

**GENERAL TERMS AND CONDITIONS**

<b>INDEX</b>		<b>SHEET NO.</b>
1.	DEFINITIONS	401
2.	QUALITY OF GAS	406
3.	PRESSURE	408
4.	MEASUREMENT AND MEASURING EQUIPMENT	408
5.	BILLING AND PAYMENT	414
6.	LIABILITIES	415
7.	DELIVERIES OF GAS	416
8.	GAS USED AND UNACCOUNTED FOR	417
9.	DELIVERIES AT MORE THAN ONE POINT FOR ONE SHIPPER	419
10.	CO-OPERATIVE EXCHANGE OF INFORMATION	419
11.	SERVICE AGREEMENT	419
12.	TARIFF SUBJECT TO APPLICABLE LAW	421
13.	INDEMNIFICATION	421
14.	FORCE MAJEURE	422
15.	MISCELLENEOUS PROVISIONS	424

## **GENERAL TERMS AND CONDITIONS**

### **1. DEFINITIONS**

The following words and terms, whenever and wherever used or appearing in these General Terms and Conditions, the Toll Schedules to which they apply, or in the Service Agreement to which such Toll Schedules and General Terms and Conditions apply, shall have the following meanings :

#### **1.1 Transportation System**

The Term « Transportation System » shall mean the pipelines, storage and related facilities registered in the name of Company and required in the Transportation of gas from the Receipt Points to various Delivery Points.

#### **1.2 Shipper**

The term « Shipper » shall mean the party which has entered into a Service Agreement with Company.

#### **1.3 National Energy Board**

The term « National Energy Board » shall mean the National Energy Board of Canada or any other tribunal which may hereafter exercise jurisdiction over this Gas Transportation Tariff.

#### **1.4 Service Agreement**

The term « Service Agreement » shall mean, at any time with respect to any Shipper, an executed Service Agreement for service under this Gas Transportation Tariff.

#### **1.5 General Terms and Conditions**

The term « General Terms and Conditions » shall mean at any time, these General Terms and Conditions as amended from time to time.

## GENERAL TERMS AND CONDITIONS

### 1.6 Toll Schedule T-1

The Term « Toll Schedule T-1 » shall mean the toll schedule applicable to firm service for gas transportation to domestic or export markets through the Company's Transportation System.

### 1.7 Toll Schedule OT-1

The term « Toll Schedule OT-1 » shall mean the toll schedule applicable to authorized overrun service for gas transportation to domestic or export markets through the Company's Transportation System.

### 1.8 Transportation

The term « Transportation » shall mean the receipt of gas at the Receipt Points and delivery of gas at any one of the Delivery Points on the Company's Transportation System and may include storage gas.

### 1.9 Receipt Point

The term « Receipt Point » shall mean any point on the Company's Transportation System at or adjacent to the outlet of a measuring station<sup>1</sup> where gas is received into the Transportation System as specified in the Index of Service Obligations, Part I of the Service Agreement.

### 1.10 Delivery Point

The term « Delivery Point » shall mean the point at or adjacent to the outlet side of a measuring station on the Company's Transportation System<sup>2</sup> where gas is delivered from the Transportation System as specified in the Index of Service Obligations, Part II of the Service Agreement.

(1) Or at the point of interconnection with shipper's (or shipper's Agent's) facilities

(2) Or at the point of interconnection with another's facilities.

## GENERAL TERMS AND CONDITIONS

### 1.11 Maximum Daily Receipt Quantity

The term « Maximum Daily Receipt Quantity » shall mean the aggregate quantity of gas Company is obligated to receive from Shipper for Transportation in any one day at all of Shipper's Receipt Points specified in Part I of the Index of Service Obligations of the Service Agreement. The Maximum Daily Receipt Quantity shall be expressed in  $10^3\text{m}^3$  per day.

### 1.12 Maximum Daily Delivery Quantity

The term « Maximum Daily Delivery Quantity » shall mean the aggregate quantity of gas Company is obligated to deliver to Shipper at each Delivery Point in any one day specified in Part II of the Index of Service Obligations of the Service Agreement. The Maximum Daily Delivery Quantity shall be expressed in  $10^3\text{m}^3$  per day.

### 1.13 Allocable Share

The term « Allocable Share » shall mean for any Billing Month a fraction, the numerator of which shall be the Shipper's Maximum Daily Receipt Quantity for the Billing Month and the denominator of which shall be the aggregate of all Shippers' Maximum Daily Receipt Quantities for the Billing Month.

### 1.14 Billing Commencement Date

The term « Billing Commencement Date » shall mean the Day designated as such by Company by not less than one Day's notice to Shipper, which notice shall state that Company has facilities which are ready for service and are capable of rendering service to Shipper in accordance with the provisions of Shipper's Service Agreement.

## GENERAL TERMS AND CONDITIONS

### 1.15 First Billing Month

The term « First Billing Month » shall mean the Billing Month in which Shipper's Billing Commencement Date occurs.

### 1.16 Billing Month

The term « Billing Month » shall mean the period beginning at 8:00 hours standard time at Delivery Points, on the first day of the calendar month and ending at 08:00 hours standard time at Delivery Points, on the first day of the next succeeding month.

### 1.17 Day

The word « Day » shall mean a period of twenty-four (24) consecutive hours, beginning and ending at 08:00 hours.

### 1.18 Calendar Year

The term « Calendar Year » shall mean the period measured at the Delivery Points, from 08:00 hours standard time on January 1st of a year to 08:00 hours standard time on January 1st of the next succeeding year.

### 1.19 $10^3\text{m}^3$

The term «  $10^3\text{m}^3$  » shall mean one thousand (1000) cubic metres of gas determined on the measurement base set forth in subsection 1.22 below.

### 1.20 $\text{MJ}/\text{m}^3$

The term  $\text{MJ}/\text{m}^3$  shall mean megajoules per cubic metre.

## GENERAL TERMS AND CONDITIONS

### 1.21 Cubic Metre of Gas

The term « Cubic Metre of Gas » shall mean the volume of gas which, at a temperature of 15 degrees celsius and at a pressure of 101.325 kilopascals absolute, occupies one cubic metre.

### 1.22 Gross Heating Value

The term « Gross Heating Value » shall mean the total joules expressed in MJ/m<sup>3</sup> produced by the complete combustion at constant pressure, of one (1) cubic metre of gas with air, with the gas free of water vapour and the temperature of the gas, air and products of combustion to be at standard temperature and all water formed by combustion reaction to be condensed to the liquid state

### 1.23 Total Heating Value

The term « Total Heating Value » shall mean the Gross Heating Value of gas multiplied by the volume of gas delivered by Shipper.

### 1.24 List of Tolls

The term « List of Tolls » shall mean the list setting out the tolls applicable for each service, as amended from time to time and approved by the National Energy Board.

### 1.25 T-1 Toll

The Term « T-1 Toll » shall mean the toll set out in the List of Tolls for service under Toll Schedule T-1.

### 1.26 OT-1 Toll

The Term « OT-1 Toll » shall mean the toll set out in the List of Tolls for service under Toll Schedule OT-1.

## GENERAL TERMS AND CONDITIONS

### 2. QUALITY OF GAS

The following specifications shall apply to (i) the gas which Shipper delivers or causes to be delivered to Company for Transportation, and (ii) the gas Company delivers to Shipper or for Shipper's account; provided, however, that gas which Company delivers at the Delivery Points shall have the constituent parts that result from the commingling of the gas in the facilities of Company.

#### 2.1 Natural Gas

Natural gas shall be the gas obtained either from wells or from residue remaining after the natural gas has been treated for the removal of any of its constituent parts other than methane, and for the removal of methane to such extent as is necessary in removing such other constituents.

#### 2.2 Freedom from impurities

- (a) The gas shall not contain sand, dust, gums, crude oil impurities or other objectionable substances in such quantities as may be injurious to pipeline or may interfere with the transmission, measurement or commercial utilization of the gas.
- (b) The gas shall not contain more than twenty-three (23) milligrams of hydrogen sulphide per cubic metre.
- (c) The gas shall not contain more than one hundred and fifteen (115) milligrams of total sulphur per cubic metre.
- (d) The gas shall not contain more than two per cent (2%) by volume of carbon dioxide.
- (e) The gas shall have been dehydrated, if necessary, for removal of water present therein in a vapour state, and in no event contain more than sixty-five (65) milligrams of water vapour per cubic metre.
- (f) The gas shall not exceed a temperature of fifty degrees (50°) Celsius.

## GENERAL TERMS AND CONDITIONS

- (g) The gas shall be as free of oxygen as practicable and shall not in any event contain more than four tenths of one percent (0.4%) by volume of oxygen.

### 2.3 Heating Value

The gas shall have a minimum gross heating value of 36.00 MJ/m<sup>3</sup>.

### 2.4 Failure to Conform to Specifications

- (a) If the gas tendered for Transportation shall fail at any time to conform to any part of the specifications set forth in this Section 2, then Company shall notify Shipper of such deficiency and may, at its option, refuse to accept receipts pending correction. If the deficiency in quality is not promptly remedied, Company may accept receipt of such gas and make changes necessary to bring such gas into conformity with such quality specifications and Company shall be reimbursed for any reasonable expenses incurred in effecting such changes.
- (b) Company shall have the right to discontinue receipt of gas from Shipper without notice should the gas fail to meet the specifications set forth in subparagraphs (a), (b), (c), (d),(e), (f) or (g) of subsection 2.2.

### 2.5 Quality Tests

Company shall establish reasonable methods and procedures, including instrumentation, for making tests to determine whether gas tendered by Shipper to Company for Transportation or delivered by Company to Shipper, meets the specifications set forth in this Section 2, or such other test methods as is mutually agreeable to Company and Shipper.

## **GENERAL TERMS AND CONDITIONS**

### **3. PRESSURE**

#### **3.1 Receipt Pressure**

Shipper shall deliver gas to Company at the Receipt Points at a pressure sufficient to cause it to flow into Company's pipeline, provided Shipper shall not be required to deliver gas to Company at the Receipt Points at a pressure in excess of the maximum pressure specified in Part 1 of the Index of Service Obligations of the Service Agreement.

#### **3.2 Delivery Pressure**

Company shall deliver gas to Shipper at each of Shipper's Delivery Points at the pressure existing in Company's pipeline at such Delivery Point, provided that Company shall not deliver gas to Shipper at any Delivery Point at a pressure less than the minimum pressure specified with respect to such Delivery Point in Part II of the Index of Service Obligations of the Service Agreement.

### **4. MEASUREMENT AND MEASURING EQUIPMENT**

#### **4.1 Measurement**

The following shall apply to measuring equipment, measuring gas delivered by Shipper to Company for Transportation, or delivered by Company to Shipper unless otherwise agreed upon.

- (a) Shipper shall be responsible for the measurements and measuring equipment at the Receipt Points while Company shall be responsible for such measurements and measuring equipment at the Delivery Points.
- (b) Company and Shipper will in conjunction with affected parties establish necessary metering, dispatch and operating

## GENERAL TERMS AND CONDITIONS

procedures to provide information required by Company, Shipper or such affected parties.

### 4.2 Compliance with Standards

All measuring equipment, devices and material required shall be compatible with quantities to be metered at a particular point, and shall be of a type approved for their intended use. When orifice meters are used, such meters shall be installed and maintained, and gas volumes shall be computed in accordance with the specifications prescribed in the Electricity and Gas Inspection Act (Canada) (R.S.C. 1985, c.E-4) as amended from time to time including all regulations and specifications promulgated pursuant to such Act (collectively, the « Electricity and Gas Inspection Act »).

Positive displacement and turbine meters together with auxiliary equipment shall be of a type approved for use by the Electricity and Gas Inspection Act. When positive displacement and turbine meters are used they shall be equipped with a counting device for indicating the actual volume of gas passing through the meter and gauges for properly recording the pressure and temperature relative to time of such gas. The data recorded by such a device shall be sufficient to allow the determination of receipt of delivery volumes relative to time. They may also be equipped with a device for recording flow rate and/or a device for integrating the product of the volume of gas measured and the pressure and temperature corrections and indicating the volume of gas delivered or received. If an integrating device is used, correction for the deviation from Boyle's Law may be built into the device; otherwise such correction shall be applied to the volume of gas indicated.

## **GENERAL TERMS AND CONDITIONS**

### **4.3 Check Measuring Equipment**

Shipper or Company may install, maintain and operate at the expense of the party installing such check measuring equipment as desired, provided that such equipment shall be so installed as not to interfere with the operation of Shipper or Company's measuring equipment as the case may be. Any pressure or volume control regulators installed by Shipper or Company shall be operated so as not to interfere with Shipper or Company's measuring facilities.

### **4.4 Rights of Parties**

The measuring equipment so installed by either party together with any building erected by either party for such equipment, shall be and remain property of the party installing equipment or erecting a building. However, Shipper and Company shall have the right to have representatives present at the time of any installing, reading, cleaning, changing, repairing, inspecting, testing, calibrating or adjusting done in connection with the other's measuring equipment used in measuring or checking the measurement of receipt or delivery of gas. The records from such measuring equipment shall remain the property of their owner, but upon request each will submit to the other its records and charts, together with calculations therefrom, for inspection and verification, subject to return within ten days after receipt thereof.

### **4.5 Care Required**

All installation of equipment applying to or affecting receipts or deliveries of gas shall be made in such manner as to permit an accurate determination of the quantity of gas received or delivered and ready verification of the accuracy of measurement. Care shall be exercised by both parties in the installation, maintenance and operation of pressure regulating equipment so as to prevent any inaccuracy in the determination of the volume of gas received or delivered.

## GENERAL TERMS AND CONDITIONS

### 4.6 Calibration and Test of Measuring Equipment

The accuracy of measuring equipment shall be verified by the responsible party at reasonable intervals, and if requested, in the presence of representatives of other party, but Company or Shipper shall not be required to verify the accuracy of such equipment more frequently than once in any thirty-day period. In the event either party shall notify the other that it desires a special test of any measuring equipment the parties shall co-operate to secure a prompt verification of the accuracy of such equipment. The expense of any such special test, if called for by either party, shall be borne by party requesting same if the measuring equipment, except for recording gravimeters and calorimeters, tested is found to be in error by not more than 2% and with regard to gravimeters if found to be in error by not more than 1% and with regard to recording calorimeters if found to be in error by not more than 0.5%.

If upon test:

- (a) any measuring equipment, except for recording gravimeters and calorimeters, is found to be in error by not more than 2%,
- (b) any gravimeter is found to be in error by not more than 1%,
- (c) any recording calorimeter is found to be in error by not more than 0.5%, then previous recordings of such equipment shall be considered accurate in computing receipts or deliveries of gas but such equipment shall be adjusted at once to record accurately.

If, for the period since the last preceding test, it is determined that:

- (a) any measuring equipment, except for gravimeters and recording calorimeters, shall be found to be inaccurate by an amount exceeding 2% at a recording corresponding to the average hourly rate of flow for such period, and/or

## **GENERAL TERMS AND CONDITIONS**

- (b) any gravitometer shall be found to be inaccurate by an amount exceeding 1%, and/or
- (c) for recording calorimeters, the MJ content measurement is in error in any amount exceeding 0.5%, then the previous readings of measurement equipment and/or recording calorimeters, as the case may be, shall be corrected to zero error for any period which is known definitely but in case the period is not known or agreed upon such correction shall be for a period extending over 50% of the time elapsed since the date of the last test, not exceeding a correction period of 16 days.

Notwithstanding the foregoing, when the parties mutually agree that a measurement instrument inaccuracy occurred at a definite point in time, a volume correction shall be made even though said inaccuracy is less than the limits specified in (a), (b) and (c) above.

### **4.7 Correction of Metering Errors - Failure of Meters**

In the event a meter is out of service, or registering inaccurately, the volume of gas received or delivered shall be determined by the most equitable method. Such methods shall include but not be limited to:

- (a) mathematical calculations and comparisons including prevailing ratio with a parallel meter,
- (b) the use of check measuring equipment, and
- (c) comparison to receipts or deliveries under similar conditions when the meter was registering accurately.

### **4.8 Preservation of Metering Records**

Each party shall each preserve for a period of at least 6 years all its test data, charts and other similar records. Microfilms of the original documents shall be considered accurate records.

## **GENERAL TERMS AND CONDITIONS**

### **4.9 Atmospheric Pressure**

For the purposes of measurement, the atmospheric pressure at the Receipt Points or any Delivery Point shall be established by a recognized formula applied to the nearest 0.001 kPa increment and deemed to be a constant for that point. This formula shall be in accordance with the methodology prescribed in the Electricity and Gas Inspection Act (Canada) (R.S.C. 1985, c.E-4) as amended from time to time including all regulations and specifications promulgated pursuant to such Act.

### **4.10 Gas Characteristics**

The gas characteristics, including heat content, specific gravity, nitrogen and carbon dioxide content of the gas tendered by Shipper to Company for Transportation or delivered by Company at a Delivery Point shall be determined in a manner approved under the Electricity and Gas Inspection Act, or if such specification is not set out in such Act, in accordance with industry accepted standards, and, in any event, in such manner as to ensure that the gas characteristics so determined are representative of the gas received or delivered at the receipt or delivery point.

The gas characteristics used in computing gas measurement, depending upon the method utilized, shall be (i) the arithmetical average recorded each day or part thereof if continuous recording equipment is used or (ii) where sampling is utilized, determinations available from analyses of such samples.

### **4.11 Flowing Temperature**

The flowing temperature used in computing gas measurement shall be the arithmetical average of temperature measured during periods when gas is being received or delivered.

## **GENERAL TERMS AND CONDITIONS**

### **4.12 Access to and Exchange of Metering Charts**

Company and Shipper shall exchange, upon request of either party, copies of all measuring and testing charts, data and information as soon as practicable for any such request.

## **5. BILLING AND PAYMENT**

### **5.1 Billing**

On or before the tenth (10th) day of the month following a Billing Month, commencing with the First Billing Month, Company shall render a bill to Shipper for the Billing Month. When information necessary for billing by Company is in control of Shipper, Shipper shall furnish such information to Company on or before the fifth (5th) day of the month in connection with services rendered during the prior month.

### **5.2 Payment**

Shipper shall make payment of such bill to Company on or before the twentieth (20th) day of the month following such Billing Month. The bill shall be payable in lawful money of Canada.

### **5.3 Late Billing**

If presentation of a bill by Company is delayed after the tenth (10th) day of the month following the Billing Month, then the time for payment shall be extended correspondingly unless Shipper is responsible for such delay.

### **5.4 Interest on Unpaid Amounts**

If Shipper fails to pay the total amount of any bill rendered by Company when such amount is due, Company shall have the right to charge interest on the unpaid portion of the bill at the rate of interest which is equal to the prime rate of interest at any Canadian chartered bank where Company has its accounts in effect from time to time, plus

## GENERAL TERMS AND CONDITIONS

¼ of one per cent in addition thereto, from the date such payment shall be due until the date payment is actually made by Shipper. If such failure to pay continues for thirty (30) days after payment is due, Company, in addition to any other remedy it may have, may suspend further receipt and delivery of gas until such amount is paid; provided, however, that if Shipper in good faith shall dispute the amount of such bill or part thereof, and shall pay to Company such amounts as it concedes to be correct, then Company shall not be entitled to suspend further receipt and delivery of gas.

### 5.5 Disputed Bills

In the event Shipper disputes in good faith any part of a monthly bill, Shipper shall nevertheless pay to Company that portion of the amount of the statement not in dispute within the time such payment is due. The additional amount, if any, finally determined to be due to Company plus interest as provided in Section 5.4, shall be due within ten (10) days from the date of such final determination.

### 5.6 Settlement of Disputes

In the event Company and Shipper are unable to satisfactorily settle any disputed bill within ninety (90) days of objection being advised, such dispute shall take its course according to law.

## 6. LIABILITIES

### 6.1 Title and Indemnification

Shipper represents and warrants that it owns or controls and has the right to deliver the gas or cause the gas to be delivered to Company for Transportation, and such gas shall be free and clear from all liens, encumbrances and claims whatsoever. Shipper will indemnify and save harmless Company from and against all claims of every nature and description whatsoever, including Company's costs of disputing

## **GENERAL TERMS AND CONDITIONS**

such claims or defending any actions in respect thereof, made against Company by any person or persons claiming title to or any interest in the gas which Shipper delivers or causes to be delivered to Company.

### **6.2 Possession of Gas**

Gas received by Company from Shipper for Transportation shall be deemed to be in the custody and under the control of Company from the time such gas is accepted for Transportation at the Receipt Points and until delivered by Company to Shipper at the Delivery Points.

## **7. DELIVERIES OF GAS**

### **7.1 Commingled Gas**

It is recognized that the gas received by Company from Shipper under its Service Agreement may be commingled in Company's Transportation System with gas received by Company from other shippers under their service agreements and that the gas which Company will deliver to Shipper may not be the identical gas which Company will receive from Shipper. Company's sole obligation is to deliver to Shipper gas meeting the specifications set forth in these General Terms and Conditions.

### **7.2 Daily Scheduling**

The daily quantities of gas to be received by Company at the Receipt Points, and to be delivered by Company at the Delivery Points will be pursuant to dispatcher's schedules, which shall to the extent practicable, reflect variations in Gross Heating Value of the gas.

### **7.3 Balancing for Total Heating Value**

Gas delivered at the Delivery Points by Company shall balance with the gas delivered by Shipper to Company on a Total Heating Value basis.

## **GENERAL TERMS AND CONDITIONS**

### **7.4 Balancing**

Due to variations in operating conditions, daily and monthly deliveries to shippers by Company may differ from the corresponding daily and monthly receipts by Company for the account of shippers. Each Shipper and Company shall cooperate to keep such differences to a minimum permitted by operating conditions, and to balance out such differences as soon as practicable. Any such differences are to be made up in gas, and receipt and delivery of such balancing gas shall be scheduled by mutual agreement of dispatchers of Company and each Shipper.

### **7.5 Scheduling of Alterations and Repairs**

Company shall have the right to interrupt or reduce service to Shipper when necessary for alterations, modifications, enlargements or repairs to any facilities or property comprising a part of Company's Transportation System or otherwise related to the operation thereof. Except in the event of unforeseen emergency, Company shall provide affected Shipper with as much notice as practicable under the circumstances, and Company shall endeavor to schedule such alterations, modifications, enlargements or repairs in cooperation with Shipper so that Shipper may arrange for alternate supply or otherwise accommodate its operations to such reduction or interruption of service.

## **8. GAS USED AND UNACCOUNTED FOR**

### **8.1 Gas Used and Unaccounted For**

Company shall have the right but shall not be obligated to purchase gas from Shipper for use in the operation, maintenance and construction of Company's facilities; such use to include among other things:

## **GENERAL TERMS AND CONDITIONS**

- (a) Fuel used in the operation of compressor stations;
- (b) Fuel used in buildings;
- (c) Purging and testing for Company's facilities or any part thereof;
- (d) Lost and unaccounted for gas.

The provisions of this Section relative to apportionment, shall apply to Shipper's gas used by Company.

### **8.2 Storage and Linepack**

Company shall have the right but shall not be obligated to purchase gas from Shipper for storage and linepack.

### **8.3 Price to be Paid for Gas**

The price of gas purchased from Shipper shall be as agreed to between Company and Shipper.

### **8.4 Apportionment Among Shippers**

The gas used and lost by Company shall be apportioned each month among all shippers receiving Transportation service from Company in the same proportion that the volumes being transported for Shipper bear to the total volumes being transported for all Shippers immediately preceding the point of use or loss. Unaccounted for gas will be apportioned each month in the same proportion that the volumes received from a Shipper bear to the total volumes received from all shippers. Company may make estimates of the apportionment of gas used and lost and unaccounted for gas each month but estimates shall be subject to a final balancing as of December 31 of each year, at the time when final determinations are made for such Calendar Year.

## **GENERAL TERMS AND CONDITIONS**

### **9. DELIVERIES AT MORE THAN ONE POINT FOR ONE SHIPPER**

If Shipper has more than one Delivery Point, it shall each day designate the portion of the gas to be delivered to it on such day which it desires to receive at each Delivery Point and Company shall endeavour to make deliveries in accordance with such designation; provided that Company shall not be obliged to deliver to Shipper, at any such Delivery Point on any day a volume of gas in excess of Shipper's Maximum Daily Delivery Quantity.

### **10. CO-OPERATIVE EXCHANGE OF INFORMATION**

Company and Shipper shall, on request by either made to the other, cooperate in providing such certificates, estimates and information as shall be in its possession, and as shall be reasonably required by the other for the purpose of financing, for the purpose of operations, for obtaining any permits required for the construction of additional facilities, or for the purpose of complying with the provisions of any deed of trust and mortgage to which it is a party.

### **11. SERVICE AGREEMENT**

#### **11.1 Expansions or Reductions in Service**

- (a) When an existing Shipper desires an expansion of service, or a new Shipper desires an initial service, it shall so advise Company, and Company will, as promptly as practicable, advise Shipper whether and to what extent it can render desired service and the terms thereof.
- (b) If Shipper desires to reduce the service being rendered by Company, it shall notify Company of such desired reduction in writing, advising of the details thereof. Company shall on a best efforts basis attempt to find a substitute shipper for all or a

## **GENERAL TERMS AND CONDITIONS**

portion of the relinquished service, and if it can do so, will to such extent grant the requested reduction.

### **11.2 Defaults**

No default in the performance of any of the obligations of Company or Shipper under Shipper's Service Agreement shall operate to terminate such Service Agreement, or except as specifically provided in such Service Agreement, to relieve Company or such Shipper from due and punctual compliance with its obligations thereunder.

### **11.3 Non-Waiver of Future Default**

No waiver by any party of any default by the other party shall operate as a waiver of any continuing or future default, whether of a like or different character.

### **11.4 Assignability**

The Service Agreement shall bind and enure to the respective successors and assigns of each party thereto, but no assignment shall release either party from such party's obligations thereunder without the written consent of the other party. Nothing contained herein shall prevent either party from pledging or mortgaging its right as security for any indebtedness.

## **12. TARIFF SUBJECT TO APPLICABLE LAW**

The Service Agreement, Toll Schedules, these General Terms and Conditions, and the List of Tolls and the rights and obligations of the parties are subject to all present and future laws, rules, regulations and orders of any legislative body or duly constituted authority now or hereafter having jurisdiction over the subject matter thereof.

## GENERAL TERMS AND CONDITIONS

### 13. INDEMNIFICATION

#### 13.1 Person

For the purpose of this Section 13, the term « person » shall mean an individual, a corporation, a partnership, an association, a joint venture, a trust, an unincorporated organization, or a government or political subdivision thereof; and pronouns shall have a similar extended meaning.

#### 13.2 Company and Shipper

Company and Shipper shall each indemnify and save harmless the other from all liability, damages, costs, losses and charges of every character resulting from any claim made against each other by any person for injury or death to persons, or damage to property, in any way connected with the property and equipment of the indemnitor or the presence of gas deemed hereby to be the responsibility of the indemnitor, unless such injury, death or damage is caused by the negligence or wilful default of the indemnitee or any person for whose actions the indemnitee is responsible in law; provided that neither Company nor Shipper shall be liable to indemnify the other unless the person requesting indemnification shall have promptly notified the other in writing of any claim, suit or action for or in respect of which indemnification is to be claimed. The person receiving such notification shall be entitled to participate in any such suit or action, and, to the extent that it may wish, assume the defense thereof with counsel who shall be to the reasonable satisfaction of the person requesting indemnification, and after notice from the indemnitor to the indemnitee of its election so to assume the defense thereof, the indemnitor will not be liable to the indemnitee for any legal or other expenses incurred by the indemnitee in connection with the defense thereof. An indemnitor shall not be liable to indemnify an indemnitee

## **GENERAL TERMS AND CONDITIONS**

on account of any settlement of any claim, suit or action effected without the consent of such indemnitor.

Claims made under this Section 13 with respect to injury or death to persons or damage to property occurring during the term of a Shipper's Service Agreement shall survive the termination thereof.

### **13.3 Company Liability**

Notwithstanding anything to the contrary contained in these Toll Schedules, this Service Agreement and these General Terms and Conditions:

- (a) Company will have no liability for consequential damages;
- (b) Company will have no liability in damages to Shipper in respect of a failure, for any reason whatsoever, other than Company's wilful default, to accept receipt of or deliver gas pursuant to the provisions of Shipper's Agreement;
- (c) and notwithstanding a failure for any reason whatever of company to accept receipt of or deliver gas, Shipper shall make payments to Company of all amounts required to be paid under the provisions of Shipper's Service Agreement.

## **14. FORCE MAJEURE**

### **14.1 Force Majeure Defined**

As utilized herein, force majeure shall mean any act of God, strikes, lockouts, or other industrial disturbances, acts of the public enemy, sabotage, wars, blockades, insurrections, riots, epidemics, landslides, lightening, earthquakes, floods, storms, fires, washouts, arrests and restraints of rulers and peoples, civil disturbances, explosions, breakages, or accidents to machinery or pipelines, hydrate obstructions of pipelines or appurtenances thereto, temporary failure of

## GENERAL TERMS AND CONDITIONS

gas supply, freezing of wells, or delivery facilities, well blowouts, cratering; inability to obtain materials or equipment; inability to obtain permits, orders, licences, certificates or other authorizations; order of any court, board or governmental authority having jurisdiction, any act or omission which is excused by any event or occurrence of the character herein defined as constituting force majeure; or any other cause, whether of the kind herein enumerated or otherwise not within the control of the applicable party and which by the exercise of due diligence such party is unable to prevent or overcome.

### 14.2 Obligations Excused

If either party fails to perform any obligation imposed by the Service Agreement for Transportation, including the applicable Toll Schedule and General Terms and Conditions of this Gas Transportation Tariff, and such failure shall be caused or materially contributed to by any occurrence of force majeure such failure shall be deemed not to be a breach of the obligation of such party, but such party shall use reasonable diligence to put itself in a position to carry out its obligations. Provided, however, that the settlement of strikes or lockouts shall be entirely within the discretion of each party, and that the above requirement that any force majeure shall be remedied with the exercise of due diligence shall not require the settlement of strikes or lockouts by acceding to the demands of the opposing party when such course is inadvisable in the discretion of the appropriate party.

### 14.3 Notwithstanding subsections 14.1 and 14.2, no cause affecting the performance of obligations by any party:

- (a) shall relieve any party from its obligation to make payment of amounts pursuant to this Gas Transportation Tariff.
- (b) shall relieve any party from any other obligation unless such party shall give notice of such cause in writing to the other party

## **GENERAL TERMS AND CONDITIONS**

with reasonable promptness and like notice shall be given upon termination of such cause, nor shall such cause continue to relieve such party from such other obligation after the expiration of a reasonable period of time within which, by the use of due diligence, such party could have remedied the situation.

### **14.4 Interruption or Reduction of Service**

When Company is required to interrupt or reduce service hereunder as a result of any of the causes set out in this Section 14 or for any other cause, then such interruption or reduction will be apportioned among the shippers receiving Transportation services from Company in the same proportion as each Shipper's Maximum Daily Receipt Quantity.

## **15. MISCELLANEOUS PROVISIONS**

### **15.1 Effect of Headings**

The headings used throughout this Gas Transportation Tariff are inserted for reference purposes only and are not to be considered or taken into account in construing the terms and provisions of any paragraph nor to be deemed in any way to qualify, modify or explain the effects of any such provisions or terms.

### **15.2 Words in Singular or Plural**

In the interpretation of this Gas Transportation Tariff, words in the singular shall be read and construed in the plural and words in the plural shall be read and construed in the singular where the context so requires.