by test method ASTM D-323.

“Retention Stock” means Working Stock and/or Tank Bottoms.

“Services” means the transportation of Crude Petroleum for a Shipper’s account on the Pipeline from the Receipt Point and the delivery of such Crude Petroleum to a Delivery Point.

“Shipper” means a party, including a Committed Shipper, for whom transportation services are provided under the terms of this tariff.

“Shortfall Payments” means payments to be made by a Committed Shipper as determined in accordance with Article 7 of the TSA.

“Standard Conditions” means 60 degrees Fahrenheit and 14.696 psia, and are the standardized temperature and pressure which measured Crude Petroleum volumes are corrected to, as if the Crude Petroleum were at those conditions.

“Tank Bottoms” means the volume of Crude Petroleum required by the Carrier where the Carrier owns or leases tankage, to float tank roofs to working levels and to maintain that level.

“TSA” means a transportation services agreement executed by a Committed Shipper with the Carrier with respect to the Pipeline pursuant to the open commitment period described in the Open Commitment Terms.

“Upstream Apportionment Credit Volumes” means Make-up Volumes generated by Committed Volumes that could not be shipped as a result of a period of upstream apportionment for which a Committed Shipper paid Shortfall Payments.

“Upstream Apportionment Extended Volume” means a volume of Crude Petroleum equal to the Committed Volumes that were not shipped by a Committed Shipper in an earlier month(s) (and for which the Committed Shipper was not required to pay Shortfall Payments) as a result of a period of upstream apportionment.

“Working Stock” means the volume of Crude Petroleum required by the Carrier as linefill for operational and scheduling purposes as specified from time to time by the Carrier.

2. COMMODITY

This tariff applies only to the transportation of Crude Petroleum by the Carrier and no commodity other than Crude Petroleum will be transported under this tariff unless the Carrier provides its consent in writing.

3. ACCEPTANCE OF CRUDE PETROLEUM

- (a) Subject to the further provisions of this tariff, the Carrier will only accept Crude Petroleum for transportation on the Pipeline:
 - i. that will originate on the Pipeline at the Receipt Point, and;

- ii. when the party taking delivery of the Crude Petroleum has been specified in writing to the Carrier.
- (b) Except where the Carrier provides such facilities, the Carrier will only accept Crude Petroleum for transportation when the Shipper has provided evidence satisfactory to the Carrier that the Shipper has the necessary facilities to accept delivery of such Crude Petroleum promptly on arrival at the Delivery Point.
- (c) The Carrier reserves the right to reject any and all Crude Petroleum Nominated where the Shipper has failed to comply with all applicable laws, items and regulations made by any Governmental Authorities regulating shipments of Crude Petroleum.

4. SPECIFICATIONS AS TO QUALITY

- (a) Unless the specifications as to quality of a connecting carrier at the Delivery Point are more stringent than those of the Carrier and are imposed upon the Carrier, in which case the limitations of the connecting carrier will be applied to the Shipper, a Shipper shall not deliver to the Carrier and the Carrier shall not be obligated to accept Crude Petroleum that, as determined by the Carrier, has on receipt:
 - i. A temperature greater than 100 degrees Fahrenheit;
 - ii. A Reid Vapor Pressure exceeding nine (9.0) psia or that might result in Carrier's noncompliance with federal, state, or local requirements regarding hydrocarbon emissions;
 - iii. A Reference Kinematic Viscosity that exceeds three hundred and fifty centistokes (350 cSt);
 - iv. An Observed Viscosity exceeding two hundred and eighty centistokes (280 cSt);
 - v. An API gravity that is less than seventeen degrees (17°) or greater than ninety degrees (90°) both at sixty degrees Fahrenheit (60°);
 - vi. Basic or foreign sediment and water and other impurities exceeding five-tenths of one percent (0.5 of 1%) of the volume offered for transportation;
 - vii. Any other excessive metals, chemicals, salts, refinery or chemical plant process or by-product materials, or any other material which may adversely affect the refining process, as determined by Carrier;
 - viii. Any organic chlorides;
 - ix. Physical or chemical characteristics that may render such Crude Petroleum not readily transportable by the Carrier or that may materially affect the quality of other commodities transported by the Carrier or that may otherwise cause disadvantage to the Carrier; or
 - x. Specifications that do not meet those of connecting carriers.
- (b) A Shipper shall, as required by the Carrier, provide to the Carrier a certificate with respect to the specifications of Crude Petroleum to be received by the Carrier from such Shipper. If a Shipper fails to provide the Carrier with such certificate, then the Carrier shall not be obligated to accept the Shipper's Crude Petroleum. The 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 the Shipper's certificate and the Carrier's test, the latter shall prevail.

- (c) The Carrier reserves the right to refuse to accept any Crude Petroleum (or other product) for transportation which does not meet Carrier's specifications in paragraph (a) of this Rule 4 or which is not good merchantable Crude Petroleum readily acceptable for transportation through the Pipeline.
- (d) If the Carrier determines that a Shipper does not comply with the provisions of paragraph (a) of Rule 4 of this tariff, then such Shipper shall remove its Crude Petroleum from the facilities of the Carrier as directed by the Carrier and if Shipper fails to do so by the date and time directed by the Carrier, the Carrier shall have the right, at its sole discretion, to any remedy available, including but not limited to the right without notice of liability to return, divert, sell or dispose of such Crude Petroleum. The Shipper shall reimburse the Carrier for all costs and expenses incurred by the Carrier in returning or otherwise disposing of such non-conforming Crude Petroleum.

5. CHANGES IN QUALITY AND SEGREGATION

- (a) The Carrier shall endeavor to deliver substantially the same type of Crude Petroleum as that received from a Shipper; however, the Carrier shall not be obligated to make delivery of the identical Crude Petroleum received by the Carrier.
- (b) Crude Petroleum tendered to the Carrier for transportation will be received by the Carrier on the condition that it shall be subject to such changes, including changes to density, quantity, value and quality, while in transit as may result from the transportation (and all services and procedures related thereto), commingling or intermixing thereof, including, without limiting the generality of the foregoing, the mixing of a Shipper's Crude Petroleum with other Petroleum in the facilities of the Carrier.

6. NOMINATIONS AND QUANTITIES ACCEPTED

- (a) Nominations shall be submitted to the Carrier or its designated agent, acting for the Carrier for such purpose, in accordance with the notice of shipment format prescribed by the Carrier no later than the time and date set out in the Carrier's monthly Nomination schedule. The Carrier shall notify all Shippers of the monthly Nomination schedule 12 consecutive months in advance through the Carrier's shipper information portal website. Notice of any amendment to a monthly Nomination date shall be provided by the Carrier to all Shippers at minimum 24 hours in advance of the change in Nomination date. The Carrier may, subject to the availability of space and the operating conditions of the facilities of the Carrier, accept Nominations or revised Nominations after such time. The Carrier shall not be obligated to accept Nominations below the Minimum Nomination Volume.
- (b) Upon receipt of Nominations from Shippers, the Carrier shall conduct upstream and downstream verifications in accordance with the terms of the Flanagan South Nomination Verification Procedure, set forth in (c) below. To the extent that a Shipper's Nomination cannot be fully verified in accordance with the Verification Procedure, as determined by Carrier in its sole discretion, the Shipper's Nomination will be reduced by the Carrier in accordance with the Flanagan South Nomination Verification Procedure set forth in (c) below. **This verification process will be performed prior to the prorationing of volumes under Rule 17.**
- (c) Flanagan South Nomination Verification Procedure: Upon receipt of each month's Nominations, Carrier will verify with each Receipt Point and Delivery Point a volume based on the lower of: volumes Nominated to it, or its maximum allowable volume as determined in accordance with the current Flanagan South Nomination Verification Procedure (the "Verified Volume").
 - 1. Carrier shall request that upstream connecting carriers or facilities verify the Shipper's Nomination of volume to Carrier.

2. With respect to Nominations for delivery to a specific connecting carrier or facilities, Carrier will contact the downstream carrier and request verification of each shipper's volume nominated for delivery to its facility. Downstream connecting carriers will follow their own procedure for verifying volumes to Carrier.

Upon receipt of a request from the upstream carrier to verify Nominations for deliveries to Carrier, Carrier will verify a shipper's volume based on the Nominations received 2 months prior to the injection month.

- (d) The Carrier shall not be obligated to accept a Shipper's Crude Petroleum if the volume of such Crude Petroleum is less than the Minimum Volume or if the rate at which such Crude Petroleum is received by the Carrier is less than or greater than the rates specified from time to time by the Carrier for each Receipt Point.
- (e) The Carrier shall not be obligated to make a delivery of a Shipper's Crude Petroleum of less than the Minimum Volume or at a delivery flow rate less than or greater than the delivery flow rates specified from time to time by the Carrier for the Delivery Point.
- (f) A Shipper shall, upon notice from the Carrier, provide written third party verification as required by the Carrier that Shipper has sufficient volumes accessible to support such Shipper's Nomination. For example, the Carrier will apply the Flanagan South Pipeline Batch Supply Verification Procedures, which are available from the Carrier upon request. The Carrier shall not be obligated to accept a Shipper's Crude Petroleum where such verification is, in the sole discretion of the Carrier, unacceptable to the Carrier.
- (g) Any applicant that is not currently shipping on the Pipeline and is seeking approved Shipper status with the Carrier in order to become a New Shipper (as defined in Rule 17) shall be required, as a condition to such approved status, to certify to the Carrier that the applicant is not an Affiliate of any existing Shipper on the pipeline system.

7. COMMITTED SHIPPER NOMINATIONS

- (a) In the event a Committed Shipper fails to Nominate and/or deliver a volume of Crude Petroleum up to its Monthly Volume, it shall nevertheless pay to the Carrier the Shortfall Payment in accordance with the TSA.
- (b) Whether Nominations and deliveries meet Monthly Volume requirements will be assessed relative to the Receipt Point.

8. MAKE UP RIGHTS

Committed Shippers who fail to meet their Monthly Volume requirements in a month, or who pay Shortfall Payments during any period when Carrier is unable to provide all or part of the Services by reason of an event of Force Majeure, will be subject to uniform provisions for Committed Shippers with respect to their ability to make up those volumes in subsequent months and their corresponding payment obligations all as set forth in the TSA.

9. APPLICATION OF RATES

Crude Petroleum transported on the Pipeline shall be subject to the rates in effect on the date such Crude Petroleum volumes are received at the Receipt Point.

10. PAYMENT OF RATES AND LIEN FOR UNPAID CHARGES

- (a) A Shipper shall pay all charges and costs as provided for in this tariff or otherwise lawfully due to the Carrier relating to the transportation (and all services and procedures related thereto) of the Shipper's Crude Petroleum by the Carrier. The Shipper shall pay such charges and costs upon receipt of the Carrier's invoice respecting such charges and costs. If required by the Carrier, the Shipper shall pay such charges and costs before delivery, or before acceptance of a transfer, of the Shipper's Crude Petroleum by the Carrier.
- (b) The Carrier shall have a lien on all of Shipper's Crude Petroleum that is in the custody of the Carrier to secure the payment of all charges and costs as provided for or referenced in this tariff due to the Carrier relating to the transportation (and all services and procedures related thereto) or storage of the Shipper's Crude Petroleum by the Carrier. The Carrier may withhold the Shipper's Crude Petroleum from delivery and may exercise any other rights and remedies provided at law or by contract, until all such charges and costs have been paid.
- (c) If charges for the transportation (or services and procedures related thereto) of a Shipper's Petroleum remain unpaid for five (5) Business Days after notice of demand for payment of such charges is made to such Shipper by the Carrier, then in addition to Carrier's right to enforce the Financial Assurances in Rule 22 (including exercising and enforcing its rights and remedies under any guaranty and calling on any letter of credit), the Carrier shall have the right to (i) assess a late charge at an annual interest rate equivalent to one hundred twenty-five percent (125%) of the prime rate of interest charged by Citibank N.A. of New York, New York (the maximum on ninety (90) day loans to substantial and responsible commercial borrowers or any lesser maximum interest rate permitted under applicable law) as of the due date; provided that Shipper may withhold payment of disputed amounts subject to: (1) the incurrence of carrying charges thereon as specified above; and (2) Carrier's right to demand reasonable surety for such payment, (ii) remove and sell any or all of such Shipper's Crude Petroleum that is in the possession of the Carrier in such lawful manner as deemed appropriate by the Carrier, and/or (iii) suspend the provision of services to Shipper.
- (d) The Carrier shall pay from the proceeds of any sale pursuant to Rule 10(c)(2) all charges and costs accruing or due relating to the transportation (and all services and procedures related thereto) of such Shipper's Crude Petroleum by the Carrier and all costs incurred by the Carrier with respect to the storage, removal and sale of such Shipper's Crude Petroleum. The remainder of such proceeds, if any, shall be held by the Carrier for the Shipper and any other party lawfully entitled to such proceeds.
- (e) Carrier may require that all payments to Carrier for services pertaining to the transportation of Crude Petroleum be wire transferred in accordance with the instructions on the Carrier's invoice to Shipper.
- (f) When required the Carrier shall, with or without notice to the Shipper, appoint agent(s) to retain possession of the Shipper's Crude Petroleum on behalf of the Carrier for the purpose of enforcing the lien described in this Rule.
- (g) Two tenths of one percent (2/10ths of 1%) of the volumes of Crude Petroleum received into the Carrier's facilities shall be deducted from such volumes to cover loss due to shrinkage and evaporation incident to transportation on the Carrier's facilities.

11. MEASURING, TESTING, AND DEDUCTIONS

- (a) All Crude Petroleum accepted at custody transfer points into the Carrier's facilities shall be tested for basic or foreign sediment and water and other impurities and gauged or metered by the Carrier's representative. Shipper shall have the right to witness all proving of meters used in such

measurement. The Carrier reserves the right to test and measure and/or witness the testing and measurement of all deliveries from its facilities.

- (b) Where the measurement is determined by tank gauge, such measurement shall be based upon tanks strapped and tables compiled in accordance with Chapter 2, "Tank Calibration", API Manual of Petroleum Measurement Standards, Latest Edition, indicating one hundred percent (100%) full capacity. Volume measurements by temperature compensated meters shall be further corrected for meter factor and pressure in accordance with the API Manual of Petroleum Liquid Hydrocarbons by Pipeline Displacement Meters.
- (c) Where the tank or meter of the Shipper is used for volume determination for deliveries into or from the Carrier's facilities, the Carrier reserves the right to require restrapping or check-strapping of any such tank, the recalculation of any tank table utilized by Shipper in relation to any such tank and the proving or check-proving of any such meter.
- (d) The Carrier shall deduct from the volume of Crude Petroleum received into the Carrier's facilities the actual amount of suspended basic or foreign sediment, water and other impurities as ascertained by centrifuge or other tests agreed upon.
- (e) The net calculated quantity at sixty degrees Fahrenheit (60° F) less sediment and water and other impurities volume percentage shall be the quantity received or delivered by the Carrier.
- (f) All Crude Petroleum Tendered for shipment at fifty five degrees (55°) API gravity at sixty degrees Fahrenheit (60° F) or above shall be subject to a volume shrinkage deduction as set forth below:

API GRAVITY	% DEDUCTION
55 degrees through 74.9 degrees	1%
75 degrees through 89.9 degrees	2%

- (g) The Carrier will not accept any material for shipment above ninety degrees (90°) API gravity at sixty degrees Fahrenheit (60° F).
- (h) Except for arithmetic errors, all measurement and testing by the Carrier shall be conclusive if a representative of the Shipper was not present during such measuring and testing.

12. EVIDENCE OF RECEIPTS AND DELIVERIES

The Carrier or designated agent shall evidence the receipt and delivery of Crude Petroleum by tickets showing the volume, crude type, temperature, gravity, sediment and water and any other data with respect to such Crude Petroleum as may be specified from time to time by the Carrier. Unless otherwise agreed in writing by the Carrier, Shipper and/or its consignee, such tickets shall be signed by a representative of the Carrier. The signed tickets shall be conclusive evidence of the information set forth therein.

13. RETENTION STOCK

- (a) Each Shipper shall supply its quantity of Retention Stock as determined from time to time by the Carrier.
- (b) In the event Shipper fails to supply the Retention Stock volumes as requested by the Carrier in Rule 13(a), the Carrier will obtain the deficient Retention Stock volumes on such Shipper's behalf, and such Shipper shall pay for all charges incurred by the Carrier to obtain the deficient Retention Stock volumes upon receipt of the Carrier's invoice therefor.

14. DELIVERY AND ACCEPTANCE

- (a) The Carrier shall transport and deliver Crude Petroleum with reasonable diligence and dispatch, but shall not be required to transport Crude Petroleum in time for any particular market.
- (b) A Shipper or the designee of the Shipper shall accept such Shipper's Crude Petroleum upon arrival at the Delivery Point.
- (c) If a Shipper fails to remove its Crude Petroleum from the facilities of the Carrier in accordance with the provisions of paragraph (b) of Rule 14 of this tariff, then the Carrier shall have the right to remove and sell such Crude Petroleum in such lawful manner as deemed appropriate by the Carrier. The Carrier shall pay from the proceeds of such sale all costs incurred by the Carrier with respect to the storage, removal and sale of such Crude Petroleum. The remainder of such proceeds, if any, shall be held by the Carrier for the Shipper and any other party lawfully entitled to such proceeds.
- (d) If a Shipper fails to remove its Crude Petroleum from the facilities of the Carrier in accordance with the provisions of paragraph (b) of Rule 14 in this tariff, Shipper shall be solely responsible for all costs or losses to Carrier associated with such failure, including loss of revenue resulting therefrom, unless the non-removal of such Crude Petroleum is due to the direct negligence of Carrier.

15. LIABILITY OF CARRIER

- (a) Except where caused by the direct negligence of the Carrier, the Carrier shall not be liable to a Shipper for any delay, damages, or losses experienced as a result of the Carrier's transportation (and all services and procedures related thereto), commingling, or intermixing of such Crude Petroleum in the facilities of the Carrier. Notwithstanding anything to the contrary contained in this tariff, unless caused by the gross negligence or willful misconduct of the Carrier, the Carrier's liability, if any, shall not extend to any indirect, consequential, incidental, or punitive damages, or to any loss of profits or revenues incurred by such Shipper that may result from the transportation (and all services and procedures related thereto), commingling or intermixing of Crude Petroleum with other Petroleum under this tariff, regardless of whether such claim arises under or results from contract, tort, or strict liability. In no event shall this tariff create any liability for damages on behalf of any third party (whether or not affiliated with the Shipper).
- (b) If damage or loss to Crude Petroleum results from any cause other than the direct negligence of the Carrier while the Carrier is in possession of such Crude Petroleum, then the Carrier may apportion the cost of such damage or loss on a pro rata basis among all Shippers. Each Shipper's share of such cost shall be determined by the Carrier based on the proportion of the volume of the Shipper's Crude Petroleum in the possession of the Carrier on the date of such loss to the total volume of Petroleum in the possession of the Carrier on the date of such loss. The Carrier will be obligated to deliver only that portion of the Crude Petroleum remaining after such deduction.
- (c) If Crude Petroleum is lost in transit while in the custody of Carrier due to the direct negligence of the Carrier, the Carrier, shall, as full compensation therefor, either obtain and deliver to the Shipper thereof other Crude Petroleum of the same quantity and grades as that which was lost, or compensate Shipper for such loss in money.

16. INDEMNIFICATION BY SHIPPER

A Shipper shall indemnify the Carrier for any damage, loss, costs or consequential loss incurred by the Carrier or any other party as a result of such Shipper's failure to comply with any provision of this tariff, excluding any damage, loss, costs or consequential loss caused by the direct negligence of the Carrier.

17. **PRORATIONING**

(a) For the purposes of this Rule, the following definitions shall apply:

“Actual Shipments” means volumes of Crude Petroleum that originate on the Pipeline at the Receipt Point and are transported on the Pipeline. All volumes shall be measured at the Receipt Point.

“Available Capacity” means the capacity of the Pipeline made available to transport Crude Petroleum, as determined by Carrier.

“Average Monthly Volume” means (a) for Shippers other than Committed Shippers, the average of their Actual Shipments, in the Available Capacity up to the Historical Ceiling, during the entire Base Period, and (b) for Committed Shippers, the greater of (i) the average of a Committed Shipper’s Actual Shipments, in the Available Capacity up to the Historical Ceiling, during the entire Base Period (or such portion of such Actual Shipments as shall not result in an allocation to another Committed Shipper under step (b)(i) below its Committed Volume for the allocation period), and (ii) the Committed Shipper’s Committed Volume applicable to the month of prorating. For the avoidance of doubt, Actual Shipments that occur in capacity above the Historical Ceiling, are not eligible to be included in a Shipper’s Average Monthly Volume.

“Base Period” means a cumulative rolling period of twelve (12) months ending two months prior to the month of prorating.

“Binding Nomination” means the volumes (excluding any Committed Volumes and Make-up Volumes) allocated to a Shipper during a period of prorating.

“Historical Ceiling” means the maximum capacity on which Shippers may accumulate an Average Monthly Volume.

- i. From December 1, 2014 to December 31, 2015, Historical Ceiling = 440,000 bpd;
- ii. from January 1, 2016 to December 31, 2017, Historical Ceiling = 485,000 bpd;
- iii. from January 1, 2018 until June 30, 2020, Historical Ceiling = 545,000 bpd; and
- iv. thereafter Historical Ceiling = Available Capacity.

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

“Regular Shipper” means (i) a Committed Shipper, and (ii) a Shipper that has Actual Shipments in each of the twelve months of the Base Period. A Regular Shipper described in clause (ii) ceases to be a Regular Shipper if it has no Actual Shipments for one or more months out of the Base Period, and thereafter, that Shipper will be treated as a New Shipper unless and until it meets Regular Shipper criteria.

(b) If for any month, more Crude Petroleum is Nominated to the Carrier than can be transported on the applicable segment of the Pipeline by the Carrier, then the Carrier shall prorate the Nominations among Shippers on such segment as follows:

- (i) Up to ninety percent (90%) of the Available Capacity will be allocated by the Carrier to all Regular Shippers proportionately based on the lesser of each Regular Shipper’s Average Monthly Volume or its Nominated volume.
- (ii) Up to ten percent (10%) of the Available Capacity will be allocated by the Carrier to the New Shippers, if any, on a pro rata basis. If the pro rata allocation in a given month results in no New Shipper being allocated the Minimum Nomination Volume then the Carrier will administer a lottery using a software-generated random process for the total number of monthly Minimum Nomination Volume allocations available to New Shippers. Detailed procedures regarding the Carrier’s lottery process are outlined in Rule 24.

- (iii) Any Available Capacity on the Pipeline downstream of Cushing, Oklahoma remaining after the completion of steps (i) and (ii) shall be allocated, on a pro rata basis according to the Committed Shipper's Committed Volume, to Committed Volumes re-entering the Pipeline at Cushing in accordance with Rule 23.
- (iv) Any remaining Available Capacity after steps (i), (ii) and (iii) will be allocated, on a pro rata basis according to the Committed Shipper's Committed Volume, to Nominations of the following, in the following order: Make-up Volumes (excluding any Make-up Volumes that are Carrier Force Majeure Credit Volumes or Upstream Apportionment Credit Volumes); then, Carrier Force Majeure Extended Volumes; then, Upstream Apportionment Extended Volumes; then Carrier Force Majeure Credit Volumes; last, Upstream Apportionment Credit Volumes.
- (v) Any remaining Available Capacity not allocated through the application of steps (i) through (iv) shall be allocated pro rata (based on original Nominations, excluding Nominations of volumes described in clause (iv) of this Rule 17(b)) among all Shippers having remaining Nominations (and if the allocation to any Shipper pursuant to this clause (v) exceeds its remaining Nominations, the excess will be allocated among all other remaining Nominations until the remaining Available Capacity is fully allocated or all of the remaining Nominations have been fulfilled).
- (c) No individual Shipper Nomination shall be considered beyond the Available Capacity of the Pipeline. Nominations in excess of these limits will be reduced accordingly.
- (d) Once the Carrier has determined the capacity allocated to each Shipper for a given month under the provisions stated herein, it shall provide notice to each Shipper of its Binding Nomination for the month. If any Shipper fails to tender volumes (excluding any Committed Volumes and Make-up Volumes) during the Month equal to one hundred percent (100%) of its Binding Nomination for that month, that Shipper shall pay to the Carrier the tariff charge for one hundred percent (100%) of the Binding Nomination. If any Committed Shipper fails to tender any of the Make-up Volumes they Nominated and were subsequently allocated to them for shipment in a month, such Make-up Volumes will be considered to be expired and not be eligible for shipment in future months.
- (e) Any Committed Shipper to whom notice has been given pursuant to Section 8.02.2. of the TSA shall not be deemed a "Committed Shipper" for the purposes of this Rule 17.
- (f) For volumes of Crude Petroleum that originate on a pipeline that is upstream of Flanagan, this Rule 17 shall apply only to the prorationing of such volumes on the Pipeline and not to any prorationing or apportionment of such volumes on the upstream pipeline.

18. REQUESTED CHANGE BY THE SHIPPER

- (a) Subject to the operating conditions of the facilities of the Carrier, the Carrier may, upon request of a Shipper, in the form prescribed by the Carrier, allow a Shipper to change:
 - i. the designated volume and type of its Crude Petroleum that will originate on the Pipeline at the Receipt Point;
 - ii. the designated volume and type of its Crude Petroleum to be delivered to the Delivery Point; or
 - iii. the designated volume and type of its Committed Volume to be temporarily parked at Cushing, Oklahoma as per Rule 23.

19. INLINE CHANGE IN OWNERSHIP

- (a) Notice of change in ownership of Crude Petroleum shall be recognized and recorded only where such Crude Petroleum entered the Carrier's system and only on a monthly basis. Statements denoting ownership transactions shall be provided to the applicable transferors and transferees. The Carrier shall not provide any information as to the quality of the Crude Petroleum subject to changes in ownership except for gravity on current receipts when requested. Each transferor shall be charged a $\frac{3}{4}$ of a cent per Barrel fee for recognizing and recording the change in ownership and, if required shall pay said charge prior to the recognizing and recording of such change. The transferor, at the Carrier's option, shall provide an irrevocable letter of credit satisfactory to the Carrier prior to such recognizing and recording. The recognition by the Carrier of a change in ownership of Crude Petroleum requires the recording thereof, and the Carrier is entitled to a lien for all such charges and fees.
- (b) When the quantity of the Crude Petroleum received during the operating month is not equivalent to the quantity of the Crude Petroleum subject to the notice of change in ownership, the Carrier shall not be required to recognize and record the change in ownership beyond the extent of the quantity received.
- (c) A notice of change in ownership of Crude Petroleum shall be deemed: (1) a warranty that the transferor has unencumbered title to the Crude Petroleum identified in its notice at the time of change in ownership, and (2) a representation that the change in ownership is effective as of 7:00 o'clock a.m. (Mountain Standard Time) on the first day of the operating month.
- (d) The Carrier may, in the absence of adequate security, decline to recognize and record any change in ownership of Crude Petroleum.
- (e) A transfer of a Shipper's rights and obligations under Rule 19 respecting its Crude Petroleum will not be binding or effective on the Carrier until the Carrier has provided a notice of acceptance to the transferor and transferee. The Carrier will not provide a notice of acceptance of a transfer until such time as the transferee has satisfied the Carrier of its capacity to undertake the transferor's obligations and has provided any Financial Assurances requested by the Carrier in accordance with Rule 22 of this tariff.

20. ADVERSE CLAIMS AGAINST CRUDE PETROLEUM

- (a) A Shipper shall not Nominate or deliver to the Carrier Crude Petroleum which is involved in litigation, the ownership of which may be in dispute or which is encumbered by a lien or charge of any kind unless the Shipper provides written notification to the Carrier of such litigation, dispute, lien or charge not less than twenty (20) days before such Nomination is made to the Carrier.
- (b) The Carrier shall not be obligated to accept Crude Petroleum that is involved in litigation, the ownership of which may be in dispute or which is encumbered by a lien or charge of any kind.
- (c) A Shipper shall advise the Carrier in writing if, at any time while the Shipper's Crude Petroleum is in the possession of the Carrier, such Crude Petroleum becomes involved in litigation, the ownership of such Crude Petroleum becomes in dispute or such Crude Petroleum becomes encumbered by a lien or charge of any kind.
- (d) A Shipper shall, upon demand from the Carrier, provide a bond or other form of indemnity satisfactory to the Carrier protecting the Carrier against any liability or loss that may arise as a result of such Shipper's Crude Petroleum that is involved in litigation, the ownership of which may be in dispute, or which is encumbered by a lien or charge of any kind. If the Shipper fails to provide such

bond or other form of indemnity acceptable to the Carrier, the Carrier will not be obligated to accept such Shipper's Crude Petroleum for transportation.

21. CLAIMS, SUITS, AND TIME FOR FILING

- (a) As a condition precedent to recovery for loss, damage, injury or delay, a Shipper shall advise the Carrier in writing of any claim for delay, damage, injury or loss resulting from the transportation of such Shipper's Crude Petroleum by the Carrier within nine (9) months of delivery of such Crude Petroleum by the Carrier or, in the case of a failure to make delivery, then within nine (9) months after a reasonable time for delivery has elapsed.
- (b) A Shipper shall institute any action arising out of any claim against the Carrier within two (2) years from the date that written notice is given by the Carrier to such Shipper that the Carrier has disallowed such claim or any part of such claim.
- (c) If a Shipper fails to comply with the provisions of paragraph (a) or paragraph (b) of Rule 21 of this tariff, then such Shipper waives all rights it has to bring an action against the Carrier with respect to such claim.

22. FINANCIAL ASSURANCES

- (a) At any time, upon the request of the Carrier, any prospective or existing Shipper shall provide information to the Carrier that will allow the Carrier to determine the prospective or existing Shipper's capacity to perform any financial obligations that could arise under the terms of this tariff, including the payment of transportation charges, Shortfall Payments, charges for deficient Retention Stock and negative Shipper's balance positions. The Carrier shall not be obligated to accept Crude Petroleum for transportation from an existing or prospective Shipper if Shipper or prospective Shipper fails to provide the requested information to the Carrier within five (5) Business Days of the Carrier's written request, or if the Carrier's review of the requested information reveals that the existing or prospective Shipper does not have the capacity to perform any financial obligations that could arise under the terms of this tariff, including the payment of transportation charges, Shortfall Payments, charges for deficient Retention Stock, and the reasonably determined value of negative Shipper's balance positions.
- (b) Subject to the provisions of Rule 22(c), the Carrier, upon notice to Shipper, may require one or more of the following Financial Assurances for the payment of all charges and costs as provided for in this tariff, or otherwise lawfully due to the Carrier, to be provided at the expense of Shipper:
 - i. a letter of credit in favor of the Carrier in an amount sufficient to ensure payment of all costs and charges that could reasonably accrue due to the Carrier, in a form and from a financial institution acceptable to the Carrier;
 - ii. a guaranty in an amount sufficient to ensure payment of all such costs and charges that could reasonably accrue due to the Carrier, in a form and from a third party acceptable to the Carrier;
or
 - iii. other enforceable collateral security, including security agreements over assets of Shipper, in form and substance acceptable to the Carrier(“the Financial Assurances”).
- (c) In the event the Carrier reasonably determines that:

- i. the existing or prospective Shipper's financial condition is or has become impaired or unsatisfactory;
- ii. any Financial Assurances previously provided by a Shipper no longer provide adequate security for the performance of Shipper's obligations that could arise under the terms of this tariff; or
- iii. the Carrier otherwise determines that it is necessary to obtain additional Financial Assurances from Shipper,

then Shipper shall provide Financial Assurances for the payment of the charges and costs as provided for in this tariff or otherwise lawfully due to the Carrier relating to the transportation of Shipper's Crude Petroleum by the Carrier. For the purpose of this tariff, and without limiting the generality of the charges and costs lawfully due to the Carrier under this tariff, those charges and costs shall include transportation charges, Shortfall Payments, charges for deficient Retention Stock, and negative Shipper's balance positions. The Carrier shall not be obligated to accept Crude Petroleum for transportation from an existing or prospective Shipper if Shipper or prospective Shipper fails to deliver the Financial Assurances to the Carrier within ten (10) days of Shipper's receipt of the Carrier's written request for such Financial Assurances.

23. RE-ENTRY RIGHTS FOR COMMITTED VOLUMES

A Committed Shipper will be permitted, by notice to Carrier given with its Nomination, to park the number of Barrels specified in such notice (but not less than the Minimum Volume) at Cushing, Oklahoma for temporary (not exceeding six (6) months) storage in transit. Following not more than six (6) months of storage in transit, and subject to Rule 17, such Committed Shipper shall be permitted to re-enter such Barrels (but not less than the Minimum Volume) at Cushing, Oklahoma for shipment to a Delivery Point, subject to (i) payment by such Committed Shipper of the re-entry fee of 0.25 US dollars per barrel and (ii) receipt by the Carrier of a re-entry notice from such Committed Shipper within the time permitted in the Carrier's monthly nomination schedule.

24. LOTTERY PROCESS

Carrier will administer a lottery process in order to allocate capacity to New Shippers pursuant to Rule 17(b)(ii), as follows:

- (a) Carrier will use a random number generating software to randomly assign each New Shipper a number from one to the number representing the total number of New Shippers participating in the lottery (i.e. if there are thirty New Shippers, numbers one through thirty will be assigned).
- (b) The New Shipper assigned number one will receive the first monthly Minimum Nomination Volume allocation. Thereafter, monthly Minimum Nomination Volume allocations will be assigned to New Shippers sequentially, from lowest assigned number to highest assigned number, until the 10% of Available Capacity referenced in Rule 17(b)(ii) is fully allocated.
- (c) Following the lottery, Carrier will notify New Shippers as to whether or not they were allocated capacity in that month.

25. DUTY OF CARRIER

The Carrier shall not be required to transport Crude Petroleum except with reasonable diligence, considering the quantity of Crude Petroleum, the distance of transportation, the safety of operation, and other material factors.

26. RULES AND RATES APPLICABLE

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

27. INTERPRETATION

- (a) Unless otherwise expressly specified herein, (i) defined terms in the singular will also include the plural and vice versa, (ii) the words “hereof”, “herein”, “hereunder” and other similar words refer to this tariff as a whole, and (iii) references to Rules are to the Rules in this tariff.
- (b) The captions in this tariff are for convenience only and will not in any way affect the meaning or construction of any provision of this tariff.
- (c) Unless the context otherwise requires, “including” means “including without limitation”.

28. INCORPORATION OF PRACTICES

In addition to these Rules and Regulations, Enbridge Pipelines (FSP) L.L.C.’s Crude Petroleum Tariff incorporates the following practices:

- (a) Practice applicable to Automatic Balancing Effective [W] November 1, 2014
~~October 14, 2014~~
- (b) Flanagan South Batch Supply Verification Procedure Effective October 14, 2014

Symbols:

[C] – Cancel

[N] – New

[W] – Change in wording only