

# **WEST TEXAS LPG PIPELINE LIMITED PARTNERSHIP**

## **DEMETHANIZED MIX PIPELINE SYSTEM**

### **GENERAL RULES AND REGULATIONS**

#### **RULES SHEET**

Applicable to the Intrastate Pipeline Transportation of

**DEMETHANIZED MIX**

(As Defined Herein)

**From Points in Texas**

**To**

**Points in Texas**

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This Rules Sheet is filed with the Railroad Commission of Texas for informational purposes of shippers and potential shippers on West Texas LPG Pipeline Limited Partnership, a Texas intrastate common carrier. By filing this Rules Sheet, West Texas LPG Pipeline Limited Partnership does not submit to the jurisdiction of the Railroad Commission of Texas under Chapter 111 of the Texas Natural Resources Code.

#### **GENERAL APPLICATION**

Carrier will accept and transport Demethanized Mix offered for transportation through Carrier's facilities consistent with this Rules Sheet. Specific terms and conditions published in individual Rate Sheets will take precedence over the terms and conditions published in this Rules Sheet.

The General Rules and Regulations published herein, apply in their entirety to services covered by this Rules Sheet and to Rate Sheets making specific reference to Texas Common Carrier No. [W] 1.4.0 ~~1.3.0~~ and successive issues thereof.

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

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Effective: April 10, 2017

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## **ITEM 10 MINIMUM NOMINATION & SCHEDULING**

Demethanized Mix will be accepted for transportation only when a written nomination has been submitted by the Shipper containing a quantity of Demethanized Mix of no less than ten thousand (10,000) Barrels in a Month consigned to one Consignee, provided, however, Carrier may for its convenience, transport same by intermittent pumpings. Lower nominated quantities may be accepted at Carrier's discretion if total supply available at a given origin point is less than ten thousand (10,000) Barrels in a Month.

Any Shipper desiring to nominate Demethanized Mix for transportation hereunder, shall, on or before the fifteenth (15<sup>th</sup>) Day of the Month, provide in writing the quantity of Demethanized Mix to be nominated during the following Month with Carrier. Unless such written notification has been made, Carrier shall be under no obligation to accept Demethanized Mix for transportation.

Demethanized Mix shall be offered for transportation in Ratable quantities which can be received into Carrier's pipeline at full pipeline flow rates.

Carrier will schedule, transport and deliver Demethanized Mix with reasonable diligence considering the quantity, the quality of the Demethanized Mix, distance of the transportation, safety of operations, and other material factors, but will not accept Demethanized Mix to be transported in time for any particular market. Furthermore, Carrier shall not be liable for any delay in shipments resulting from such scheduling.

## **ITEM 15 PIPEAGE CONTRACTS**

Separate agreements in accordance with this Rules Sheet and these rules and regulations providing further details may be required by Carrier before any duty for transportation shall arise.

## **ITEM 20 DEMETHANIZED MIX SPECIFICATION REQUIREMENTS AND TESTING**

Carrier has placed in writing Demethanized Mix specification requirements for transportation of Demethanized Mix through Carrier's facilities. Carrier reserves the right to modify its Demethanized Mix specifications. At Shipper's request, Carrier will provide a copy of the Demethanized Mix specification requirements. In the event Carrier makes modifications to its Demethanized Mix specification requirements, Carrier will provide Shippers with a revised copy. In all circumstances, it is the Shipper's responsibility to ensure that Demethanized Mix nominated for transportation meets Carrier's Demethanized Mix specification requirements.

Carrier reserves the right to refuse to accept any Demethanized Mix for transportation which does not meet Carrier's Demethanized Mix specification requirements or which is not good merchantable Demethanized Mix readily acceptable for transportation through Carrier's existing facilities.

Shipper may be required to furnish Carrier with a certificate setting forth the specifications of each shipment of Demethanized Mix to be transported in Carrier's facilities. 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 Demethanized Mix that has contaminated the common fungible stream, rendering all or a portion of the fungible Demethanized Mix stream undeliverable, Carrier reserves the right to treat or otherwise dispose of all contaminated Demethanized Mix in any reasonable commercial manner at Shipper's sole expense.

If Demethanized Mix does not meet Carrier's Demethanized Mix specification requirements, Carrier reserves the right to bill and Shipper shall pay the greater of (i) the costs and expenses incurred to treat or otherwise dispose of all contaminated Demethanized Mix including, without limitation, any penalties or charges incurred by Carrier as a result of such contamination, or (ii) an additional [U] 100.00 cents per Barrel off-spec fee.

In addition, Shipper will be liable for and will defend, indemnify and hold harmless Carrier for any and all claims, actions, suits, losses, demands, costs and expenses (including attorney's fees and costs of repairing, inspecting, cleaning, or decontaminating the facilities of Carrier or third parties) of every kind, nature or description resulting

from the chemical or physical properties of any Demethanized Mix that Shipper has delivered into Carrier's pipeline except to the extent such liability arises from Carrier's gross negligence.

#### **ITEM 25 ORIGIN AND DESTINATION FACILITIES**

Carrier does not furnish storage facilities or services at origin point(s) or destination point(s), and Demethanized Mix will be accepted for transportation only when Shipper and Consignee have provided equipment and facilities, including storage facilities, satisfactory to Carrier for delivering Demethanized Mix at origin point(s), and for receiving same without delay at destination point(s) at pressures and pumping rates required by Carrier. Carrier may require satisfactory evidence to be furnished that the necessary facilities are available for delivering shipments to origin point(s) and for the prompt receiving of shipments at destination point(s) before Carrier is obligated to accept nominations for transportation.

#### **ITEM 30 CONNECTION POLICY**

Connections to Carrier's pipeline(s) will only be considered if made by formal written notification to Carrier and all requests will be subject to the following standards and conditions.

All connections will be subject to design requirements necessary to protect the safety, security, integrity and efficient operation of the Carrier's pipeline(s) in accordance with generally accepted industry standards. Acceptance of any request for connection will be subject to compliance with governmental regulations.

#### **ITEM 35 IDENTITY OF SHIPMENTS**

- (a) Demethanized Mix accepted for transportation is subject to changes in quality while in transit. Delivery shall be made to Consignee out of common stock of Demethanized Mix in Carrier's pipelines at destination point(s).
- (b) Carrier will not be liable for discoloration, contamination or deterioration of Demethanized Mix transported unless resulting from sole negligence of the Carrier.

#### **ITEM 40 FAILURE TO TAKE DELIVERY AT DESTINATION AND DEMURRAGE**

Shipper shall remove Demethanized Mix, or cause Demethanized Mix to be removed, from Carrier's facilities following transportation to destination point(s). In the event failure to remove Demethanized Mix threatens or prevents delivery of succeeding shipments into or out of Carrier's facilities, Carrier shall have the right, after using reasonable efforts to notify Shipper by email or other means, without liability to Shipper, to make such sale or disposition of unremoved Demethanized Mix as is necessary for the efficient operation of Carrier's pipeline, and Shipper shall pay Carrier all charges associated with such sale or disposition the same as if Shipper had authorized such, together with any associated additional costs and damages borne or incurred by Carrier. If Carrier sells such Demethanized Mix, Carrier will remit the proceeds therefrom, less its cost of selling the Demethanized Mix and all other associated costs and damages borne or incurred by Carrier, to Shipper.

Following notice to Shipper as described above, in addition to any remedy available to Carrier, Shipper shall pay a demurrage charge in the event Shipper or Consignee fails to remove Demethanized Mix from Carrier's pipeline and that failure prevents the movement of succeeding shipments. The demurrage charge will be \$13,500 per hour for each hour that Shipper's or Consignee's failure to remove Demethanized Mix prevents the movement of succeeding shipments.

#### **ITEM 45 MEASUREMENT**

All Demethanized Mix transported by Carrier will be measured at the origin point(s) and destination point(s) in accordance with applicable Carrier and industry accepted practices and procedures. All measurements and tests shall be performed by Carrier, but Shipper and any Consignee or their representatives may be present to witness such measurements and tests. All measurement and tests performed by Carrier shall be determinative unless they are contested within ninety (90) days of receipt of appropriate documentation by Shipper.

## ITEM 50 COMPONENT BALANCING

Shippers shall be responsible for reconciling Component imbalances that may arise between Receipt and Delivery of Demethanized Mix due to the composition variances resulting from the blending of various streams. Participation in the Component balancing process is a pre-requisite to shipping on Carrier.

On a monthly basis, Shippers are required to cash out any Component imbalance to zero. The shipper cash out position equals the sum of (i) each Component imbalance multiplied by (ii) the corresponding OPIS Price Index ("Shipper Cash Out Position"). The Shipper will be notified by Carrier of its Shipper Cash Out Position on the Component balance statement. A Shipper Cash Out Position due Carrier shall be paid by Shipper within six (6) days of the invoice date on the Component balance statement. A Shipper Cash Out Position due Shipper shall be paid by Carrier within six (6) days of the invoice date on the Component balance statement.

## ITEM 52 GAINS OR LOSSES

Shippers are responsible for pipeline measurement gains or losses, calculated as the difference between measured receipts and measured deliveries. Gains or losses will be apportioned to each Shipper according to each Shipper's proportionate share of measured receipts.

## ITEM 54 LINEFILL REQUIREMENTS

Each Shipper shall supply its pro-rata share of Demethanized Mix for Linefill as Carrier determines is necessary to maintain efficient operations of Carrier's pipeline. Each Month Carrier shall adjust the Linefill so that each Shipper shall provide its pro rata share of Linefill based on the current operating conditions of the pipeline. Upon written notice from Shipper of its intent to cease delivering Demethanized Mix to Carrier and payment of all amounts payable under this Rules Sheet, Demethanized Mix used as Linefill shall be returned to Shipper within a reasonable time frame, not to exceed 180 days, to allow for administrative and operational requirements associated with the withdrawal of such Demethanized Mix.

## ITEM 55 ALLOCATION OF PIPELINE CAPACITY

### 1. Definition of terms.

Except where the context requires another meaning, the following terms have the following meanings:

1.1 *New Shipper* means a Shipper that is not a Regular Shipper. A Shipper that becomes a New Shipper shall remain one for twelve (12) consecutive calendar months.

1.2 *Regular Shipper* means a Shipper that has:

- (a) shipped Demethanized Mix on Carrier's pipeline within the 12-month period preceding the first Day of a Month in which the pipeline or a portion of the pipeline is allocated; and
- (b) first shipped Demethanized Mix on the pipeline more than twelve (12) months prior to the first Day of the Month in which the pipeline is allocated.

[N] 1.3 *Committed Capacity*: means capacity reserved for transportation service that is not subject to allocation for those parties who have executed a Transportation Services Agreement providing for committed capacity.

[N] 1.4 *Base Capacity*: The total available capacity of Carrier's system or segment thereof minus the Committed Capacity. Committed Capacity that is not used during periods of allocation will become part of WTXP's Base Capacity.

**2. Allocation of [W] Base Capacity.**

- 2.1 *When capacity will be allocated.* Carrier will allocate the capacity of its pipeline or a portion of its pipeline during Month when it determines, in its sole discretion, based upon the written nominations properly submitted by Shippers, that the total volume nominated by all Shippers for shipment on Carrier's pipeline or portion thereof during that Month exceeds the capacity of the pipeline or portion thereof.
- 2.2 *Division of capacity between Shipper classes.* Except as provided in paragraphs 2.7 and 2.9, allocated capacity shall be divided between Regular Shippers as a class and New Shippers as a class.
- 2.3 *Availability of capacity to Regular Shippers.* After the adjustment for New Shippers, as provided in paragraphs 2.5 and 2.6, all remaining capacity plus any pour-over capacity (as determined in accordance with paragraph 2.7) plus any unused allocated capacity as determined in accordance with paragraph 2.9 shall be available to Regular Shippers who have nominated volumes for that Month.
- 2.4 *Allocation to each Regular Shipper.* Each Regular Shipper shall be allocated a volume of the capacity available to all Regular Shippers that is equal to a fraction, the numerator of which is the total shipments by that Shipper on Carrier's pipeline using the latest twelve (12) Month period, for which the Month-end processes are completed preceding the Month for which the Shipper's allocation is being calculated, and the denominator of which is the total shipments during such 12 Month period by all Regular Shippers, multiplied by the total capacity available to all Regular Shippers during that Month.
- 2.5 *Availability of capacity to New Shippers.* Not more than five (5) percent of the total available allocated capacity of Carrier's pipeline or portion thereof shall be made available to New Shippers.
- 2.6 *Allocation to each New Shipper.* Each New Shipper shall be allocated a volume of the capacity available to all New Shippers which is equal to the lesser of:
- (a) five percent (5) of the total available allocated capacity of Carrier's pipeline or portion thereof divided by the number of New Shippers who nominated volumes for shipment on the pipeline or portion thereof during the Month for which the allocation is being calculated; or
  - (b) 1.25 percent (one-fourth of 5%) of the available capacity of the pipeline or portion thereof for that Month.
- 2.7 *Pour-over capacity.* Any amount of allocated capacity which is available to New Shippers under the rules in paragraphs 2.5 and 2.6, but is not nominated by an eligible New Shipper, shall be deemed "pour-over capacity" and shall be made available to Regular Shippers in accordance with the rules in paragraphs 2.3 and 2.4.
- 2.8 *Basis for allocation: notification.* When allocation of the capacity of Carrier's pipeline or portion thereof is in effect:
- (a) Carrier's available capacity shall be allocated among eligible Shippers on a monthly basis; and
  - (b) Carrier shall use reasonable efforts to notify each Shipper entitled to an allocation of capacity of the amount of its allocation not later than the first working Day of the Month for which the allocation is made.
- 2.9 *Reallocation of unused allocated capacity.* If, during a Month of allocation, a Shipper fails to use all of its allocated capacity, such unused capacity shall be available to other Shippers, as follows:
- (a) Unused allocated capacity resulting from a Regular Shipper's failure to use all of its allocated capacity shall be reallocated among other Regular Shippers in accordance with the rules in paragraph 2.4.

- (b) Unused allocated capacity resulting from a New Shipper's failure to use all of its allocated capacity shall be reallocated among other New Shippers in accordance with the rules in paragraph 2.6. If, however, the reallocation would cause any New Shipper's total allocation for a Month to exceed 1.25 percent of the available capacity for that Month, such excess shall be treated as unused allocated capacity and shall be reallocated among Regular Shippers in accordance with the rules in subparagraph (a) of this paragraph.

2.10 *Failure to use allocated capacity.*

- (a) Except as provided in subparagraph (b) of this paragraph, a Shipper that fails to use all of its allocated capacity during a Month of allocation shall have its allocation of capacity reduced in each subsequent Month of allocation until the total reductions equal the amount of the deficiency. The amount of any such reduction shall be treated as unused allocated capacity and shall be reallocated among other Shippers in accordance with the rules in paragraph 2.9.
- (b) Reduction of a Shipper's allocation for failure to use its allocated capacity during a prior Month of allocation may be waived, in whole or in part if Carrier determines, in its sole discretion, that the Shipper's failure to use all or some of its allocated capacity was due to factors beyond the Shipper's reasonable control.

2.11 *Transfer of allocated capacity; Use of affiliates.* Except as provided in paragraph 2.9, volumes 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 or, in the case of a Regular Shipper, seek New Shipper status in order to pool two or more allocations to the benefit of the Shipper.

**ITEM 60 APPLICATION OF RATES FROM / TO INTERMEDIATE POINTS**

For Demethanized Mix accepted for transportation from any origin point on Carrier's pipeline not named in its Texas Common Carrier Rate Sheet, which is intermediate to any published origin and destination points, Carrier will apply from such unnamed point the rate published from the next more distant point specified. If branch or diverging lines create two or more "next most distant" points, Carrier will apply the rate which will result in the lowest charge. If the intermediate point is between two published origin points, Carrier will apply the rate that results in the higher charge.

For Demethanized Mix accepted for transportation to any destination point on Carrier's pipeline not named in its Texas Common Carrier Rate Sheet, which is intermediate to any published origin and destination points, Carrier will apply to such unnamed point the rate published to the next more distant point specified. If branch or diverging lines create two or more "next most distant" points, Carrier will apply the rate which results in the lowest charge. If the intermediate point is located between two published destination points, Carrier will apply the rate that results in the higher charge.

Carrier will file a Rate Sheet applicable to such transportation movements within 30 days of the start of the service if the intermediate point is to be used on a continuous basis for more than 30 days.

**ITEM 65 INVOICING AND PAYMENT OF CARRIER CHARGES**

Rates published in the Rate Sheet will be those in effect on the date of Receipt at origin. Carrier will invoice Shipper for transportation charges and other charges due on a monthly basis. Shipper shall pay all transportation and other lawful charges accruing on Demethanized Mix received and accepted by Carrier for shipment, and, if required, shall pay the same before delivery at destination. Shipper shall pay all charges within ten (10) days of the date of invoice from Carrier. Carrier, at its option, may require Shipper to pay all such charges and fees in advance or to provide Adequate Assurance of Performance. All charges that remain unpaid for more than ten (10) days from the date of Carrier's invoice shall accrue an interest charge of the lesser of (i) 18% percent per annum, or (ii) the maximum non-usurious interest rate which may then be charged under Texas law.



Shipper hereby assigns and grants to Carrier a continuous and continuing security interest in, 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 Shipper Obligations the following: (a) all Demethanized Mix accepted by Carrier for transportation service or otherwise, including but not limited to Shipper's minimum Linefill; (b) all other property of Shipper now in the possession of and at any time and from time to time hereafter delivered to 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 Demethanized Mix and proceeds of any of the foregoing property in any form (herein collectively, "Collateral"). The foregoing grant and assignment of Collateral secures the following obligations of Shipper: (a) all antecedent, current and future transportation service, special, ancillary and other rates, fees or charges arising under or related to this Rules Sheet; (b) the repayment of any amounts that Carrier may advance or spend for the storage or maintenance and preservation of the Collateral; and (c) all amounts owed under any modifications, renewals or extensions of any of the foregoing Shipper Obligations (collectively the "Shipper Obligations"). If any amounts accruing and owed to Carrier under this Rules Sheet remain unpaid ten (10) days after final notice, Carrier shall have the right, in addition to and not in limitation of its other rights and remedies, to liquidate and apply the proceeds to the payment of all such charges and to reimburse Carrier for expenses associated with liquidating the Collateral.

If Shipper fails to pay any charges when due, Carrier shall not be obligated to provide Shipper access to Carrier's facilities or provide services pursuant to Carrier's Rules Sheet until such time as payment is received by Carrier and, if required by Carrier, Shipper meets the creditworthiness requirements of Item 105. In addition, Carrier reserves the right to set-off any amounts owed to Carrier against any monies owed by Carrier, or any of its affiliates, to Shipper or any of its affiliates under its Rules Sheet, or against any Shipper's Demethanized Mix in Carrier's custody. In addition, Shipper shall pay all documented costs incurred by Carrier to collect any unpaid amounts, including reasonable attorney's fees and costs incurred by Carrier.

Carrier shall have a lien on all Demethanized Mix in its possession belonging to Shipper, or its Consignee, which shall take effect at the point of origin as Demethanized Mix is received into Carrier's pipeline. The lien is to secure the payment of any and all unpaid transportation, or any charges that are due Carrier, and Carrier reserves the right to withhold such Demethanized Mix from Delivery until all unpaid charges have been paid and it shall be in addition to any and all other rights and remedies Carrier has at law or in equity.

#### **ITEM 70 OTHER CHARGES**

In addition to the transportation charges and all other charges accruing on Demethanized Mix accepted for transportation, a per Barrel charge will be assessed and collected in the amount of any tax, fee, or other charge levied against Carrier in connection with such a commodity, pursuant to any Federal, State, or local act or regulation which levies a tax, fee, other charge, on the Receipt, Delivery, transfer or transportation of such commodities within their jurisdiction.

#### **ITEM 75 CLEAR TITLE REQUIRED**

Shipper represents and warrants that it owns all rights, title and interest in and to the Demethanized Mix delivered to Carrier. Furthermore, Shipper shall not deliver Demethanized Mix 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 Rules Sheet (each an "Adverse Encumbrance"), unless Shipper provides written notification to Carrier of such Adverse Encumbrance not less than twenty (20) days before such Delivery is made to Carrier. Shipper shall provide written notice to Carrier if at any time while its Demethanized Mix is in the possession of Carrier, such Demethanized Mix becomes subject to an Adverse Encumbrance. Carrier shall not be obligated to accept Receipt from Shipper of any Demethanized Mix that is subject to an Adverse Encumbrance. Upon demand by Carrier, Shipper shall provide a bond or other form of indemnity satisfactory to Carrier that fully protects and indemnifies Carrier against any liability, loss, cost or expense that may arise as a result of such Adverse Encumbrance and secures the payment to Carrier of all rates and other charges which would become payable under the Rules Sheet if Carrier were to transport such Demethanized Mix. Shipper agrees to hold Carrier harmless for any and all loss, cost, liability, damage or expense resulting from failure of title or Shipper's failure to have the right to cause the Demethanized Mix to be transported; and Shipper agrees that acceptance by Carrier of the Demethanized Mix for transportation shall not be deemed a representation by Carrier as to title.

## **ITEM 80 NOTICE OF CLAIMS**

Claims for loss or damage must be made in writing with Carrier within nine (9) months after Delivery of the property, or in case of a failure to make Delivery, then within nine (9) months after a reasonable time for Delivery has elapsed. Suits for loss or damage shall be instituted only within two (2) years and one (1) day after Delivery of the property, or in case of a failure to make Delivery, then within two (2) years and one (1) day after a reasonable time for Delivery has elapsed; provided, however, that where claims have been duly filed with the Carrier, suit must be brought within two (2) years and one (1) day after notice in writing is given by the Carrier to the claimant that the Carrier has disallowed the claim or any part or parts thereof specified in the notice. Where claims for loss or damage are not filed or suits are not instituted thereon in accordance with the foregoing provisions, such claims will not be paid and the Carrier will not be liable.

## **ITEM 85 LIABILITY OF PARTIES**

As a condition to Carrier's acceptance of Demethanized Mix under this Rules Sheet, each Shipper agrees to protect and indemnify Carrier against claims or actions for injury and/or death of any and all persons whomever and for damage to property of Carrier, Shipper, Consignee and/or any third party resulting from or arising out of 1) any breach of or failure to adhere to any provision of this Rules Sheet by Shipper, Consignee, their agents, employees or representatives and 2) the negligent act(s) or failure(s) to act of Shipper, Consignee, their agents, employees or representatives in connection with Delivery or Receipt of Demethanized Mix.

The Carrier, while in possession of Demethanized Mix herein described, shall not be liable for any loss; damage; or delay, caused by act of God, war, act of public enemy, quarantine, the authority of law, strikes, riots, civil disorder, requisition or necessity of the Government of the United States in time of war, default of Shipper or owner, or from any cause not due to the sole negligence of the Carrier.

- (a) In case of loss of any Demethanized Mix from any such causes, after it has been received for transportation and before the same has been delivered to Shipper or Consignee, such loss will be charged proportionately to each Shipper in the ratio that his Demethanized Mix, or portion thereof, received and undelivered at the time the loss occurs, bears to the total of all Demethanized Mix then in the custody of the Carrier for transportation via the pipelines or other facilities in which the loss occurs.
- (b) Carrier will be obligated to deliver only that portion of such Demethanized Mix remaining after deducting Shipper's proportion of such loss determined as aforesaid.
- (c) Carrier will compensate Shippers for Demethanized Mix losses for which Carrier is liable by paying the value of such Demethanized Mix at the point where transportation originated. The value of such Demethanized Mix will be based on the value of the Demethanized Mix as quoted in Oil Price Information Service, or other industry accepted price service selected by the Carrier, on the date of loss of the Demethanized Mix.

Carrier will not be liable for delays in transportation of Demethanized Mix. In any event, Carrier shall not be liable for any consequential or special damages sustained by Shipper.

## **ITEM 105 CREDITWORTHINESS OF SHIPPERS**

Carrier shall not be required to provide service on behalf of any Shipper or provide service or to continue service for any Shipper who is or has become insolvent or who, at Carrier's request, fails within a commercially reasonable time to demonstrate creditworthiness as determined by the Carrier in its sole discretion; provided, however, Shipper may receive service if Shipper furnishes good and sufficient security as determined by Carrier in the exercise of reasonable discretion. Unless otherwise agreed to, if Carrier has reasonable grounds for insecurity regarding the ability of Shipper to perform its obligations, Carrier shall require Adequate Assurance of Performance and Shipper shall have two (2) business days to provide such Adequate Assurance of Performance. In each case, the amount of the security shall be an amount not to exceed the sum of three (3) months of the estimated: (a) transportation and other charges and (b) Shipper Cash Out Position due Carrier. If Shipper fails to provide the requested Adequate Assurance of Performance within such two (2) business day period, then Carrier may suspend services to Shipper.

For the purpose of this section, the insolvency of a Shipper shall be evidenced by the filing by Shipper or any parent entity thereof of a voluntary petition in bankruptcy or the entry of a decree or order by a court having jurisdiction over the premises adjudging Shipper bankrupt or insolvent or approving, as properly filed, a petition seeking reorganization, arrangement, adjustment or composition or in respect of the Shipper under the Federal Bankruptcy Act or any other applicable federal or state law or appointing a receiver, liquidator, assignee, trustee, sequestrator (or other similar official) of the Shipper or of any substantial part of its property or the ordering of the winding-up or liquidation of its affairs, with said order or decree continuing unstayed and in effect for a period of thirty (30) consecutive days.

**EXPLANATION OF REFERENCE MARKS AND ABBREVIATIONS:**

- [N] New
- [U] Unchanged
- [W] Change in wording only