

**[W]Enterprise Crude Pipeline LLC Enterprise Interstate Crude LLC for Basin Pipeline**

**[W] September 1, 2014 July 30, 2019**

**Proration of Capacity**

- A. This Proration Policy will be used by Carrier to allocate Capacity among all Shippers for any month for which Carrier determines that the aggregate volume of Crude Petroleum Nominated by all Shippers for receipt into or delivery from the Pipeline or a Pipeline segment exceeds the Capacity.
- B. Nothing in this Proration Policy shall prevent Carrier from allocating Capacity on an equitable basis in a manner that differs from the specific provisions of this Proration Policy during any period in which there is an imminent threat to public health, safety or the environment.

**1. Definition of Terms**

- 1.1 The defined terms “Carrier”, “Crude Petroleum”, “Nomination”, “Nominated”, and “Shipper” shall have the meanings ascribed to them in Rules and Regulations, Item No. 1, of [W]the Enterprise Crude Pipeline LLC FERC Tariff No. 35.2.0 Carrier’s FERC Tariff No. 2.0.0, or subsequent issues thereof.
- 1.2 The following defined terms when used in this Proration Policy shall have the meanings ascribed to them in this Item No. 1.2:
  - 1.2.1 “Actual Shipments” means volumes of Crude Petroleum that originate on the Pipeline at the Receipt Point and that are ultimately delivered at a Delivery Point. All volumes shall be measured at the Receipt Point.
  - 1.2.2 “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. Affiliates are also Persons or Parties with common mailing or business addresses, business telephone numbers, or bank account(s).
  - 1.2.3 “Allocation Month” means any month in which Carrier determines that the aggregate volume Nominated by all Shippers for receipt into or delivery from the Pipeline exceeds the Capacity in such month.
  - 1.2.4 “Available Capacity” means the portion of the Capacity remaining after the application of any steps in Section 2.
  - 1.2.5 “Average Monthly Volume” means the average of a Regular Shipper’s monthly volumes of Crude Petroleum tendered and received during the entire Base Period applicable to the Allocation Month. Average Monthly Volume may also be referred to herein as Shipper History, Shipment History, or History.
  - 1.2.6 “Base Period” means a cumulative rolling period of twelve (12) consecutive months ending one month prior to the Allocation Month.
  - 1.2.7 “Binding Nomination” means the volumes allocated to each Shipper in Section 2.
  - 1.2.8 “Capacity” means the maximum throughput volume of the Pipeline for an Allocation Month under then current operating conditions as determined by Carrier
  - 1.2.9 “Delivery Points” means the “To” locations provided in Carrier’s FERC Tariff No. [W]35.2.02.0.0, or subsequent issues thereof.
  - 1.2.10 “New Shipper” means a Shipper that is not a Regular Shipper.

- 1.2.11 “Receipt Point” means the “From” locations provided in Carrier’s FERC Tariff No. [W]35.2.02.0.0, or subsequent issues thereof.
- 1.2.12 “Regular Shipper” means a Shipper that has had Actual Shipments in each of the twelve months of the Base Period. A Regular Shipper ceases to be a Regular Shipper if it has had 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.
- 1.2.13 “Pipeline” refers to Carrier’s facilities on its ownership in the capacity of the Basin Pipeline which is operated by Plains All American Pipeline, LP.

## **2. Proration Procedure**

For any Allocation Month, Carrier shall prorate the Nominations among Shippers on the Pipeline or Pipeline segment as follows:

- 2.1 Ninety percent (90%) of the Capacity will be allocated by Carrier to all Regular Shippers pro rata based on the lesser of each Regular Shipper’s Average Monthly Volume or its tendered volume.
- 2.2 Ten percent (10%) of the Available Capacity will be allocated by the Carrier to the New Shippers, if any, on a pro rata basis but not to exceed the tendered volume. If the pro rata allocation in a given month, based on the number of New Shippers making nominations, results in no New Shipper being allocated 500 barrels per day, then Carrier will administer a lottery using a software-generated random process for the total number of monthly allocations available to New Shippers. A New Shipper will not be allocated capacity through the lottery process if it is: (i) an Affiliate of a Regular Shipper; or (ii) an Affiliate of another Shipper who received an allocation through the lottery process. Detailed procedures regarding Carrier’s lottery process are outlined in Section 7 below.
- 2.3 Any remaining Available Capacity not allocated through the application of Section 2.1 through 2.2 shall be allocated pro rata based on original Nominations among all Shippers, or if the lottery is in effect, among all Shippers successful in the lottery, having remaining tenders (and if the allocation to any Shipper pursuant to this Section 2.3 exceeds its remaining tender, the excess will be allocated among all other remaining tenders until the remaining Available Capacity is fully allocated or all of the remaining tenders have been fulfilled).
- 2.4 Once Carrier has determined the capacity allocated to each Shipper for the Allocation Month under the steps in Section 2, it shall provide notice to each Shipper of its Binding Nomination for the Allocation Month. Any Shipper Nomination in excess of its Binding Nomination will be reduced accordingly.
- 2.5 A New Shipper will not be allocated capacity if it is either: (i) an Affiliate of a Regular Shipper; or (ii) an Affiliate of another Shipper who received an allocation.
- 2.6 No individual Shipper Nomination shall be considered beyond the physical capacity of the Pipeline. Furthermore, no individual New Shipper Nomination shall be considered beyond 10% of the Available Capacity of the Pipeline. Nominations in excess of these limits will be reduced accordingly.

## **3. Failure to Use Allocated Capacity**

If any Shipper fails to tender volumes during the Month equal to one hundred percent (100%) of its Binding Nomination for that month, that Shipper will lose its ability to ship volumes on the Pipeline for the period of one calendar month.

## **4. Good Faith Tenders**

Carrier will accept only good faith Nominations from Shippers, and Carrier shall use whatever reasonable means necessary to determine whether Nominations are made in good faith. Good faith shall include, without limitation, the non-contingent ability of a Shipper to deliver to Carrier at the origin(s) or to receive from Carrier, at the destination(s) specified in the Nomination, all of the volume Nominated during the time period for which the Nomination is made. Carrier may request any additional documentation from a Shipper to document such Shipper’s ability to deliver or receive the Crude Petroleum Nominated.

## **5. Restrictions on Transfer of Allocation**

Subject to Section 6, the allocated Capacity of any Shipper may not be sold, assigned, conveyed, loaned, transferred or used in any manner except as expressly permitted in this Proration Policy. In the event any Shipper shall, by any device, scheme or arrangement whatsoever, attempt to sell or transfer all or any part of its allocated Capacity to any other Shipper in violation of this Proration Policy, or in the event any Shipper shall attempt to buy or receive and use any portion of the allocated Capacity of another Shipper in violation of this Proration Policy, the allocated Capacity of each such Shipper will be reduced in the next Allocation Month after the date that the violation is discovered, by a volume equal to twice such attempted transfer. Any allocated Capacity that becomes available under this Section 5 will be allocated among the other Shippers that Nominate in the next Allocation Month in an equitable manner.

## **6. Transfer of Shipment History**

A Shipper's History may not be sold, assigned, conveyed, loaned, transferred to or used in any manner by another Shipper, except a Shipper may transfer its Average Monthly Volume as follows: (a) in the case of request by a Regular Shipper and that Regular Shipper's Affiliate to consolidate the Average Monthly Volume into a single entity; and (b) to a purchaser of the Crude Petroleum production that established the Shipment History. To transfer its Shipment History, a Shipper must provide Carrier with documentation agreeing to the transfer signed by an authorized individual in the Shipper's organization and by an authorized individual in the proposed transferee's organization. Such documentation must contain, at a minimum, the following information:

6.1 the percent of the Shipper's Shipment History from a specific origin to a specific destination to be transferred to the transferee's account; and

6.2 the effective date of the transfer of such Shipment History, which date must be as of the beginning of a calendar month and must be not less than ten (10) business days after Carrier receives notice of the proposed transfer.

Carrier, after receipt of such documentation, will promptly notify the Shipper and the transferee whether it has approved the transfer. Carrier shall be entitled to fully rely on and confirm its records to the requested transfer.

## **7. Lottery Process**

Carrier will administer a lottery process in order to allocate capacity to New Shippers pursuant to Section 2 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) Each allotment of capacity subject to the lottery shall be equal to 500 barrels per day;

(c) The New Shipper assigned number one will receive the first 500 barrels per day allocation. Thereafter, 500 barrels per day allocations will be assigned to New Shippers sequentially, from lowest assigned number to highest assigned number, until the 10% of Available Capacity referenced in Section 2 is fully allocated; and

(d) Following the lottery, Carrier will notify Shippers as to whether or not they were allocated capacity for the applicable month.

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[W] Change in wording only