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July 20, 2000

BY HAND DELIVERY

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RECORDS AND REPORTING

000904-GU

Blanca S. Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Re: **Indiantown Gas Company, Inc.'s Rate Schedule FLTS-1, Firm Local Transportation Service**

Dear Ms. Bayo:

Pursuant to Commission Rules 25-7.0335 and 25-9.004(1), F.A.C., enclosed for filing are four copies of Indiantown Gas Company's proposed Rate Schedule FLTS-1, Firm Local Transportation Service. Pursuant to Commission Rule 25-9.005(2), F.A.C., the Company states that the service to be provided pursuant to the proposed tariff is firm gas transportation service over the Company's facilities, and that this tariff and the filing thereof are required by Commission Rule 25-7.0335, F.A.C., Transportation Service.

This is a new service, and the Company has not yet determined the actual rates that will be charged pursuant to this tariff. In addition, this proposed tariff would not change any customer's rates, and the Company does not know how many, if any, customers will opt to take service pursuant to the proposed tariff. Accordingly, the tabulation of typical bill effects and the statement indicating estimated revenue impacts required by Commission Rule 25-9.005(1), F.A.C., are not applicable to this filing.

I will appreciate your confirming receipt of this response by stamping the attached filing copy thereof and returning same to my attention.

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[Signature]
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DOCUMENT NUMBER-DATE

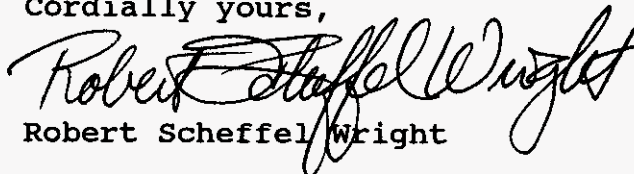
08838 JUL 20 00

FPSC-RECORDS/REPORTING

Blanca S. Bayo, Director
Re: Indiantown Gas Company's FLTS-1 Tariff Filing
July 20, 2000
Page 2

As always, thanks to you and your Staff for your considerate and professional assistance. If you have any questions, please give me a call.

Cordially yours,



Robert Scheffel Wright

Enclosure

copy: Wayne Makin (without enclosure)

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**RATE SCHEDULE FLTS-1
FIRM LOCAL TRANSPORTATION SERVICE**

AVAILABILITY

This Rate Schedule is a firm rate schedule and is available for firm transportation service provided by "Gas Utility" to any person or entity, except those classified as residential customers.

APPLICABILITY AND CHARACTER OF SERVICE

Transportation from Primary Receipt Points to Primary Delivery Points under this Rate Schedule shall be performed on a firm basis. Deliveries and receipts hereunder shall be specifically subject to the provisions of Section XX. (Operational Flow Orders), Section XIX. (Curtailments), and Section XVIII. (Force Majeure) addressed herein.

"Gas Utility" shall receive for transportation, the quantity of Gas made available by or for the account of the Customer, and transport and make available for delivery to, or for the account of Customer, in accordance with this Rate Schedule; provided however, that such quantity made available by or for the account of the Customer shall not exceed on any day the applicable Maximum Daily Transportation Quantity (MDTQ) specified in the executed Transportation Agreement Contract for service under this Rate schedule.

Service shall commence under this Rate Schedule on the earlier of: (1) the date Customer, or Customer's Agent first tenders Gas to "Gas Utility" for transportation under an executed Transportation Agreement Contract; or (2) 10 days after the execution of a Transportation Agreement Contract by Customer, but in no event prior to the in-service date of any Facilities necessary to provide such service. Gas received for transportation will be commingled with other Gas in "Gas Utility's" system, and the specific Gas made available by the Customer for its account, may not be the same Gas delivered to the Customer or for its account.

A standardized Request for Transportation Service form is available from "Gas Utility". If the standardized Request for Transportation Service form is not used, Customer must submit a request that includes the following information:

1. Customer's legal name.
2. Customer's principal place of business.
3. Customer's contact person and telephone number.
4. Customer's business address for notices and billing.
5. Maximum Daily Transportation Quantity (MDTQ) requested stated in therms
6. Maximum Monthly Transportation Quantity (MMTQ) requested stated in therms.
7. Requested date of commencement of service.
8. Requested term of service (if greater than one year).
9. Requested Primary Receipt Point(s) by legal description or quantity requested at each Primary Receipt Point; provided however, that the aggregate maximum daily quantities at such Primary Receipt Points shall not exceed the Customer's MDTQ.
10. A legal description of the Customer's requested Delivery Point.

Requests for service that do not include all of the above-referenced information shall be deemed null and void; provided, however, requests for changes need only contain the information relevant to the changes requested.

For those Customer's who choose to engage an Agent to arrange and oversee its Gas service, Customer must submit an affidavit identifying the legal name of the Agent chosen by Customer.

For those Customers that are currently receiving sales service from "Gas Utility", "Gas Utility" will, for a cost-based fee, provide a historical monthly usage summary to assist the Customer or Customer's Agent in calculating the Maximum Daily Transportation Quantity. For customers that consume less than 5,000 therms annually, "Gas Utility" will, for a cost-based fee, determine each customer's Maximum Daily Transportation Quantity (MDTQ), and Daily Delivered Quantity (DDQ) for each month of the upcoming year pursuant to Section XVI. of the General Terms and Condition for Firm Transportation Service.

At the time of execution of the Transportation Agreement Contract, Customer must supply the curtailment classification for the requested transportation in accordance with Section XIX. of the General Terms and Conditions for Transportation Service.

Prior to execution of the Transportation Agreement Contract, a letter from Customer, or Customer's Agent, if applicable, certifying that, (1) Customer, or Customer's Agent, if applicable, has, or will have, title to the Gas in accordance with the provision of Section XVII. of the General Terms and Conditions for Firm Transportation Service, and (2) that Customer, or Customer's Agent, if applicable, must have secured or will have secured, from "Gas Utility", firm capacity upstream of "Gas Utility's" distribution system, prior to commencement of service.

Prior to execution of the Transportation Agreement Contract, Customer, or Customer's Agent, if applicable, shall comply with the deposit provisions (Section IV) or creditworthiness provisions (Sections XXV. C.) of the General Terms and Conditions for Firm Transportation Service.

The applicable rates for service under this Rate Schedule are set forth below and are hereby incorporated herein.

For all Transportation Service rendered hereunder, the Customer shall pay "Gas Utility" each month the sum of the charges listed below if applicable:

(A) Monthly Customer Charge; (B) Non-Fuel Transportation Charge; and
(C) Applicable Taxes and Franchise Fees.

"Gas Utility" shall have the unilateral right to seek, through a filing under Chapter 366, Florida Statutes, with the Florida Public Service Commission, to make changes in the rates and charges applicable to this Rate Schedule, pursuant to which this service is rendered; provided, however, that the firm character of service shall not be subject to change by means of such filing, and any provision of the General Terms and Conditions applicable to this Rate Schedule. "Gas Utility" agrees that the Customer may protest or contest filings of the "Gas Utility", or seek authorization from duly constituted regulatory authorities for such adjustment of "Gas Utility's" Tariff as may be found necessary in order to assure that the provisions within the Tariff are just and reasonable.

The General Terms and Conditions of "Gas Utility's" Tariff are hereby made a part of this Rate Schedule.

General Terms and Conditions
For Firm Transportation Customers

I. DEFINITIONS

The following terms shall have the meanings defined below:

- A. Affected Area -- shall mean area(s) of the distribution system that may be subject to actions "Gas Utility" may institute to maintain system integrity.
- B. Agent -- shall mean a contractually authorized Marketer or Broker of Customer under these General Terms and Conditions.
- C. Aggregation -- shall mean the pooling of transportation customers for nominating and balancing purposes.
- D. Aggregator -- shall mean a qualified Marketer/Broker providing service to a pool of customers under the conditions (1) each customer in the pool has executed a Transportation Agreement Contract with "Gas Utility" (2) the Marketer/Broker is qualified in accordance rules governing Marketers/Brokers in this tariff.
- E. Aggregated Daily Delivery Quantity (ADDQ) -- the total of the Daily Delivery Quantities for an aggregated pool of Customers.
- F. Alternate Delivery Point(s) -- shall mean Delivery Point(s) other than those listed in Customer's Transportation Agreement Contract.
- G. Alternate Fuel -- shall mean a fuel other than natural gas, including substitute or back-up electrical energy available from the electric power grid, that is used in lieu of natural gas during a curtailment event. Alternate Fuel is not considered available when either no facilities exist to enable the utilization of Alternate Fuel; or facilities exist for the use of Alternate Fuel but Alternate Fuel, although available, cannot be legally, or operationally, used in such facilities.
- H. Alternate Receipt Point(s) -- Point(s) of Receipt other than those listed in Customer's Transportation Agreement Contract.
- I. Average Atmospheric Pressure -- shall mean the average atmospheric pressure at sea level, 14.969 pounds per square inch.

-
- J. Billing Period -- shall mean bills rendered each month, approximately 30 days apart.
- K. Btu -- Shall mean a British thermal unit and is further defined as the quantity of heat required to raise the temperature of one pound (avoirdupois) of pure water from 58.5 degrees Fahrenheit to 59.5 degrees Fahrenheit at a constant pressure of 14.73 pounds per square inch absolute. The Btu shall be reported to three, or more, decimal places.
- L. Business Day -- shall mean the days Monday through Friday, exclusive of federal banking holidays, unless notified otherwise.
- M. Company -- shall mean Indiantown Gas Company, Inc., the party receiving gas at the receipt points (city gates) and transporting volumes to the points of delivery (customers' meters). This term shall also have the same meaning as the term "Gas Utility" defined below and used herein.
- N. Cubic Foot of Gas -- shall be the amount of gas necessary to fill a cubic foot of space when the gas is at a temperature of sixty (60) degrees Fahrenheit and under an absolute pressure of fourteen and seventy-three hundredths pounds per square inch absolute (14.73 p.s.i.a.).
- O. Customer -- shall mean, any person (i.e., individual, firm, partnership, company, corporation, municipality, cooperative, organization, governmental agency, or similar organization) supplied with Gas or transportation service.
- P. Curtailment -- shall mean the suspension of scheduled firm and/or interruptible transportation service provided by "Gas Utility" to affected Customers, as more particularly described in Section XIX. of this Tariff.
- Q. Curtailment Order -- shall mean the notice of suspension of scheduled firm and/or interruptible transportation service provided by "Gas Utility" to affected Customers, as more particularly described in Section XIX. of this Tariff.
- R. Daily Delivered Quantity (DDQ) -- shall mean a uniform quantity of Gas established by "Gas Utility" to be delivered by the transportation Customer or Marketer/Broker on a daily basis.
- S. Draft Notice -- shall mean a Notice to correct an imbalance due Customer.

-
- T. Eastern Clock Time -- shall be the Eastern Time, as adjusted for Daylight Savings Time and Standard Time. Unless otherwise stated, as used herein "Eastern Time" shall mean Eastern Clock Time.
- U. Facilities -- shall mean equipment or devices needed for transportation service.
- V. FERC -- shall mean the Federal Energy Regulatory Commission
- W. FGT -- shall mean Florida Gas Transmission.
- X. Firm Rate Schedules -- shall mean "Gas Utility's" firm transportation rate schedules.
- Y. FPSC -- shall mean the Florida Public Service Commission.
- Z. Gas -- shall mean natural gas meeting the quality specifications set forth in this tariff.
- AA. Gas Utility -- shall mean Indiantown Gas Company, Inc.
- AB. Main and Service Amortization Surcharge (MSEA) -- shall mean a surcharge applied to persons requesting an extension, where the actual costs of extending necessary Main and Service Facilities exceeds the MACC.
- AC. Marketing Affiliate -- shall mean any arm of "Gas Utility" or parent of "Gas Utility", either owned or subject to common control, as a function within "Gas Utility" or part of a separate legal entity, which engages in or arranges an unregulated retail sale of Gas to a transportation customer on "Gas Utility's" system.
- AD. MACC -- shall mean Maximum Allowable Construction Costs.
- AE. Month -- a period beginning on the first day and ending on the last day of the calendar month.
- AF. Monthly Imbalance Amount -- shall mean the Operational Imbalance amount for a billing period.
- AG. MCF -- shall mean one thousand (1,000) cubic feet of Gas.
- AH. Meter -- an instrument for measuring and indicating or recording the volume of Gas

passing through it.

- AI. MMBtu -- shall mean a million Btu and shall be deemed equivalent to one Dekatherm.
- AJ. NGPA - shall mean the Natural Gas Policy Act of 1978.
- AK. Nomination -- shall mean a notice delivered by Customer or Customer's Agent, to "Gas Utility" in accordance with nomination procedures.
- AL. Operational Balancing Agreement -- shall mean Operational Balancing Agreement between "Gas Utility" and Customer, or Customer's Agent.
- AM. Pack Notice -- shall mean a Notice to correct an imbalance due "Gas Utility".
- AN. Point of Delivery or Delivery Point -- shall mean the point at the connection of the Facilities of "Gas Utility" at which the Gas leaves the outlet side of the measuring equipment of "Gas Utility" and enters Customer's meter.
- AO. Point of Receipt or Receipt Point -- shall mean the point at which Gas is received into "Gas Utility's" system from an upstream source or facility.
- AP. Posted Price -- shall mean price for Gas in a specified area as reported in a specified publication.
- AQ. Primary Delivery Point(s) -- shall mean those Delivery Point(s) listed in Customer's Transportation Agreement Contract.
- AR. Primary Receipt Point(s) -- shall mean Point(s) of Receipt listed in Customer's Transportation Agreement Contract.
- AS. p.s.i.a. -- shall mean pounds per square inch absolute.
- AT. Release -- shall mean a release of firm capacity right(s) pursuant to the General Terms and Conditions.
- AU. Retainage -- shall mean a percentage of Customer's or Customer's Agent's Gas that "Gas Utility" is allowed to retain for Gas shrinkage at no cost to "Gas Utility".

- AV. Service Year -- a period of time beginning on January 1 of each year and ending at the next succeeding December 31, inclusive.
- AW. Scheduled Quantities -- shall mean the amount of Gas "Gas Utility" is entitled to bill Customer for a Day or other specified time period.
- AX. Submetering -- shall mean the practice of remetering beyond Customer's utility meter.
- AY. Taxes-- The term "tax" wherever used, or referred to in this Tariff shall mean any tax, fee, charge or assessment and shall include, but not be limited to, occupation, production, severance, gathering transportation, pipeline, footage, sales or other excise tax or tax of similar nature now or hereafter imposed by any lawful authority upon "Gas Utility" whether under direct imposition by Federal, State or local authorities or pursuant to the terms of any present or future contract.
- AZ. Therm -- shall mean a unit of heat equal to 100,000 Btu's.
- BA. Transportation Agreement Contract -- shall mean the dated Transportation Agreement Contract between "Gas Utility" and Customer.
- BB. Transporting Pipeline -- shall mean any interstate pipeline system on which "Gas Utility" holds firm transportation rights.

II. GENERAL INFORMATION

- A. REQUEST FOR TRANSPORTATION SERVICE. Gas Service may be requested by a prospective transportation Customer by submitting to "Gas Utility" a completed Request for Transportation Service form.
- B. ACCEPTANCE OF REQUEST FOR TRANSPORTATION SERVICE. A Request For Transportation Service shall be deemed to be accepted by "Gas Utility" when Customer and "Gas Utility" have entered into a Transportation Agreement Contract and transportation service pursuant thereto is initiated.
- C. OBLIGATION OF CUSTOMER AND "GAS UTILITY". The terms and conditions of Customer's Request For Transportation Service, these Rules and Regulations, the Transportation Agreement Contract, and the applicable Rate Schedules shall become binding upon Customer and "Gas Utility" upon acceptance by "Gas Utility" of Customer's Request For Transportation Service, and an executed Transportation Agreement Contract.
- D. ACCOUNT OPENING CHARGE. An account opening charge will be assessed when a change of customer occurs, and transportation service is not shut off at the premises. The amount of the charge is \$15.00.
- E. METER TURN ON OR METER RECONNECTION CHARGE. A meter turn on or meter reconnection charge will be assessed when transportation service is inactive. The amount of the charge is \$35.00.
- F. TRIP CHARGE/COLLECTION AT CUSTOMER PREMISES. This charge applies when "Gas Utility's" employee, agent, or representative makes a trip to Customer's premises for the purpose of terminating Transportation Service for nonpayment of bills, and, on arrival is paid the amount due "Gas Utility". The amount of the charge is \$10.00.
- G. SERVICE INITIATED BY SPECIAL APPOINTMENT OR OUTSIDE NORMAL BUSINESS HOURS. Where Transportation Service is established outside of normal business hours or by special appointment, an additional charge of \$25.00 will be assessed.

- H. WITHHOLDING OF TRANSPORTATION SERVICE. "Gas Utility" will refuse to establish Transportation Service to any location where it finds that establishment of Transportation Service will create an unsafe or hazardous condition on Customer's premises.

- I. DISCONTINUANCE OF SERVICE. "Gas Utility" may discontinue Transportation Service to an existing Customer or refuse to serve a prospective Customer where such Customer's use of Gas is or will be detrimental or hazardous to the Transportation Service supplied to other Customers.

- J. DENIAL OF TRANSPORTATION SERVICE. "Gas Utility" will not establish Transportation Service to any Customer where that Customer is in arrears for Transportation Service (or Sales Service) at that location or another location in "Gas Utility's" service area.

- K. UNAUTHORIZED OR FRAUDULENT USE OF TRANSPORTATION SERVICE:
"Gas Utility" will discontinue Transportation Service without notice:
1. in the event of tampering with regulators, valves, meters or other facilities furnished and owned by "Gas Utility", or
 2. in the event of other unauthorized or fraudulent use of Transportation Service;
 3. whenever Transportation Service is discontinued for unauthorized or fraudulent use thereof "Gas Utility", before restoring Transportation Service, may require Customer to make, at Customer's expense, all changes in piping or equipment necessary to eliminate the unauthorized or fraudulent use, and to pay an amount reasonably estimated as the deficiency in "Gas Utility's" revenue and all costs incurred by "Gas Utility" resulting from such unauthorized or fraudulent use;
 4. in case of any unauthorized submetering, sale, or disposition of Gas by a Customer, Transportation Service to such Customer may be discontinued and, if discontinued, such service will not be restored until such unauthorized activities have ceased and all bills outstanding have been paid in full. Billings for Gas sold or disposed of by Customer may be recalculated under appropriate rate schedules and, in addition, a bill may be rendered to Customer for all expenses incurred by "Gas Utility" for clerical work, testing, and inspections in connection with such recalculation.
- L. LIMITATION OF USE. Gas transported to a Customer shall be for such Customer's own use and shall not be resold by such Customer, either by submetering, (or otherwise,) unless such resale has been authorized by the FPSC.

III. CUSTOMER'S INSTALLATIONS

A. **GENERAL.** Customer's Installation shall be constructed, installed and maintained in accordance with standard practice as determined by local codes and ordinances, these Rules and Regulations, and other applicable governmental requirements.

B. **INSPECTION OF CUSTOMER'S INSTALLATION.** Where governmental inspection of a Customer's Installation is required, "Gas Utility" will not supply Transportation Service to such installation until the necessary inspections have been made and "Gas Utility" has been authorized to provide Gas Service.

"Gas Utility" may also inspect Customer's Installation prior to rendering Transportation Service, and from time to time thereafter, but assumes no responsibility whatsoever as a result of having made such inspection. "Gas Utility" will not render Transportation Service to any Customer Installation which "Gas Utility" finds to be hazardous, or in noncompliance with any applicable code, ordinance, regulation or statute.

"Gas Utility" will discontinue Transportation Service to Customer's Gas equipment whenever it finds a hazardous condition or a condition that is in violation of a code, ordinance, regulation or statute governing the installation or use of Gas equipment or Customer's Installation, and Transportation Service will be rendered or restored only when the hazardous condition or noncompliance has been corrected.

C. **CHANGES IN CUSTOMER'S INSTALLATION.** A Customer shall notify "Gas Utility" of any change in Customer's requirements for Transportation Service and receive authorization from "Gas Utility" prior to making any such change so that "Gas Utility" may be in a position to meet Customer's requirements. Customer will be liable for any damage resulting from violation of this rule.

D. **RIGHT OF WAY.** Customer shall grant to "Gas Utility", without cost to "Gas Utility" all rights, easements, permits and privileges which, in "Gas Utility's" opinion, are necessary for the rendering of Transportation Service. Customer will furnish to "Gas Utility", without charge, an acceptable location for "Gas Utility's" meter.

- E. PROTECTION OF "GAS UTILITY'S" PROPERTY. Customer shall properly protect "Gas Utility's" property on Customer's premises, and shall permit no one but "Gas Utility's" employees or agents, or persons authorized by law, to have access to "Gas Utility's" piping, meters or apparatus. In the event of any loss or damage to "Gas Utility's" property caused by or arising out of carelessness or misuse thereof by Customer, Customer shall pay to "Gas Utility" the cost of replacing such loss or repairing such damage. This section does not apply to Customer's check meter, if one is so installed.
- F. OPERATION OF "GAS UTILITY'S" FACILITIES. No Customer or other person shall, unless authorized by "Gas Utility" to do so, operate or change any of "Gas Utility's" Facilities.

IV. DEPOSITS

- A. **ESTABLISHMENT OF CREDIT; NEW DEPOSITS.** Customer shall establish credit prior to the commencement by "Gas Utility" of Transportation Service (and shall maintain credit during the term hereof) by either: (1) making a cash deposit with "Gas Utility", or (2) furnishing an irrevocable letter of credit from a bank, or a surety bond issued by a company holding a certificate of authority as an acceptable surety on Federal bonds. (Such companies are listed in Circular 570, published annually as of July 1, by the Financial Management Service U.S. Department of the Treasury. Interim changes in Circular 570 are published in the Federal Register as they occur.) The amount of such cash deposit, irrevocable letter of credit or surety bond, as the case may be, shall be equal to two (2) times the estimated average monthly bill for service provided by "Gas Utility".
- B. **RECORD OF DEPOSIT.** With respect to a cash deposit, "Gas Utility" will keep records to show:
- (1) The name of Customer making the deposit;
 - (2) The premises occupied by Customer;
 - (3) The date and amount of the deposit; and
 - (4) Each transaction concerning the deposit, such as, interest payments, interest credited, or similar transactions.
- C. **INTEREST ON DEPOSIT.** "Gas Utility" will pay interest annually on any cash deposit at the simple interest rate per annum approved from time to time by the FPSC which, as of the date first written above, is seven percent (7%). Payment shall be made either in cash, or by a credit on a bill rendered to Customer. Customer shall receive no interest on a cash deposit until six (6) Months after making the deposit. Thereafter, Customer shall be entitled to receive interest from the date of the deposit.
- D. **REFUND OF DEPOSIT.** Upon termination of Transportation Service, "Gas Utility" shall credit the amount of any cash deposit and accrued interest thereon against the final amount due "Gas Utility" from Customer, and the balance, if any, shall be returned to Customer no later than ten (10) working days after the final bill for service is rendered.

- E. RECEIPT FOR CASH DEPOSIT. A non-transferable receipt will be issued to a Customer for any cash deposit and means provided so that such Customer may claim the deposit if the receipt is lost. When a new or additional cash deposit is required under Section IV. F. of this Tariff, a Customer's canceled check or validated bill coupon may serve as a deposit receipt.
- F. NEW OR ADDITIONAL DEPOSITS. "Gas Utility" may require, upon reasonable written notice of not less than twenty (20) days, such request or notice being separate and apart from any bill for Transportation Service, a new cash deposit, guaranty, letter of credit or surety bond (where previously waived or returned), or an additional cash deposit (or increase in the amount of a guaranty, letter of credit or surety bond), in order to secure payment of current bills; provided, however, that the total amount of the required cash deposit or other security shall not exceed an amount equal to the average actual charges for service for two billing periods for the 12-month period immediately prior to the date of notice, the twenty (20) day notice shall not apply when service is being reestablished after discontinuance of service for non-payment. If Customer has received Transportation Service for less than 12 months, then "Gas Utility" will base the amount of the new or additional cash deposit or other security upon the average actual monthly billing available.
- G. RETURNED CHECKS. A service charge of \$22.00 or two (2) percent of the amount of the check, whichever is greater, shall be added to Customer's bill for Transportation Service for each check dishonored by the bank upon which it is drawn. Termination of Transportation Service shall not be made for failure to pay such returned check charge.

V. BILLING

- A. **BILLS RENDERED.** "Gas Utility" will provide Customer with a bill by the last Day of each Month for all Scheduled Quantities each Day of the preceding Month (less such portion thereof, if any, as has been purchased by "Gas Utility" from Customer pursuant to Section XIX. D. (Curtailement) of this Tariff,) and for any other amounts due. If, during the preceding Month, "Gas Utility" has purchased Gas from Customer pursuant to Section XIX. D. of this Tariff, such bill shall show a credit for the estimated amount due Customer from "Gas Utility" on account of such purchases. If the estimated amount owed by "Gas Utility" to Customer exceeds the amount Customer owes to "Gas Utility", "Gas Utility" shall pay to Customer the net amount estimated to be due Customer at the time "Gas Utility" provides the bill to Customer. Bills shall be considered received by Customer when mailed to the most recent billing address supplied by Customer to "Gas Utility".
- B. **PAYMENT.** Customer shall pay the bills rendered by "Gas Utility", minus any disputed amounts, to "Gas Utility" either at the "Gas Utility's" offices or by wire transfer to the account and bank specified in the invoice on or before the fifteenth (15th) Day following the date of "Gas Utility's" mailing (as signified by the postmark) or other delivery of such bill. All sums not paid by Customer (or credited or paid by "Gas Utility") shall be considered delinquent.
- C. **BILLING DISPUTES.** In the event of a bona fide billing dispute, Customer or "Gas Utility", as the case may be, shall (1) pay (or credit) to the other, all amounts not in dispute, and (2) pay any disputed amount into an escrow account established for the benefit of "Gas Utility" and Customer with an escrow agent and pursuant to terms reasonably acceptable to "Gas Utility" and Customer. "Gas Utility" and Customer shall exercise commercially reasonable efforts to resolve any such billing dispute as soon as reasonably practicable. Any amounts deposited into the escrow account (together with any interest accrued thereon) shall be paid by the escrow agent to the party in whose favor the dispute is resolved. Failure by either "Gas Utility" or Customer to pay a disputed amount into the applicable escrow account shall be deemed a conclusive resolution of the dispute in favor of the other.

- D. ERRORS OR ESTIMATES. In any case where an estimate has been used to determine the amount due Customer on account of purchases of Gas by "Gas Utility" pursuant to Section XIX. D. of this Tariff, "Gas Utility" shall make any adjustment necessary to reflect the actual amount due Customer on account of such purchases in the next bill rendered to Customer after the actual amount due for such purchases is determined. If an error is discovered in any bill rendered (or credit given or payment made), or in any of the information used in the calculation of such bill, or such credit or payment, "Gas Utility" shall, to the extent practicable, make an adjustment to correct such error in the next bill rendered after the date on which the error is confirmed.
- E. OTHER REMEDY OF "GAS UTILITY". If Customer fails to make any payment when due and such failure is not remedied by or on behalf of Customer within fifteen (15) Days after written notice of such default in payment by "Gas Utility", then "Gas Utility", in addition to any other remedy it may have, may without damage, suspend further services to Customer until such amount is paid; provided, however, that "Gas Utility" shall not suspend services Gas to Customer if (1) Customer's failure to pay is the result of a bona fide dispute, (2) Customer has paid "Gas Utility" for all amounts not in dispute and (3) the dispute is in the process of being resolved.
- F. OTHER REMEDY OF CUSTOMER. If "Gas Utility" fails to pay or credit Customer's account as a result of Gas purchased with respect to Section XIX. D. of this Tariff, and such failure is not remedied by or on behalf of "Gas Utility" within fifteen (15) days after Customer's written notice of such default, then Customer, in addition to any other remedy it may have, may without damage suspend "Gas Utility's" right to retain and purchase Customer's Gas pursuant to Section XIX. D.; provided, however, that Customer shall not suspend "Gas Utility's" right to retain and purchase Customer's Gas pursuant to Section XVII. D. if, (1) "Gas Utility's" failure to provide a credit or make payment to Customer is the result of a bona fide dispute, (2) "Gas Utility" has provided a credit or made payment to Customer for all amounts not in dispute and (3) the dispute is in the process of being resolved.
- G. NON-RECEIPT OF BILLS. Failure of Customer to receive a bill shall not relieve Customer of its obligation to pay the bill.

- H. DELINQUENT BILLS AND LATE PAYMENT CHARGES. A bill shall be considered delinquent upon the expiration of fifteen (15) days from the date of mailing or other delivery by "Gas Utility". Charges for services due and rendered which are unpaid as of the past due date are subject to a Late Payment Charge of eighteen (18) percent per year, except the accounts of federal, state, and local governmental entities, agencies, and instrumentalities. A Late Payment Charge shall be applied to the accounts of federal, state, and local governmental entities, agencies, and instrumentalities at a rate no greater than allowed, and in a matter permitted by applicable law.
- I. DISCONTINUANCE OF TRANSPORTATION SERVICE TO RETURN TO SALES SERVICE. Transportation customers wishing to return to Sales Service must provide a written request three (3) months in advance of the desired in-service date. "Gas Utility" may provide sales service earlier if it can accommodate the request. If "Gas Utility" can provide sales service prior to the expiration of the three (3) month waiting period, it shall do so on a nondiscriminatory basis.
- J. DISCONTINUANCE OF TRANSPORTATION SERVICE AND/OR CHANGE OF OCCUPANCY. Unless otherwise provided in the specific Rate Schedule, or Transportation Agreement Contract under which Customer receives Transportation Service, Customer intending to discontinue Transportation Service shall furnish written notice of such intent to "Gas Utility" not less than three (3) month(s) prior to contract expiration. Customer shall be responsible for all Transportation Service provided to the premises at which discontinuance is desired until the expiration of the contract term.
- K. DISCONTINUANCE OF TRANSPORTATION SERVICE FOR NON-PAYMENT OF BILLS. Transportation Service will be discontinued for non-payment of bills but only after "Gas Utility" has made a diligent attempt to have Customer make payment, including at least fifteen (15) business days' written notice to Customer, such notice being separate and apart from any bill for Transportation Service, unless the controversy over the nonpayment has been resolved through mutual agreement, or successfully disputed by Customer.
- L. INSPECTION OF BOOKS AND RECORDS. "Gas Utility" and Customer shall have the right, upon reasonable prior notice, and during normal business hours, to examine the books, records and documents of each other to the extent necessary to verify the accuracy of any statement, charge, computation or demand made pursuant to this Tariff. Each party shall keep any and all such books, records and

documents for a period of five (5) years from the date such book, record or document is created or any entry or adjustment thereto is made.

VI. OBLIGATION TO SERVE.

OBLIGATION TO SERVE. "Gas Utility" is responsible for the transportation of Customer's own Gas. "Gas Utility" is not responsible for providing Gas. If Customer's supplier, or Customer's Agent, if applicable, fails to provide Gas, "Gas Utility" may disconnect service to Customer.

If it would not be economically feasible to disconnect Customer, "Gas Utility" may provide Gas supply to Customer if adequate system supply is available. The choice to provide Gas supply shall be done on a nondiscriminatory basis. Where several transportation customers are in need of Gas supply, and "Gas Utility" does not have sufficient supply to fulfill all customer needs, Gas supply will be allocated based on each customer's average daily consumption to the total consumption of the customers in need of supply. If adequate system supply is not available and Customer continues to use Gas, the Imbalance provisions contained in Section XXI. A. will be applied.

VII. DELIVERY POINT(S)

POINT OF DELIVERY. The point of delivery for all Gas Transported shall be at the outlet side of such billing meter(s) as installed at "Gas Utility" Delivery Point(s).

VIII. GAS QUALITY

A. **GAS QUALITY SPECIFICATIONS:** All Gas delivered into "Gas Utility's" system by Customer, or Customer's Agent, if applicable, shall be merchantable and shall, upon delivery, conform to each of the following quality specifications:

1. be commercially clean and free from objectionable odors, solid matter, dust, gums, and gum-forming constituents, or any other substance which might interfere with the merchantability of the Gas stream, or cause interference with proper operation of the lines, meters, regulators, or other appliances through which it may flow;
2. contain not more than 200 grains of total sulphur, or 15 grains of hydrogen sulphide per Mcf; and
3. have a gross heating value of not less than 950 Btu per cubic Foot of Gas, measured at 14.73 p.s.i.a. at 60 Degrees Fahrenheit on a dry basis.

B. **QUALITY AND HEATING VALUE.** All Gas which Customer causes to be received by "Gas Utility" for Customer's account at "Gas Utility's" Receipt Point(s) for transportation and delivery by "Gas Utility" shall conform to the quality and heating value specifications set forth within or incorporated in Transporting Pipeline's tariff. In addition to any other remedies available to "Gas Utility", "Gas Utility" shall have the right to refuse to accept at "Gas Utility's" Receipt Point(s) any Gas which fails to conform to such quality and heating value specifications.

C. **QUALITY AND MERCHANTABILITY.** Gas delivered into "Gas Utility's" system on behalf of Customer shall be commercially clean and merchantable. Such Gas will be comparable and interchangeable with system supply. "Gas Utility" reserves the right to refuse any Gas that does not conform to such quality and merchantability.

IX. PRESSURE

STANDARD DELIVERY PRESSURE. "Gas Utility" shall make reasonable efforts to maintain its Standard Delivery Pressure of 14.98 p.s.i.a. (14.73 plus .25 p.s.i.g.) (seven inches water column) at the point of delivery. Where delivery pressure higher than Standard Delivery Pressure is supplied, "Gas Utility" will make reasonable efforts to maintain such higher-delivery pressure. "Gas Utility" does not undertake to deliver Gas at a pressure higher than the Standard Delivery Pressure throughout its service areas. Prospective industrial and large commercial customers who desire to utilize Gas at pressures higher than the Standard Delivery Pressure should inquire of "Gas Utility" to determine the pressure that "Gas Utility" can make available at any given location in its service territory before obtaining any equipment requiring pressures higher than the Standard Delivery Pressure.

X. MEASUREMENT

A. DETERMINATION OF VOLUME AND HEATING VALUE. The volume and total heating value of the Gas shall be determined as follows:

(1) Base Conditions

- (a) A standard cubic foot for measurement purposes shall be the volume of such cubic foot at a temperature of 60 degrees Fahrenheit and an absolute pressure of 14.73 p.s.i.a.
- (b) The Average Atmospheric Pressure shall be assumed to be fourteen and seventy-three hundredths pounds per square inch absolute (14.73 p.s.i.a.) irrespective of actual elevation or location of the point of measurement or of variations in such atmospheric pressure from time to time.

B. UNIT OF TRANSPORTATION VOLUME.

- (1) The Standard Delivery Pressure shall be 14.98 p.s.i.a. and the Standard Delivery Temperature shall be 60 degrees Fahrenheit.
- (2) For purposes of billing computations, a Cubic Foot of Gas shall be that quantity which, at a pressure of 14.98 p.s.i.a. and a temperature of 60 degrees Fahrenheit, occupies one cubic foot.
- (3) When deliveries are made at flowing pressures in excess of the Standard Delivery Pressure, metered volumes shall be corrected for such variation through utilization of recorded flowing pressure data, correction devices which are an integral part of the Meter installation, or by correction factors for fixed pressure deliveries.
- (4) With respect to Gas delivered at High Pressure, flowing Gas temperature shall be assumed to average 60 degrees Fahrenheit for all measurement, unless Customer and "Gas Utility" agree otherwise. When an assumed flowing temperature of 60 degrees Fahrenheit is not used, the temperature shall be determined as the arithmetic average of flowing temperatures as recorded by a temperature recorder, if such a recorder is utilized, or through the use of correcting indices or temperature compensating meters, where recording or compensating devices are not installed, the temperature of the Gas shall be assumed to be the climatological 30-year average monthly temperature as established by the nearest National Oceanic and Atmospheric Administration Weather Bureau, and published by the Department of Commerce.
- (5) Unless determined to be otherwise by a gravity balance, the specific gravity of the flowing Gas shall be assumed to be 0.6.
- (6) When sales or transportation volumes are metered at pressures of 10 p.s.i.g. (pounds per square inch gauge) and over, and where such volumes are also corrected for flowing temperatures other than assumed 60 degrees Fahrenheit, such volumes shall be corrected for deviations from Boyle's Law by use of the appropriate supercompressibility factor.

C. TRANSPORTATION UNIT

- (1) The sales and transportation unit of the Gas shall be the therm, being 100,000 BTU. The number of therms billed to Customer shall be determined by multiplying the number of Cubic Feet of Gas delivered at 14.98 p.s.i.a. and 60 degrees Fahrenheit, by the total heating value of such Gas and dividing the product by 100,000,
- (2) The total heating value of the Gas delivered to Customer shall be determined as that reported monthly by Customer's Gas supplier, provided such value is applicable to the Gas delivered to Customer, or such value shall be determined by "Gas Utility" by use of a calorimeter or other instrument suitable for heating value determination. The total heating value shall be corrected to and expressed as that contained in the Unit of Transportation Volume addressed in Section X. B.

- D. GAS COMMINGLING. Gas transported under this Tariff is not the property of "Gas Utility". "Gas Utility" reserves the right to commingle such Gas with other system supplies.

XI. METERS AND MEASUREMENT

- A. **FACILITIES AND EQUIPMENT.** Facilities and equipment necessary to receive and measure the quantities of Gas delivered or redelivered to Customer shall be located at "Gas Utility's" Delivery Point (s) specified in the Transportation Agreement Contract. If Customer's annual Gas consumption is less than 4,000 therms, meters will be read monthly, unless Customer and "Gas Utility" agree otherwise. Measurement of the Gas received at "Gas Utility's" Delivery Point(s) shall be conducted using primary measurement devices of standard manufacture installed and operated in accordance with the applicable specifications in Report No.3 or Report No.7 of the Gas Measurement Committee of the American Gas Association, as amended from time to time, or standards in the industry, whichever may apply. The determination of the volumes of Gas received by Customer at "Gas Utility's" Delivery Point(s) shall be calculated from the measurements taken at the meter and corrected for pressure, temperature and specific gravity in accordance with standard methods and practices in use in the natural gas pipeline industry.
- B. **COMBINATION OF SALES SERVICE AND TRANSPORTATION SERVICE.** Where Customer uses a combination of Sales Service and Transportation Service, the Sales Service will be deemed as moving through the meter first. If there are no apparent safety concerns, Customer may have a second meter installed so that Sales Service and Transportation Service can be segregated. Customer will be responsible for all costs regarding the installation, and will pay the applicable monthly service charge to cover the costs of maintaining the additional meter. Customer must provide sixty (60) days notice when altering the percentages between Sales Service and Transportation Service.
- C. **CUSTOMER METERING.** For transportation customers whose annual consumption is greater than 4,000 therms, "Gas Utility" will maintain and operate, at or near "Gas Utility's" Delivery Point(s), metering equipped to measure Customer's Actual Daily Takes.

- D. **MEASUREMENT DEEMED ACCURATE.** Measurements on "Gas Utility's" meter(s) shall be conclusive on both parties except where the meter is defective or fails to register (in either case, "Gas Utility" shall repair or replace the meter at its expense). If the meter is found defective or fails to register, the quantity of Gas delivered while the meter was out of order or failed to register shall be estimated:
1. By using the registration of any check meter, if installed and accurately registering, or in the absence thereof;
 2. By correcting the error if the percentage of error is ascertainable by calibration, test or mathematical calculation, or, in the absence of both (a) and (b); then
 3. By estimating the quantities delivered from deliveries during periods under similar conditions when the meter was registering accurately.
- E. **BILLING ADJUSTMENT.** An appropriate billing adjustment shall be made for such period during which "Gas Utility's" meter was defective or failed to register.
- F. **METER ACCURACY / METER TESTING .** "Gas Utility" shall maintain Customer's meter or meters in good working order. For Customer's whose annual consumption is greater than 1,000 therms, "Gas Utility" shall, without charge, make a test of the accuracy of the meter in use at Customer's premises; provided, first, that the meter has not been tested by "Gas Utility" or by the FPSC within 12 (twelve) months previous to such request and, second, that Customer agrees to accept the results of such test as the basis for the adjustment of disputed charges. Should Customer request a meter test more frequently than once a year, "Gas Utility" may require a deposit to defray cost of testing, such deposit not to exceed \$125.00 for each test. If the meter is found to be more than two percent (2%) fast, the deposit shall be refunded, but if below this accuracy limit, the deposit may be retained by "Gas Utility" as a service charge for conducting the test.

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- G. SMALL CONSUMERS METER TESTING. "Gas Utility" shall maintain Customer's meter or meters in good working order. Upon written request of a Customer whose annual consumption is less than 1,000 therms, "Gas Utility" shall, without charge, make a test of the accuracy of the meter in use at Customer's premises; provided, first, that the meter has not been tested by "Gas Utility" or by the FPSC within 12 (twelve) months previous to such request and, second, that Customer agrees to accept the results of such test as the basis for the adjustment of disputed charges. Should Customer request a meter test more frequently than once a year, "Gas Utility" may require a deposit to defray cost of testing, such deposit not to exceed \$125.00 for each test. If the meter is found to be more than two percent (2%) fast, the deposit shall be refunded, but if below this accuracy limit, the deposit may be retained by "Gas Utility" as a service charge for conducting the test.
- H. WITNESS OF METER TEST. If Customer so desires, he or his authorized Agent, or representative may witness the test. A written report, giving the results of the test, shall be furnished to Customer upon request.
- I. METER TEST - REFEREE.
- (1) Upon written application to the FPSC by Customer, a test of Customer's meter will be made or supervised as soon as practicable by a representative of the FPSC.
 - (2) A meter shall not be disturbed after "Gas Utility" has received notice that application has been made for such referee test unless a representative of the FPSC is present or unless authority to do so is first given in writing by the FPSC or by Customer.
 - (3) A written report of the results of the test will be made by the FPSC to Customer.
- J. METERS. "Gas Utility" will own, operate, and maintain the meters and regulating equipment needed to accurately measure Transportation Service provided to Customer. Customer will provide a location, satisfactory to "Gas Utility", for installation of necessary meter(s), regulator(s), and ancillary equipment. Customer will safeguard "Gas Utility's" Facilities on Customer's property and will not permit unauthorized persons to operate or alter "Gas Utility's" Facilities in any manner.

K. TYPE OF METERING PROVIDED.

- (1) Except as provided in paragraph (2) below, each separate occupancy unit (as defined in Commission Rule 25-7.071) for which construction commenced after January 1, 1987, shall be individually metered
- (2) Individual meters shall not be required, and master metering is permitted, for separate occupancy units where dimensions or physical configurations of the units are subject to alteration; where Gas is used in central heating, water heating, ventilating and air conditioning systems, or Gas back up service to storage heating and cooling systems; in specialized-use housing accommodations such as hospitals and other health care facilities specified in Commission Rule 25-7.071, college dormitories, convents, sorority or fraternity houses, motels, hotels and similar facilities; in specially designated areas for overnight occupancy at trailer, mobile home and recreational vehicle parks where permanent residency is not established; in marinas where living aboard is prohibited by permanent means; or where individual Gas Service would otherwise be required above the second story, in accordance with Commission Rule 25-7.071.
- (3) When individual metering is not required and master metering is used, submeters may be purchased and installed at Customer's request and expense, for use in allocating the cost of providing service at the master meter.

L. METER ACCURACY AT INSTALLATION. All meters, when installed, shall be not more than 1% fast or 2% slow and will have been tested not more than two months prior to being installed.

M. MEASUREMENT OF QUANTITIES. "Gas Utility" shall measure the Gas delivered to Customer each Day at "Gas Utility's" Delivery Point(s). However, if the annual consumption of Customer is less than 4,000 therms, "Gas Utility" shall measure the Gas delivered to Customer each Month at "Gas Utility's" Delivery Point(s).

N. INSTALLATION AND OPERATION. "Gas Utility" will install, maintain and operate, at Customers expense, a meter or meters, and other necessary measuring equipment by which the volume of Gas delivered to Customer shall be measured.

- O. CHECK MEASURING EQUIPMENT. Customer may install, maintain and operate beyond "Gas Utility's" Delivery Point(s), at its expense, such operating equipment, pressure regulators and check measuring equipment as Customer shall desire; provided, however, that such equipment shall not be installed or operated in a manner that would affect the accuracy or operation of the measurement facility maintained by "Gas Utility". Customer shall grant access to such check measuring equipment at reasonable hours, but the reading, calibrating and adjusting thereof, and any changing of charts shall be done only by Customer.
- P. ACCESS TO EQUIPMENT AND RECORDS. Both "Gas Utility" and Customer shall be notified and shall have the right to be present at the time of any installing, reading, cleaning, changing, repairing, inspecting, calibrating or adjusting done in connection with the other's measuring equipment used in measuring deliveries. The records from such measuring equipment shall remain the property of the owner, who upon request will submit to the other such records and charts, together with calculations therefrom, for the other's inspection and verification, subject to return within ten (10) working days after receipt thereof.
- Q. CARE IN INSTALLATION. All installations of measuring equipment, applying to or affecting deliveries of Gas, shall be made in such manner as to permit an accurate determination of the volume of Gas delivered and ready verification of the accuracy of measurement. Reasonable care shall be exercised by both "Gas Utility" and Customer in the installation, maintenance and operation of pressure regulating equipment so as to avoid, so far as practicable, any inaccuracy in the determination of the volume of Gas delivered hereunder.
- R. CORRECTION OF METER ERRORS. Whenever a meter is found to have an average error of more than two percent fast, "Gas Utility" shall refund to Customer the amount billed, in error, for one half the period since the last test, said one half period not to exceed twelve months except that if it can be shown that the error was due to some cause, the date of which can be fixed, the overcharge shall be computed back to, but not beyond such date, based upon available records. If the meter has not been tested in accordance with Rule 25-7.064, the period for which it has been in service beyond the regular test period shall be added to the twelve months in computing the refund. The refund shall not include any part of any minimum charge.

- S. BACK BILLING. "Gas Utility" may back bill in the event that a meter is found to be slow, non-registering or partially registering. "Gas Utility" may not back bill for any period longer than twelve months from the date it removes the meter of Customer, which meter is later found by "Gas Utility" to be slow, non-registering, or partially registering for less than twelve months prior to removal, then "Gas Utility" may back bill only for the lesser period of time. In any event, Customer may extend the payments of the back bill over the same amount of time for which "Gas Utility" issued the back bill. However, in the event of unauthorized use, Customer may be billed on a reasonable estimate of the Gas consumed.
- T. PRESERVATION OF RECORDS. Both "Gas Utility" and Customer shall preserve all test data, charts and other similar records for five (5) years.

XII. FACILITIES

- A. **INSTALLATION OF FACILITIES.** If, prior to the commencement of Transportation Service "Gas Utility" deems it necessary to purchase, install, construct and/or upgrade certain equipment, devices and Facilities (collectively, the "Facilities") to provide the services requested and to provide accurate and up-to-date communication of the volumes and the Btu content of the Gas flowing through "Gas Utility's" Receipt Point(s) and "Gas Utility's" Delivery Point(s), a description of the Facilities, together with the anticipated cost for the purchase, installation, construction and/or upgrading thereof will be provided to Customer. For Customers whose annual consumption is less than 5,000 therms, daily or real-time metering will not be deemed necessary.
- B. **REIMBURSEMENT OF "GAS UTILITY".** Customer shall reimburse "Gas Utility" for all reasonable costs incurred and paid by "Gas Utility" with respect to the purchase, installation, construction, and/or upgrading of Facilities (except for costs to upgrade or expand any existing electronic measurement and data communications equipment on existing meters). The total cost of the Facilities to be reimbursed to "Gas Utility" by Customer will be payable upon receipt of "Gas Utility's" invoice.
- C. **OWNERSHIP OF FACILITIES.** Unless "Gas Utility" and Customer otherwise agree, all Facilities used to provide service to Customer (but specifically excluding Facilities owned by Customer), shall be designed, constructed, installed, owned, controlled, operated and maintained by "Gas Utility".

XIII. MAIN AND SERVICE EXTENSIONS

- A. **REQUEST FOR SERVICE REQUIRING MAIN EXTENSION.** Whenever a prospective Customer or other person, such as a real estate developer, government entity, municipality, township, county, or other authority "Depositor", requests Transportation Service at a location where "Gas Utility" does not have a Main, "Gas Utility" will extend its Mains and Services to serve the prospective Customer or Customers under the following conditions:
- (1) The extension of Transportation Service to the prospective Customer will not jeopardize service to existing customers.
 - (2) The maximum capital cost to be incurred by "Gas Utility" for an extension of Main and Service Facilities shall be defined as the Maximum Allowable Construction Cost. The Maximum Allowable Construction Cost shall equal five (5) times the estimated annual revenue to be derived from the Facilities. Where "Gas Utility", in its reasonable discretion, believes that there is significant uncertainty regarding the revenues to be derived from revenues generated from the requested extension of Main and Service Facilities, "Gas Utility" shall use reasonable efforts to calculate the Maximum Allowable Construction Cost giving due consideration to such uncertainty,
 - (3) Where the Facilities to be installed will require an investment by "Gas Utility" in excess of the Maximum Allowable Construction Cost, "Gas Utility" will construct the necessary Facilities provided Customer or Depositor, deposits with "Gas Utility", an amount equal to the excess of the estimated actual construction cost over the Maximum Allowable Construction Cost. In this case, "Gas Utility" and the Depositor will then enter into a Construction Deposit Agreement providing for receipt of the deposit by "Gas Utility" and including terms and conditions for refund to the Depositor. In consideration of "Gas Utility" having to use the deposit to finance the installation of Facilities, the deposit made by the Depositor will be non-interest bearing.

B. REFUND OF DEPOSITS. Deposits shall be refunded to Depositors in accordance with the following procedures.

- (1) As new customers connect to the extended Main or Service Facilities, and no less often than on each of the first five (5) anniversaries of the date on which the deposit is made to "Gas Utility", "Gas Utility" shall refund to the Depositor an amount equal to (1) the actual or estimated annual revenue, less the cost of Gas, derived from sales to Customers served by the extended Facilities, less (2) the Maximum Allowable Construction Cost divided by five (5) as determined in Section XIII. A. (2), above.
- (2) For each additional customer taking Transportation Service from any point on the extended Main or Service Facilities within a period of five (5) years from the date of construction, "Gas Utility" shall refund to the Depositor the amount by which the, Maximum Allowable Construction Cost of the new customer(s) exceeds the cost of connecting such new customer(s), provided that an additional Main extension shall not have been necessary to serve the additional customer(s). Where the Depositor and "Gas Utility" agree that new customers are likely to connect to the extended Facilities over a period longer or shorter than five (5) years, the Depositor and "Gas Utility" may agree, within the Construction Deposit Agreement, to provide for refunds over such longer or shorter period as the parties agree is reasonable and appropriate under the circumstances.
- (3) The aggregate refund to any Depositor made through the provisions of (1) and (2) above shall not exceed the original deposit of such Depositor.
- (4) The extension shall at all times be the property of "Gas Utility", and any unrefunded portion of said deposit at the end of five (5) years, or such longer or shorter period as may be agreed to by the Depositor and "Gas Utility", shall accrue to "Gas Utility".

- C. SERVICE EXTENSIONS FROM EXISTING MAINS. "Gas Utility" will install, at no charge to Customer, the Transportation Service Facilities, commencing from an existing Main, necessary to serve a Customer applying for Transportation Service, where the cost of such service extension does not exceed the Maximum Allowable Construction Cost as defined in Section XIII. A. (2) above. Customers not meeting the above criteria will be required to make a contribution in aid of construction based on the difference between the cost of the required service Facilities and the Maximum Allowable Construction Cost as calculated for each respective customer.
- D. RELOCATION OF TRANSPORTATION SERVICE FACILITIES. When alterations or additions to structures or improvements on premises to which "Gas Utility" renders Transportation Service necessitate the relocation of "Gas Utility's" metering equipment, or when such relocation is requested by Customer for whatever reason, Customer may be required to reimburse "Gas Utility" for all or any part of the costs incurred by "Gas Utility" in the performance of such relocation.
- E. MAIN AND SERVICE EXTENSION AMORTIZATION SURCHARGE. In cases where (1) the estimated actual cost of extending necessary Main and Service Facilities exceeds the Maximum Allowable Construction Cost; (2) "Gas Utility", in its reasonable discretion, determines that there is reasonable likelihood that such extension will produce sufficient revenue to justify the necessary investment in such Facilities; and (3) "Gas Utility" determines that the credit-worthiness of the party(ies) requesting the extension is satisfactory to assure recovery of the additional investment above the Maximum Allowable Construction Cost, "Gas Utility" may provide the Facilities subject to a Main and Service Extension Amortization Surcharge (MSEA Surcharge). In such cases, in lieu of a Construction Deposit Agreement, the party (ies) requesting an extension subject to the MSEA Surcharge shall enter into a guaranty agreement with "Gas Utility" by which the party (ies) shall agree to pay to "Gas Utility" any remaining unamortized balance of the amount subject to the MSEA Surcharge at the end of the Amortization Period,

XIV. THE FLORIDA PUBLIC SERVICE COMMISSION (FPSC)

- A. **TRANSPORTATION CHARGES.** The amount to be paid by Customer to "Gas Utility" each Month for Transportation Service rendered by "Gas Utility" shall be determined in accordance with "Gas Utility's" current applicable transportation rate schedule filed with and approved by the FPSC. The quantities of Gas anticipated to be transported by "Gas Utility" to Customer, and the applicable rate schedule shall be stated in the Transportation Agreement Contract.
- B. **REQUEST FOR EXEMPTION.** Whenever the application of these rules and regulations appear to be unjust or impractical, either "Gas Utility" or Customer may request permission from the FPSC for an exemption.
- C. **CHANGES IN APPLICABLE TARIFF.** "Gas Utility" and Customer recognize that (1) the applicable rate schedule(s), as stated in the Transportation Agreement Contract, may change from time to time due to changes in Customer's operations, and (2) that the otherwise applicable rates and rate schedules may be revised, amended or superseded from time to time subject to the approval of the FPSC. "Gas Utility" and Customer agree that in any such case, the newly applicable rate schedule that supersedes any applicable rate schedule or the revised or amended rate schedule, as the case may be, shall apply.

XV. STANDBY/BACK-UP SERVICE

"Gas Utility" shall offer Standby Service to any customer electing to utilize Transportation Service. "Gas Utility" has no obligation to provide Gas to any transportation customer who declines to elect Standby Service. Any customer electing Standby Service must complete a Request for Standby Service Form. The Standby Service will be available up to Customer's maximum daily contract quantity of Transportation Service, but may not exceed that level. Those customers who do not elect to utilize Standby Service must sign an affidavit acknowledging they are declining the service and may be unable to obtain Gas supply if "Gas Utility" is unable to provide such Gas from its system supply.

XVI. MAXIMUM HOURLY, DAILY, AND MONTHLY VOLUMES

- A. MAXIMUM DAILY TRANSPORTATION QUANTITY (MDTQ). The MDTQ shall be the volume as defined in the applicable Rate Schedule and stated in the Transportation Agreement Contract. The MDTQ for any single receipt or delivery point if applicable, shall be the volume as set forth in the Transportation Agreement Contract.
- B. MAXIMUM HOURLY QUANTITY. The Maximum Hourly Quantity shall be the maximum quantity that "Gas Utility" is capable of delivering through its metering Facilities at the delivery points set out in the Transportation Agreement Contract between Customer and "Gas Utility" in any one-hour period. Unless otherwise specifically agreed in writing by authorized personnel between "Gas Utility" and Customer, the Maximum Hourly Quantity shall not exceed six (6) percent of the MDTQ for each delivery point as set forth in Section XVI. A. above.
- C. MAXIMUM MONTHLY QUANTITY. The Maximum Monthly Quantity shall be the maximum quantity that "Gas Utility" is required to deliver through its metering Facilities at the delivery points set out in the Transportation Agreement Service Contract between Customer and "Gas Utility".
- D. MAXIMUM QUANTITY AT "GAS UTILITY'S" RECEIPT POINT(S). The maximum quantity of Gas that Customer may tender, or cause to be tendered, to "Gas Utility" on any given Day of Facility operation at "Gas Utility's" Receipt Point(s) is the MDTQ as agreed to between "Gas Utility" and Customer, provided, however, that such MDTQ may, be changed from time to time upon mutual agreement of the parties if "Gas Utility" determines in its reasonable discretion that such change will not have an adverse effect on the operation of its distribution system. Any such change in the MDTQ as to which the parties agree shall be in writing.

- E. MDTQ AND DDQ FOR SMALL CONSUMERS. For customers whose annual consumption is less than 5,000 therms per year, "Gas Utility" will, for a cost-based fee, determine each customer's Maximum Daily Transportation Quantity (MDTQ), and Daily Delivered Quantity (DDQ) for each month of the upcoming year. The Customer or Customer's Agent, has a maximum of fifteen (15) business days to confirm the accuracy of the MDTQ and DDQ. If Customer or Customer's Agent, and "Gas Utility" cannot reach an agreement as to the appropriate MDTQ or DDQ, "Gas Utility" shall file a petition with the FPSC detailing the events that have transpired along with the supporting calculations used to develop the MDTQ and DDQ. Customer, or Customer's Agent, is not obligated to use this service.
- F. ADJUSTMENTS TO MDTQ AND DDQ. "Gas Utility" may suggest an adjustment be made to Customer's MDTQ to reflect changes in Customer's Gas equipment, or pattern of consumption. "Gas Utility" must inform Customer or Customer's Agent that a change in MDTQ is recommended. Customer or Customer's Agent, if applicable, has a maximum of fifteen (15) business days to confirm the accuracy of the MDTQ and DDQ. If Customer or Customer's Agent, and "Gas Utility" cannot reach an agreement as to the appropriate MDTQ or DDQ, "Gas Utility" shall file a petition with the FPSC detailing the events that have transpired along with the supporting calculations used to develop the MDTQ and DDQ.
- G. ESTIMATION OF MDTQ AND DDQ. If "Gas Utility" has inadequate historical consumption data, "Gas Utility" may estimate Customer's MDTQ based on, among other things, the rating of Customer's Gas equipment and the expected utilization of such equipment. Customer or Customer's Agent, if applicable, has a maximum of fifteen (15) business days to confirm the accuracy of the MDTQ and DDQ. If Customer or Customer's Agent, and "Gas Utility" cannot reach an agreement as to the appropriate MDTQ or DDQ, "Gas Utility" shall file a petition with the FPSC detailing the events that have transpired along with the supporting calculations used to develop the MDTQ and DDQ.

- H. **SERVICE OFFERINGS.** Where Customer uses a combination of Sales Service and Transportation Service, "Gas Utility" will, for a cost-based fee, determine Customer's Monthly Delivered Quantity (MDTQ) and Daily Delivered Quantity (DDQ) for each month of the upcoming year, segregated by Gas for purchase from "Gas Utility" and Gas for purchase from Customer, Customer's Agent, or his Supplier. Customer or Customer's Agent, has a maximum of fifteen (15) business days to confirm the accuracy of the MDTQ's and DDQ's. If Customer or Customer's Agent, and "Gas Utility" cannot reach an agreement as to the appropriate MDTQ's or DDQ's, "Gas Utility" shall file a petition with the FPSC detailing the events that have transpired along with the supporting calculations used to develop the MDTQ's and DDQ's. The Customer, or Customer's Agent, is not obligated to use this service.

XVII. POSSESSION OF GAS, INDEMNIFICATION AND TITLE

A. WARRANTY OF TITLE

1. By Customer, or Customer's Agent. Customer, or Customer's Agent, if applicable, warrants that it will have good title to all Gas delivered for Customer's account or sold to "Gas Utility" under the provisions of Section XVI. A., that such Gas will be free and clear of all liens, encumbrances and claims whatsoever, and that it will indemnify "Gas Utility" and save it harmless from all suits, actions, debts, accounts, damages, costs, losses and expenses arising from or out of adverse claims of any and all persons to said Gas.

2. By "Gas Utility". For Customers who have contracted for Standby Service, or has contracted for Sales Service in additional to Transportation Service, "Gas Utility" warrants that it will have good title to all Gas sold to Customer, that such Gas will be free and clear of all liens, encumbrances and claims whatsoever, and that it will indemnify Customer and save it harmless from all suits, actions, debts, accounts, damages, costs, losses and expenses arising from or out of adverse claims of any and all persons to said Gas.

"Gas Utility" agrees to indemnify Customer and save it harmless from all suits, actions, debts, accounts, damages, costs, losses and expenses arising from or out of adverse claims of any and all persons to Gas delivered for the account of Customer, to "Gas Utility" for transportation which arise from or related to "Gas Utility's" transportation of the Gas on "Gas Utility's" distribution system; and that "Gas Utility" will have good title to all Gas confirmed for delivery to Customer, that such Gas will be free and clear of all liens, encumbrances and claims, and that "Gas Utility" will indemnify Customer and save it harmless from all suits, actions, debts, accounts, damages, costs, losses and expenses arising from or out of adverse claims of any and all persons to the Gas.

- B. **POSSESSION OF GAS AND RESPONSIBILITY.** "Gas Utility" shall be deemed to be in control and possession of the Gas upon receipt of such Gas at "Gas Utility's" Receipt Points until delivered to Customer, or Customer's account, and Customer shall be deemed to be in control and possession of such Gas prior to such receipt by "Gas Utility" and after such delivery to Customer for its account. "Gas Utility" and Customer while deemed to be in control and possession of such Gas shall be responsible for, and will indemnify and hold the other harmless from, any and all claims, actions, suits, including attorney fees, arising out of or relating in any way to the custody and control of such Gas.
- C. **RELEASE AND INDEMNIFICATION.** Customer shall waive and release "Gas Utility" from any claims for any and all damages, costs, losses or expenses resulting from or arising out of interruption of service, whether caused by capacity or supply constraints on "Gas Utility's", or Transporting Pipeline's system, where such interruption is caused by (1) the failure of Customer(s) or Customer's Agent to have delivered to "Gas Utility" or Transporting Pipeline sufficient quantities of Gas to meet their delivery requirements from "Gas Utility"; (2) the failure of Customer(s) or Customer's Agent to comply with a directive of "Gas Utility"; or (3) Customer(s) taking deliveries in excess of scheduled or authorized quantities, provided however that the foregoing shall not result in the waiver or release of a claim against "Gas Utility" for "Gas Utility's" negligence or willful misconduct. Further, Customer shall indemnify and hold "Gas Utility" harmless from many and all suits, actions, debts, accounts, damages, costs, loss and/or expenses brought by or accruing to or for the benefit of end-users downstream of such Customer's Delivery Point resulting from or arising out of curtailment of service whether caused by capacity or supply constraints on "Gas Utility's" systems including without limitation, such constraints caused by the failure of Customer, or Customer's Agent, if applicable, to have delivered to "Gas Utility" or Transporting Pipelines sufficient quantities of Gas to meet their delivery requirements from "Gas Utility"; provided however, that the foregoing shall not require Customer to indemnify and hold "Gas Utility" harmless from a claim against "Gas Utility" for "Gas Utility's" negligence or willful misconduct. Nothing in this Section shall prevent a Customer from asserting a claim against another Customer; in the event of such a claim between Customers, "Gas Utility" will make available such information in its possession relevant to such claim.

XVIII. FORCE MAJEURE

- A. **DEFINITION OF FORCE MAJEURE.** The term "force majeure" as employed in this Tariff, shall mean acts of God, strikes, lockouts, or other industrial disturbances, acts of the public enemy, wars, blockades, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, storms, floods, washouts, arrests and restraints of governments and people, civil disturbances, explosions, breakage or accidents to machinery or lines of pipe, the necessity for making repairs or alterations to machinery or lines of pipe, freezing of wells or lines of pipe, planned or unplanned outages on Customer's Facilities, planned or unplanned outages on "Gas Utility's" or Transporting Pipeline's system, the inability of "Gas Utility's" or Transporting Pipeline's system to deliver Gas, acts of civil or military authority (including, but not limited to, courts or administrative or regulatory agencies). Partial or entire failure of source of supply, and any other cause, whether of the kind herein enumerated or otherwise, not within the control of the party claiming suspension and which by the exercise of due diligence such party is unable to prevent or overcome; such term shall likewise include in those instances where either party is required to obtain servitude, rights of way grants, permits or licenses to enable such party to fulfill its obligations hereunder, the inability of such party to acquire, or the delays on the part of such party in acquiring, at reasonable cost and after the exercise of reasonable diligence such servitude, rights of way grants, permits or licenses; and in those instances where either party is required to furnish materials and supplies for the purpose of constructing or maintaining Facilities or is required to secure grants or permissions from any governmental agency to enable such party to fulfill its obligations hereunder, the inability of such party to acquire, or the delays on the part of such party in acquiring at reasonable cost and after the exercise of reasonable diligence, such materials and supplies, permits and permissions (provided that to the extent such party has contracted with an affiliate to obtain such materials and supplies, permits and permissions such party shall be entitled to rely on this provision to excuse such inability or delay only to the extent of inability or delay reasonable in comparison to arms length transactions with nonaffiliated).
- B. **STRIKES, LOCKOUT, AND INDUSTRIAL DISTURBANCES.** The settlement of strikes or lockouts or other industrial disturbances shall be entirely within the discretion of the party having the difficulty, and that the above requirement that any force majeure shall be remedied with all reasonable dispatch 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 party having the difficulty.

- C. OBLIGATIONS UNDER FORCE MAJEURE. In the event that either "Gas Utility" or Customer is unable, wholly or in part, by force majeure to carry out its obligations, other than to make payments due thereunder, it is agreed that subject to "Gas Utility", Customer, or Customer's Agent giving notice and full particulars of such force majeure in writing to the other as soon as possible after the occurrence of the cause relied on, then the obligations of the party giving such notice, so far as they are affected by such force majeure, shall be suspended during the continuance of any inability so caused, but for no longer period, and such cause shall as far as possible be remedied with all reasonable dispatch.
- D. NOTIFICATION OF FORCE MAJEURE. In the event of any nonperformance caused by any of the forces described in this Section, "Gas Utility", Customer, or Customer's Agent, whichever affected, shall as soon as reasonably practicable notify the other verbally and within two (2) business days provide the other party with written confirmation of the nature, cause, date of commencement, and anticipated extent of such nonperformance.

XIX. CURTAILMENTS AND OTHER OPERATIONAL CONTROLS

- A. **OBLIGATIONS; CURTAILMENT AND INTERRUPTION.** Obligations and Limitations. With respect to Gas received by "Gas Utility" from (or for the account of) Customer for redelivery hereunder, Customer shall bear the sole responsibility for any and all costs incurred for such Gas and the delivery thereof to "Gas Utility's" Receipt Point(s). The receipt and delivery of Gas by "Gas Utility" is subject to curtailment or interruption of service as provided in this Section. "Gas Utility" shall be deemed to be in control and possession of all Gas from the time of its receipt at "Gas Utility's" Receipt Point(s) until such Gas has been delivered to Customer at "Gas Utility's" Delivery Point(s), after which Customer shall again be deemed to be in control and possession of such Gas. Customer shall have no responsibility with respect to any Gas after it has been delivered to "Gas Utility" at "Gas Utility's" Receipt Point(s) on account of anything which may be done, happen or arise with respect to such Gas, until said Gas is delivered to Customer at "Gas Utility's" Delivery Point(s). "Gas Utility" shall have no responsibility with respect to any Gas prior to its delivery to "Gas Utility" at "Gas Utility's" Receipt Point(s) or after its delivery to Customer at "Gas Utility's" Delivery Point(s) on account of anything which may be done, happen or arise with respect to such Gas prior to such receipt at "Gas Utility's" Receipt Point(s) or after such delivery at "Gas Utility's" Delivery Point(s). "Gas Utility" reserves the right to commingle Gas delivered to it by (or for the account of) Customer with Gas delivered by (or for the account of) other Customers and with "Gas Utility's" other supplies of Gas.
- B. **CHANGES TO TARIFF OR CURTAILMENT PLAN.** If the FPSC or any other governmental agency or department having jurisdiction over "Gas Utility" orders or accepts a change in "Gas Utility's" curtailment plan or Tariff, the newly applicable curtailment plan or Tariff shall apply and/or interruption of service shall be made on whatever basis or priority is so ordered or established.

- C. RIGHT TO CURTAIL; NO LIABILITY FOR CURTAILMENT. "Gas Utility" shall be relieved from any and all liabilities, penalties, alternate fuel subsidies, price adjustments and claims of whatever kind or type, resulting from or arising out of a full or partial curtailment or interruption of service made pursuant to the then-applicable "Gas Utility" curtailment plan or Tariff approved or accepted by the FPSC, or as a result of taking any steps necessary to comply with any law, regulation or order of the FPSC or any governmental agency with jurisdiction to regulate, allocate, direct, or control Gas supplies or the rendition of service (regardless of any defect in such law, regulation or order) or pursuant to any one of the following events (except to the extent that "Gas Utility" fails to give notice to Customer of interruption or curtailment unless the giving of timely notice is impracticable): (1) "Gas Utility" is notified by Transporting Pipeline to interrupt or curtail deliveries of Gas to Customer or deliveries of Gas for uses of the same type or category as the uses of Gas by Customer, or (2) when necessary to maintain the operational reliability of "Gas Utility's" distribution system, or (3) during periods in which "Gas Utility" experiences pipeline capacity or Gas supply shortages, provided, however, that no Gas supply shortage shall be deemed to exist solely because Customer's Gas is determined by "Gas Utility" to be less expensive than Gas which is, at the time, otherwise available to "Gas Utility".

- D. **RIGHT TO USE CUSTOMER'S GAS SUPPLY.** In the event deliveries of Gas to Customer are curtailed or interrupted pursuant to this Section, Customer (or Customer's Agent, if applicable) shall sell to "Gas Utility", and "Gas Utility" shall purchase from Customer or Customer's Agent, if applicable, that portion of Scheduled Quantities of Customer's Gas that is curtailed or interrupted pursuant to this Section; provided, however, that Customer or Customer's Agent, if applicable shall have no obligation to sell such Gas to "Gas Utility" if Customer or Customer's Agent, if applicable has no Gas flowing at the time the interruption or curtailment is noticed, or is otherwise unable to deliver Gas to "Gas Utility"; and provided further, however, after receiving a curtailment or interruption notice from "Gas Utility", unless otherwise directed by "Gas Utility", Customer or Customer's Agent, if applicable, shall not curtail, cause to be curtailed, redirect, or cause to be redirected, any of its Scheduled Quantities in a manner which would have the effect of reducing the quantities of Gas delivered to "Gas Utility's" Receipt Point(s). For all Gas sold by Customer or Customer's Agent if applicable, to "Gas Utility" pursuant to this Section, "Gas Utility" shall pay to Customer (or Customer's Agent, if applicable) an amount per MMBtu equal to the sum of (1) either (a) if the Gas was purchased by Customer (or Customer's Agent, if applicable) pursuant to a contract with an initial term of two (2) or more years providing for firm purchases and sales of Gas, the price at which such Gas was purchased by Customer or Customer's Agent if applicable, or (b) in all other cases, the price for spot Gas delivered to Transporting Pipeline at Henry Hub, as reported in Gas Daily for the relevant time period in which "Gas Utility" purchased the Gas, and, (2) the 100 percent load factor rate Customer or Customer's Agent paid to Transporting Pipeline, less, 50 percent of the difference between the 100 percent load factor rate and Customer's average monthly load factor, for transportation of such Gas. If "Gas Utility" is required to pay Customer an amount determined pursuant to (1)(a) above for Gas purchased pursuant to this section, Customer or Customer's Agent if applicable, shall furnish to "Gas Utility" a notarized letter indicating the price Customer or Customer's Agent was obligated to pay for Gas during the curtailment period. "Gas Utility" warrants that it will not at any time exercise its right to use Customer's or Customer's Agent if applicable, Gas supply pursuant to this section based solely upon a determination that Customer's or Customer's Agent's Gas is less expensive than Gas which is, at the time of the exercise of such right, otherwise available to "Gas Utility". "Gas Utility" shall, if it purchases Customer's (or Customer's Agent, if applicable) Gas pursuant to this Section, continue to make such purchases until deliveries of such Gas for Customer's or Customer's Agent's account using the Transporting Pipeline's Capacity at "Gas Utility's" Receipt Point(s) can be resumed.

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- E. **EXCESS GAS TAKEN BY CUSTOMER DURING CURTAILMENT.** If Customer's annual consumption is greater than 5,000 therms, any Gas taken by Customer in excess of the volume of Gas allocated to Customer by "Gas Utility" during a period of curtailment or interruption of service pursuant to this Section shall be considered to be unauthorized overrun Gas. "Gas Utility" shall have the right to bill Customer (or Customer's Agent, if applicable) for such unauthorized overrun Gas, in addition to all other charges payable by Customer or Customer's Agent, if applicable, at a price equal to the greater of (1) \$1.00 per therm, or (2) in the event "Gas Utility" incurs overrun charges or penalties from Transporting Pipeline, an additional amount equal to the rate per Therm paid by or due from "Gas Utility" to Transporting Pipeline. For Customers consuming less than 5,000 therms per year that are not daily metered, or part of an aggregated pool, "Gas Utility" will notify them or their Agent, that Curtailment is required. "Gas Utility" will notify these Customers, or Customer's Agent when service can be resumed. Within 72 hours after service has been resumed, Customer will submit a notarized affidavit to "Gas Utility" stating the amount of Gas consumed, if any, during the Curtailment period. If Gas was consumed during the Curtailment period in excess of Customer's entitlement, "Gas Utility" will assess penalties based on Customer's excess daily consumption, multiplied by a penalty factor of \$1.00 per therm. The payment of an overrun penalty shall not, under any circumstances, be considered as giving Customer the right to take unauthorized overrun Gas, nor shall such payment be considered to preclude or limit any other remedies available to "Gas Utility" against Customer or Customer's Agent if applicable, for failure to comply with interruption or Curtailment Orders issued by "Gas Utility".
- F. **PENALTIES - PROCEDURES.** Any penalties collected by "Gas Utility" under Section XIX. E. will be placed in a separate account and paid out, pro rata, to the curtailed Customers receiving less capacity than their pro rata share. Customers shall not be subject to penalties under this Section for failure to adjust quantities to comply with a Curtailment order until after the time period for compliance set forth in a Curtailment Order has expired.
- G. **NOTICE OF CURTAILMENT.** "Gas Utility" agrees to give Customer or Customer's Agent, if applicable, as much advance notice of a curtailment or interruption of service as is reasonably practicable, which notice shall, in non-emergency circumstances, be at least eight (8) hours.
- H. **CONFINEMENT OF CURTAILMENT.** To the maximum extent possible, "Gas Utility" shall confine Curtailment or interruption of scheduled volumes to Customers

in Affected Areas and shall not institute the system-wide suspension of services if such action in the Affected Area can remedy the operating condition.

- I. **SUSPENSION OF UNSCHEDULED VOLUMES PRIOR TO CURTAILMENT.** Prior to issuing a Curtailment Order under this Section "Gas Utility" shall utilize the provisions of its Tariff to the extent practicable to attempt to suspend deliveries of scheduled volumes to any Customer (or Customer's Agent, if applicable) which has not delivered scheduled volumes to "Gas Utility's" Receipt Points, unless Customer's actions were taken in reasonable reliance on a Pack Order, Draft Order or Operational Flow Order.
- J. **PROPER SCHEDULING.** "Gas Utility" shall not knowingly schedule or permit scheduling service which will result in the need to issue a Curtailment Order.
- K. **PROCEDURE FOR THE CURTAILMENT OF TRANSPORTATION SERVICES.** The Curtailment of Transportation Services for any period shall, within the limits of dispatching accuracy and available Facilities, be accomplished as follows:
1. "Gas Utility" shall determine: (1) the Affected Area, (2) whether any firm capacity must be curtailed in the Affected Area, (3) the pro rata share of firm capacity available for each customer, as applicable, in the Affected Area,
 2. Following the determination procedure described in subsection 1. above, "Gas Utility" shall then issue a Curtailment Order to all Customers in Affected Area, by telephone, to be followed by facsimile as soon as possible thereafter.
 3. In its Curtailment Order, "Gas Utility" shall state the quantity suspended as measured from currently scheduled levels.
 4. In its Curtailment Order, "Gas Utility" shall give Customer (or Customer's Agent, if applicable) as much notice as is operationally feasible of the deadline for compliance with a Curtailment Order; provided, however, "Gas Utility" will not specify a time period for compliance which is less than eight (8) hours after issuance of the Curtailment Order. "Gas Utility's" Curtailment Order shall include information as to the anticipated extent and duration of the situation.

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5. Order of suspension of service. To the extent "Gas Utility" is unable to make deliveries, or receive Gas in accordance with scheduled volumes, "Gas Utility" shall curtail or interrupt up to 100 percent of lower priority categories of service before curtailment or interruption of customers in the next higher priority category of service, except where such curtailment or interruption is necessary when service to specific areas is impaired as a result of a local operating condition, unplanned outage, or other such circumstances. The order of priorities of service will be used to determine the order of interruption or curtailment:
- a) Category 1 - Firm high priority requirements as defined in Section 401 of the NGPA.
 - b) Category 2 - Firm essential agricultural use requirements as determined under Section 401 of the NGPA.
 - c) Category 3 - Firm essential industrial requirements for process or feedstock use when, and to the extent, determined and provided under Section 402 NGPA.
 - d) Category 4 - Firm industrial uses not specified in Category 3; firm commercial use requirements of 500 therms on a peak day or more.
 - e) Category 5 - Interruptible high priority requirements as defined in Section 401 of the NGPA.
 - f) Category 6 - Interruptible requirements for uses classified as essential agricultural as determined under Section 401 of the NGPA; interruptible requirements for process and feedstock uses when, and to the extent, determined and provided under Section 402 of the NGPA; cogeneration Facilities.
 - g) Category 7 - Interruptible requirement under 3,000 therms on a peak day not specified in Categories 5 or 6.
 - h) Category 8 - Interruptible requirements over 3,000 therms per day not specified in Categories 5, 6, and 7.
 - i) Category 9 - Interruptible industrial requirements of the lowest priority category as defined by contract.

XX. OPERATIONAL CONTROLS

- A. **CONTACT PERSONS.** Customer or Customer's Agent, if applicable, taking delivery of Gas from "Gas Utility" or tendering Gas to "Gas Utility", shall cooperate fully with "Gas Utility" in maintaining the integrity of its system. Customer shall name contact person(s) available to receive communication from "Gas Utility" on operating matters at any time, on a 24-hour a day, 365-day a year basis. If "Gas Utility" is unable after reasonable efforts to contact any Customer or Customer's contact person, such Customer shall be solely responsible for any consequences arising from such failure of communication.
- B. **PROPER SCHEDULING.** "Gas Utility" shall not knowingly schedule or permit scheduling of service which will result in an operating condition in which system pressure rises or falls to operationally unacceptable levels or would otherwise jeopardize the integrity of the system and the ability of "Gas Utility" to provide service under firm rate schedules.
- C. **MAINTAINING PROPER SYSTEM PRESSURE.** In the event that "Gas Utility" determines in its sole discretion, reasonably exercised, that action is required to avoid an operating condition in which system pressure is not maintained, in which system pressure is maintained at an operationally unacceptably high level, or in which the overall operational integrity of the system is jeopardized, "Gas Utility" may, on a not unduly discriminatory basis, cause implementation of any one or a combination of the following actions, or other similar actions, to the extent such actions would tend to alleviate the operating condition or anticipated operating condition:
- (1) Issue an Operational Flow Order ("OFO").
 - (2) Invoke an Alert Day pursuant to Section XX. J. To the extent a Customer is subject to an OFO for Gas day which is also an Alert Day, the provisions of the OFO shall override the Alert Day provisions as to the specific Customer.
 - (3) Utilize Pack/Draft Notices.

- D. OPERATIONAL FLOW ORDERS (OFO). "Gas Utility" may issue an Operational Flow Order when (1) an individual Customer's actual receipts or deliveries deviate from scheduled receipts or deliveries in a manner that threatens scheduled services, or (2) a Transporting Pipeline issues an OFO to "Gas Utility".
- E. OPERATIONAL FLOW ORDERS - ACTION REQUIRED. Such Operational Flow Orders may require a Customer, (or Customer's Agent) or other entity(ies) selected by Customer to undertake any of the following:
- (1) To commence or increase supply inputs by a specific quantity.
 - (2) To cease or reduce supply inputs by a specified quantity.
 - (3) To commence or increase takes of Gas from the system by a specified volume.
 - (4) To reduce takes of Gas from the system by specified volumes.
 - (5) In the event the action(s) set forth in (1)-(4) are not operationally feasible, the Operational Flow Order may require Customer, or Customer's Agent, to take other such action within Customer's control which would tend to alleviate the operating condition to be addressed.
- F. NOTIFICATION OF OPERATIONAL FLOW ORDERS. Operational Flow Orders, issued pursuant to Section XX. D., shall be given by "Gas Utility" to Customer's Contact Person(s) by telephone, to be followed by facsimile.
- G. FAILURE TO COMPLY WITH OPERATIONAL FLOW ORDERS. If any Customer or Customer's Agent if applicable, fails to comply with an Operational Flow Order, issued pursuant to Section XX. D., such Customer or Customer's Agent if applicable, shall be subject to a penalty of \$1.00 per therm times any volume of Gas by which Customer deviated from the requirements of the Operational Flow Order. For Customers using less than 5,000 therms per year that are not daily metered, or part of an aggregated pool, "Gas Utility" will notify them or their Agent, that an Operational Flow Order is in effect. Within 72 hours after expiration of the Operational Flow Order, Customer will submit a notarized affidavit to "Gas Utility" stating the amount of Gas consumed, if any, during the period in which the Operational Flow Order was in effect. If, Customer or Customer's Agent did not comply with the Operational Flow Order, "Gas Utility" will assess penalties based on Customer's total deviation from its allowed consumption for the period the Operational Flow Order was in effect, multiplied by a penalty factor of \$1.00 per therm.

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- H. PENALTY REVENUE. All penalty revenue collected by "Gas Utility" from Customers, or Customers' Agents, if applicable, for failure to comply with an Operational Flow Order issued pursuant to Section XX. D. (1) will be credited to fuel expense in "Gas Utility's", Purchased Gas Adjustment Mechanism. If Customer, or Customer's Agent fails to comply with an Operational Flow Order issued pursuant to Section XX. D. (2), any penalties, directed to "Gas Utility", for Customer's failure to comply with the Operational Flow Order, will in turn, be assessed to Customer or Customer's Agent, if applicable.
- I. ALERT DAY NOTICES. At least eight (8) hours prior to the start of the delivery Gas day, or upon at least two (2) hours notice within a delivery Gas day, "Gas Utility" shall give notice, by telephone, to be followed by facsimile, to all affected customers or customers' contact persons, that the Alert Day provisions of this Section are in effect, whether any customers have been interrupted, and indicating the duration of the Alert Day condition; provided further that, "Gas Utility" will provide daily notices that coincide with the delivery Gas day.
- J. CONDITIONS FOR INVOKING ALERT DAY. Alert Day Notices may be issued by "Gas Utility" when (1) in its sole discretion, reasonably exercised, "Gas Utility" determines that the distribution system is experiencing or may experience in the next Gas day, operating conditions which threaten the ability to render firm services; or (2) Transporting Pipeline issues an Alert Day Notice. Alert Days will be used when Pack/Draft Notices and other tools are reasonably perceived to be inappropriate to resolve the operating situation. Alert Day notices may be issued in addition to other actions taken by "Gas Utility" with regard to individual Customers, including issuance of Operational Flow Orders and Pack/Draft Notices; however, such other actions are not required prior to the issuance of an Alert Day notice. "Gas Utility" shall indicate in the Alert Day Notice whether the notice applies to all transportation customers, or only those located in the Affected Area. In addition, "Gas Utility" shall issue an Alert Day notice for any periods in which system wide Curtailment Orders are in effect pursuant to Section XIX. The Alert Day notice shall indicate whether the alert condition applies to overages (Overage Alert Day) or underages (Underage Alert Day) from Scheduled Deliveries.
- K. ALERT DAY ACCOUNT TOLERANCES. On an overage Alert Day, to the extent delivery quantities exceed Scheduled Deliveries by the greater of six (6) percent or fifty (50) therms, such overages shall be recorded in an Alert Day Account specific to the particular Alert Day. For customers that annually consume less than 5,000 therms and are not part of an aggregated pool, delivery quantities that exceed

Scheduled Deliveries by the greater of six (6) percent, or ten (10) therms, shall be recorded in the Alert Day Account specific to the particular Alert Day.

- L. UNDERAGE ALERT DAY TOLERANCES. To the extent delivery quantities are less than Scheduled Deliveries by the greater of six (6) percent or fifty (50) therms, such underages shall be recorded in an Alert Day Account specific to the particular Alert Day. For customers that annually consume less than 5,000 therms and are not part of an aggregated pool, delivery quantities that are less than Scheduled Deliveries by the greater of six (6) percent, or ten (10) therms, shall be recorded in the Alert Day Account specific to the particular Alert Day.
- M. OVERAGE ALERT DAY BALANCING PURSUANT TO SECTION XX. J. (1). If "Gas Utility" issues an Alert Day Notice, pursuant to Section XX. J. (1), and Customer exceeds the tolerances indicated in Section XX. (K), Customer, or Customer's Agent, if applicable, will be subject to Alert Day Balancing from "Gas Utility". For customers who consume greater than 5,000 therms per year, the overage recorded in the Alert Day Account shall be subject to an Alert Day Charge of \$1.00 per therm. For those customers whose annual consumption is less than 5,000 therms per year, which are not daily metered, or part of an aggregated pool, "Gas Utility" will notify them or their Agent, that an Alert Day is in effect. Within 72 hours after the Alert Day Notice has expired, Customer, or Customer's Agent, will submit a notarized affidavit to "Gas Utility" stating the amount of Gas consumed, if any, during the Alert Day period. If Gas was consumed during the Alter Day period in excess of the tolerances indicated in Section XX. (K), the overage recorded in the Alert Day Account shall be subject to An Alert Day Charge of \$1.00 per therm.
- N. OVERAGE ALERT DAY BALANCING PURSUANT TO SECTION XX. J. (2). If an Alert Day Notice is issued by "Gas Utility", pursuant to Section XX. J. (2), and Customer exceeds the tolerances indicated in Section XX. (K), Customer, or Customer's Agent, if applicable, will be subject to Alert Day Balancing charges. Balancing charges assessed on "Gas Utility" by Transporting Pipeline, that result from Customer's overages pursuant to Section XX. K., will, in turn, be assessed on Customer, or Customer's Agent, if applicable. In no case shall "Gas Utility" assess Customer, or Customer's Agent, if applicable, Alert Day Balancing charges, greater than the Alert Day Balancing charges relating to Customer's Alert Day Balancing, Transporting Pipeline imposed on "Gas Utility".

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- O. UNDERAGE ALERT DAY BALANCING PURSUANT TO SECTION XX. J. (1). If "Gas Utility" issues an Alert Day Notice, pursuant to Section XX. J. (1), and Customer's delivery quantities are less than Scheduled Deliveries by the greater of six (6) or fifty (50) therms, Customer, or Customer's Agent, if applicable, shall receive an Alert Day Credit from "Gas Utility". For customers who consume greater than 5,000 therms per year, the underage recorded in the Alert Day Account shall be subject to an Alert Day Credit of \$0.50 per therm. For those customers whose annual consumption is less than 5,000 therms per year, that are not daily metered, or part of an aggregated pool, "Gas Utility" will notify them or their Agent, that an Alert Day is in effect. Within 72 hours after the Alert Day Notice has expired, Customer, or Customer's Agent, will submit a notarized affidavit to "Gas Utility" stating the amount of Gas consumed, if any, during the Alert Day period. If delivery quantities were less than Scheduled Deliveries by the greater of six (6) percent, or fifty (50) therms, the underage recorded in the Alert Day Account shall be subject to An Alert Day Credit of \$0.50 per therm.
- P. UNDERAGES ALERT DAY BALANCING PURSUANT TO SECTION XX. J. (2). If "Gas Utility" issues an Alert Day Notice, pursuant to Section XX. J. (2), and Customer's delivery quantities are less than Scheduled Deliveries by the greater of six (6) percent, or fifty (50) therms, Customer, or Customer's Agent, if applicable, will be subject to an Alert Day Balancing credit. Balancing credits provided to "Gas Utility" by Transporting Pipeline, that result from Customer's underages pursuant to Section XX. L., will in turn, be credited to Customer, or Customer's Agent, if applicable.
- Q. ALERT DAY CHARGES PURSUANT TO SECTION XX. J. (1). All Alert Day charges collected pursuant to Section XX. J. (1) will be credited or debited to fuel expense, through the Purchased Gas Adjustment Mechanism.
- R. PACK AND DRAFT NOTICES. If Transporting Pipeline issues a Pack or Draft Notice, "Gas Utility", may in turn, issue a Pack or Draft Notice. A Pack Notice shall mean a notice to correct an imbalance due "Gas Utility". A Draft Notice shall mean a Notice to correct an imbalance due Customer, or Customer's Agent. "Gas Utility" will indicate if the Pack or Draft conditions exist system wide or in an Affected Area.

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- S. NOTIFICATION OF PACK OR DRAFT. "Gas Utility" will provide a telephone notice, followed by facsimile, giving the specifics of any such Notice. The Notice shall indicate whether it is a Pack or Draft Notice, the basis for the Notice, the specific pack or draft percentage which Customer will apply to the balance, and the Gas day or days in which a response is required. The Customer or Customer's Agent must submit an Acceptable Response to the Notice by the nomination deadline.
- T. ACCEPTABLE PACK NOTICE RESPONSE. An Acceptable Pack Notice Response shall mean that Scheduled Receipt quantities exceed Scheduled Delivery Quantities by the quantity calculated pursuant to the percentage specified in the Pack Notice for the upcoming Gas day, unless "Gas Utility" specifies that the Pack Notice will be effective for a subsequent Gas day or days.
- U. ACCOMPLISHMENT OF PACK. Customer, or Customer's Agent, if applicable, may accomplish the Pack Notice response by: (1) tendering additional supplies for receipt into "Gas Utility's" system, or (2) reducing Delivery Quantities without a corresponding reduction in Receipt Quantities.
- V. PACK QUANTITY AND ASSESSMENT. Pack Assessments imposed on "Gas Utility" by Transporting Pipeline, that result from Customer's Scheduling of Pack volumes, will in turn, be assessed on Customer, or Customer's Agent. In no case will "Gas Utility" impose Pack Assessments relating to Customer's Scheduling of Pack volumes, greater than Transporting Pipeline's Assessment to "Gas Utility".
- W. ACCEPTABLE DRAFT NOTICE RESPONSE. An Acceptable Draft Notice Response shall mean that Scheduled Deliveries exceed Scheduled Receipts by the quantity calculated pursuant to the percentage specified in the Draft Notice for the upcoming Gas day, unless "Gas Utility" specifies that the Draft Notice will be effective for a subsequent Gas day or days.
- X. ACCOMPLISHMENT OF DRAFT. The Customer, or Customer's Agent, if applicable, may accomplish the Draft Notice response by: (1) reducing receipt quantities; or (2) increasing Delivery Quantities without a corresponding increase in Receipt Quantities.
- Y. COMPLIANCE WITH A PACK OR DRAFT NOTICE. Compliance with a pack or draft notice shall mean: (1) an Acceptable Pack or Draft Notice Response submitted by the nomination deadline or, (2) Satisfaction of the Performance Test for the Gas day in which the Pack or Draft Order is in effect.

- Z. PERFORMANCE TEST FOR PACK NOTICES. For Pack Notices, the Performance Test shall mean that Actual Deliveries do not exceed Scheduled Deliveries by more than six (6) percent, or fifty (50) therms, whichever is greater. For customers whose annual consumption is less than 5,000 therms annually, and who are not part of an aggregated pool, the Performance Test shall mean that Actual Deliveries do not exceed Scheduled Deliveries by more than six (6) percent, or ten (10) therms, whichever is greater.

For Draft Notices, the Performance Test shall mean that actual deliveries are not less than Scheduled Deliveries by more than six (6) percent, or fifty (50) therms, whichever is greater. For customers whose annual consumption is less than 5,000 therms annually, and are not part of an aggregated pool, the Performance Test shall mean that Actual Deliveries are not less than Scheduled Deliveries by more than six (6) percent, or ten (10) therms, whichever is greater.

- AA. FAILURE TO COMPLY WITH A PACK OR DRAFT NOTICE. Failure to comply with a Pack or Draft Notice will result in a separate balancing of the quantities by which Customer or Customer's Agent fails to comply with the Pack or Draft Notice. Any separate balancing assessments or credits, directed to "Gas Utility", for Customer's failure to comply with a Pack or Draft Notice, will in turn, be assessed on, or credited to, Customer or Customer's Agent, if applicable.

XXI. MONTHLY BALANCING

A. RESOLUTION OF MONTHLY OPERATIONAL IMBALANCE AMOUNTS FOR CUSTOMER WHOSE ANNUAL CONSUMPTION IS GREATER THAN 5,000 THERMS PER YEAR. It is the intent of "Gas Utility" and Customer that all Daily Imbalance Amounts shall be resolved as of the end of each Billing Period. At the end of each Billing Period, all Daily Imbalance Amounts incurred during such Billing Period shall be summed or calculated, and the result shall be the Monthly Imbalance Amount, which shall be resolved in cash as follows:

1. If a Monthly Imbalance Amount is Positive, "Gas Utility" shall purchase from Customer (and Customer shall sell to "Gas Utility") such Monthly Imbalance Amount at a price per therm; (the "Unit Price") equal to the sum of (1) the average Zone 1 Price for the Billing Period in which such Monthly Imbalance Amount was incurred, multiplied by the applicable factor set forth below:

Imbalance Level	Factor
0% to 5%	1.00
Greater than 5% to 20%	0.90
Greater than 20%	0.80

plus, (2) an amount equal to the sum of (a) the usage rate (including, but not limited to, usage charges, surcharges, fuel reimbursement charges, and other charges, taxes, assessments and fees) paid to Transporting Pipeline by Customer, or Customer' Agent, if applicable (b) the 100 percent load factor equivalent of the reservation charge paid to Transporting Pipeline by Customer or Customer's Agent, if applicable. If, due to Force Majeure (as defined in the Transportation Agreement Contract), Customer, or Customer's Agent, if applicable, is unable (by adjusting its Scheduled Quantities and/or Actual Takes) to correct any Positive Daily Imbalance Amount(s), the Unit Price to be paid to Customer, or Customer's Agent, if applicable, by "Gas Utility" for such Monthly Imbalance Amount shall also include the Transportation Component. The total amount due Customer, or Customer's Agent, if applicable, shall be the product of the Unit Price (calculated as set forth herein) and such Monthly Imbalance Amount. The Imbalance Level shall be calculated by dividing the Monthly Imbalance Amount by the Scheduled Quantities for the Billing Period in which such Monthly Imbalance Amount accumulated.

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2. If a Monthly Imbalance Amount is Negative, "Gas Utility" shall sell to Customer (and Customer shall purchase from "Gas Utility") such Monthly Imbalance Amount at a price per therm, (the "Unit Price") equal to the sum of (1) the average Zone 3 Price for the Billing Period in which such Monthly Imbalance Amount accumulated, multiplied by the applicable factor set forth below:

Imbalance Level	Factor
0% to 5%	1.00
Greater than 5% to 20%	1.10
Greater than 20%	1.20

plus (2) an amount equal to the sum of (a) the usage rate (including, but not limited to, usage charges, surcharges, fuel reimbursement charges, and other charges, taxes, assessments and fees) paid to Transporter by "Gas Utility", (b) the 100 percent load factor equivalent of the reservation charge of Transporting Pipeline, and (c) the applicable transportation rate of "Gas Utility" stated in the Transportation Agreement Contract. The total amount due "Gas Utility" shall be the product of the Unit Price (calculated as set forth herein) and such Monthly Imbalance Amount. The Imbalance Level shall be calculated by dividing the Monthly Imbalance Amount by the Scheduled Quantities for the Billing Period in which such Monthly Imbalance Amount accumulated.

- B. SMALL CONSUMERS IMBALANCE PROVISIONS. It is the intent of "Gas Utility" and Customer that all Imbalance Amounts shall be resolved as of the end of each Billing Period. For Customers whose annual consumption is less than 5,000 therms per year that are not daily metered, and not part of an aggregated pool, the following balancing provisions will apply:

Positive Imbalances:

If a Monthly Imbalance Amount is Positive, "Gas Utility" shall purchase from Customer (and Customer shall sell to "Gas Utility") such Monthly Imbalance Amount at a price per Therm; (the "Unit Price") equal to the sum of (1) the average Zone 1 Price for the Billing Period in which such Monthly Imbalance Amount was incurred, multiplied by the applicable factor set forth below:

<u>Imbalance Level</u>	<u>Factor</u>
0 % to 5 %	1.00
Greater than 5 % to 20 %	0.90
Greater than 20 %	0.80

plus, (2) an amount equal to the sum of (a) the usage rate (including, but not limited to, usage charges, surcharges, fuel reimbursement charges, and other charges, taxes, assessments and fees) paid to Transporter by Customer and (b) the 100 percent load factor equivalent of the reservation charge paid to Transporting Pipeline by Customer or Customer's Agent, if applicable. If, due to Force Majeure (as defined in "Gas Utility's" Transportation Agreement Contract), Customer is unable (by adjusting its Scheduled Quantities and/or Actual Takes) to correct any Positive Daily Imbalance Amount(s), the Unit Price to be paid to Customer by "Gas Utility" for such Monthly Imbalance Amount shall also include the Transportation Component. The total amount due Customer shall be the product of the Unit Price (calculated as set forth herein) and such Monthly Imbalance Amount. The Imbalance Level shall be calculated by dividing the Monthly Imbalance Amount by the Scheduled Quantities for the Billing Period in which such Monthly Imbalance Amount accumulated.

Negative Imbalance:

If a Monthly Imbalance Amount is Negative, "Gas Utility" shall sell to Customer, or Customer's Agent, if applicable (and Customer, or Customer's Agent, if applicable, shall purchase from "Gas Utility") such Monthly Imbalance Amount at a price per therm, (the "Unit Price") equal to the sum of (1) the average Zone 3 Price for the Billing Period in which such Monthly Imbalance Amount accumulated, multiplied by the applicable factor set forth below:

<u>Imbalance Level</u>	<u>Factor</u>
0 % to 5 %	1.00
Greater than 5 % to 20 %	1.10
Greater than 20 %	1.20

plus (2) an amount equal to the sum of (a) the usage rate (including, but not limited to, usage charges, surcharges, fuel reimbursement charges, and other charges, taxes, assessments and fees) paid to Transporting Pipeline by "Gas Utility", (b) the 100 percent load factor equivalent of the reservation charge of Transporting Pipeline, and (c) the applicable transportation rate of "Gas Utility" stated in the Transportation Agreement Contract. The total amount due "Gas Utility" shall be the product of the Unit Price (calculated as set forth herein) and such Monthly Imbalance Amount. The Imbalance Level shall be calculated by dividing the Monthly Imbalance Amount by the Scheduled Quantities for the Billing Period in which such Monthly Imbalance Amount accumulated.

In lieu of applying the above imbalance calculations for small consumers, "Gas Utility" may impose an absolute dollar imbalance charge to simplify the imbalance procedure.

- C. **CASH-OUT PROVISIONS.** It is the responsibility of "Gas Utility", Customer, or Customer's Agent, if applicable, to eliminate end-of-month imbalances by cash settlement. "Gas Utility" and Customer, or Customer's Agent, if applicable, shall settle, in cash, all remaining Receipt Imbalances, and Delivery Imbalances unless otherwise mutually agreed. "Gas Utility" will send Customer, or Customer's Agent, if applicable, a statement detailing the unresolved imbalance quantities and payment of the amount due "Gas Utility" or an invoice stating the amount due Customer.

- D. IMBALANCE REVENUES. "Gas Utility" will sum the total monthly imbalance monies assessed to Customers on its distribution system. If the imbalance dollars assessed to its Transportation Customers is greater than the imbalance charges assessed by Transporting Pipeline on "Gas Utility", the difference will be credited to fuel expense through "Gas Utility's" Purchased Gas Adjustment Mechanism.

XXII. NOMINATIONS

- A. **NOMINATION FOR PURCHASE.** If Customer does not utilize Transportation Service for 100 percent of his requirements, Customer, or Customer's Agent, must nominate to "Gas Utility", the volume of Gas he intends to purchase from "Gas Utility". Unless otherwise agreed, Customer, or Customer's Agent, shall nominate Gas for purchase notifying "Gas Utility" in writing of the daily quantity of Gas in MMBtu (such quantity not to exceed the Maximum Sales Quantity) that Customer desires "Gas Utility" to make available for delivery for purchase by Customer at "Gas Utility's" Delivery Point(s). Such notice shall be given at least two (2) Business Days (but in no event less than forty-eight (48) hours prior to the beginning of the Day on which Customer desires the delivery of such Gas at "Gas Utility's" Delivery Point(s); provided, however, that if Customer desires "Gas Utility" to deliver such Gas for purchase at "Gas Utility's" Delivery Point(s) on the first Day of any Month, such notice shall be given at least seven (7) Business Days prior to the beginning of such Day. "Gas Utility" and Customer may establish a uniform daily purchase quantity in which instance Customer, or Customer's Agent shall not be required to nominate daily quantities of Gas for purchase until Customer, or Customer's Agent, requires a change in such uniform daily purchase quantity. If Customer, or Customer's Agent, if applicable, has nominated a purchase quantity for a particular Day, then "Gas Utility" shall confirm to Customer, or Customer's Agent, if applicable, the quantity of such Gas that "Gas Utility" will tender for purchase by Customer, or Customer's Agent, if applicable, at "Gas Utility's" Delivery Point(s) on each such Day (the "Sales Quantity") by not later than 5:00 p.m. Eastern Time on the Business Day immediately preceding such Day. Customer, or Customer's Agent, if applicable, shall promptly notify "Gas Utility" in writing of any change in such Sales Quantity for any Day, and "Gas Utility" will use commercially reasonable efforts to accept any such requested change as soon as practicable after notification. Such Sales Quantity shall be considered a Scheduled Quantity. "Gas Utility" will not make any changes to the Sales Quantity during any day except upon eight (8) hours' prior notice to Customer, or Customer's Agent, if applicable. Unless otherwise agreed in Advance by "Gas Utility", Customer will receive from "Gas Utility" at "Gas Utility's" Delivery Point(s), on a uniform hourly basis, that quantity of Gas that has been established as the Sales Quantity. Customer, or Customer's Agent, if applicable, shall provide to "Gas Utility" good faith estimates of the daily quantities of Gas it is likely to nominate for purchase from "Gas Utility" as far in advance as reasonably practicable.

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- B. **NOMINATION FOR TRANSPORTATION.** On any Day, Customer, or Customer's Agent, if applicable, may not nominate quantities pursuant to this Section unless it has nominated the Maximum Sales Quantity (if applicable) pursuant to Section XX. A. Except as the parties may otherwise agree, Customer, or Customer's Agent, if applicable, shall, for each Month, and each Day during such Month that Customer seeks to change any aspect of any prior nomination, notify "Gas Utility" in writing of:
- (1) the daily quantity of Gas in MMBtu that "Customer has nominated for purchase from Supplier(s);
 - (2) the daily quantity of Gas in MMBtu (not to exceed the Maximum Transportation Quantity) to be made available for delivery of "Customer's account at "Gas Utility's" Receipt Point(s);
 - (3) the name(s) of Transporting Pipeline(s);
 - (4) the transportation contract number(s);
 - (5) the name(s) of Customer(s) and Customer(s)'s authorized contact persons;
 - (6) the authorized allocation format, protocol, agreement, or arrangement at each upstream point where Gas flow is or may be allocated to or for the account of Customer, and the identity of the person performing such allocation;
 - (7) the upstream contract number from which Gas is being allocated to or for the account of Customer;
 - (8) "Gas Utility's" contract number; and
 - (9) the daily quantity of Gas in MMBtu that it desires to have made available for redelivery at "Gas Utility's" Delivery Point(s) which except for:
 - a) Retainage,
 - b) "Gas Utility" authorized and mutually identified imbalance correction quantities, and
 - c) "Gas Utility" authorized sales of Gas to Customer,

shall equal the quantities confirmed at "Gas Utility's" Receipt Point(s).

- C. DISPATCHING NOTICES. Customer, or Customer's Agent, if applicable, shall be responsible for giving all dispatching notices to Supplier(s), for giving notice to Supplier(s) of any changes in the Transportation Quantity, and for ensuring that Supplier(s) comply with such notices. Upon request, Customer, or Customer's Agent, if applicable, shall provide to "Gas Utility", on a timely basis, all information required by "Gas Utility" in order to (1) provide dispatching, nominating, and confirmation notices to Transporting Pipeline, (2) give or confirm notice to Transporting Pipeline of any change in the Transportation Quantity, (3) determine Scheduled Quantities, and (4) ensure that Transporting Pipeline complies with such notices. All billings and payments for Gas received and purchased by Customer, or Customer's Agent, if applicable, from Supplier(s), shall be handled in a manner agreed to by Customer, or Customer's Agent, Supplier, and "Gas Utility".
- D. RELIANCE BY "GAS UTILITY" ON CONFIRMATION. Upon request by Transporting Pipeline to "Gas Utility" to verify a nomination for the account of Customer, "Gas Utility" shall confirm the lesser of such nomination, the Transportation Quantity or, in the case of non- or partial operation of the Facility, that quantity which in "Gas Utility's" reasonable judgment (after consultation with Customer) is likely to be consumed at the Facility. Subject to the foregoing, "Gas Utility" shall be entitled to rely conclusively on Customer's, or Customer's Agent's, nomination of any quantity of Gas as being authorized for purchase from Supplier(s) and for delivery at "Gas Utility's" Receipt Point(s) by Transporting Pipeline. "Gas Utility" shall bear no responsibility with respect to verification or rejection of quantities of Gas not requested by Customer, or Customer's Agent, if applicable.
- E. CORRECTION OF IMBALANCES. It is the intent that, for each Day, the Scheduled Quantities less such portion thereof, if any, as has been purchased by "Gas Utility" from Customer, or Customer's Agent, if applicable, pursuant to Section XIX, shall be equal to the Actual Takes. To the extent that the Scheduled Quantities (less the portion thereof purchased by "Gas Utility") vary from the Actual Takes on any Day, or the sum of the Scheduled Quantities (less the portion thereof purchased by "Gas Utility") for a Month varies from the sum of the Actual Takes for such Month, the obligations of "Gas Utility" or Customer or Customer's Agent, with respect to such variations shall be governed by the provisions set forth in Section XXI. of this Tariff.
- F. NOMINATIONS BY CUSTOMER'S DESIGNATED AGENT. "Gas Utility" must have

written confirmation from the customer designating its Agent. Nominations will only be accepted from pre-approved Marketers, Brokers, or Agents.

- G. **NOMINATION PROTOCOL.** Nominations must be made in written or otherwise acceptable electronic format. Quantities of Gas will be in MMBtu/therm format as requested by "Gas Utility". "Gas Utility" shall notify Customer, or Customer's Agent, if applicable, of the quantities of Gas scheduled for receipt for the account of Customer and delivery to Customer.
- H. **NOMINATION BASIS.** Customer, or Customer's Agent will nominate Gas on a daily basis. In the event Customer and "Gas Utility" establish a Daily Delivery Quantity in which instance, Customer, or Customer's Agent will not be required to make daily nominations until a change to such quantity is desired. If Customer's annual consumption is less than 1,000 therms, and is not part of an aggregated pool, nominations will not be required on a monthly basis.

XXIII. CAPACITY ASSIGNMENT AND RECALL

- A. **CAPACITY ASSIGNMENT.** "Gas Utility" will require any Customer requesting Transportation Service to obtain firm capacity on the Transporting Pipeline from the "Gas Utility." "Gas Utility" and Customer, or Customer's Agent, if applicable, will enter into a prearranged pipeline Capacity Release Transaction for a term corresponding to the term of the Transportation Agreement Contract. The prearranged pipeline Capacity Release Transaction will include; (1) the amount of capacity to be released in therms or MMBtu's (2) the Transporting Pipeline capacity rate being applied (3) the rate schedule of the capacity (4) the term of the release. Release of any capacity under this section may not exceed the FERC-approved maximum rate applicable to the released capacity.
- B. **NOTIFICATION OF ASSIGNMENT TO TRANSPORTING PIPELINE.** "Gas Utility" shall provide notice of firm capacity release to Transporting Pipeline as required under the General Terms and Conditions of the Transporting Pipeline's Gas Tariff. "Gas Utility" shall also diligently and in a timely manner take all other actions required under the General Terms and Conditions of Transporting Pipeline's Gas Tariff governing such capacity releases.
- C. **ACCEPTANCE OF FIRM CAPACITY ASSIGNMENT.** The Customer, or Customer Agent's, if applicable, shall accept the firm capacity release from "Gas Utility" subject to "Gas Utility's" Capacity Release Agreement and General Terms and Conditions of the Transporting Pipeline's Gas Tariff. Customer, or Customer's Agent, if applicable, shall also diligently, and in a timely manner take all other actions required under the General Terms and Conditions of the Transporting Pipeline's Gas Tariff governing such capacity releases.
- D. **CAPACITY RELEASE AGREEMENT.** Customer shall pay Transporting Pipeline directly commencing on the effective date of the Capacity Release Agreement between "Gas Utility" and Customer, or Customer's Agent, if applicable, and continuing until (1) the agreement terminates or expires or, (2) the transportation customer returns to Sales Service on "Gas Utility's" system.

E. ASSIGNMENT METHODOLOGY. "Gas Utility" may choose to apply any of the following Capacity Assignment Methodologies to meet the needs of its distribution system.

- (1) When assigning FGT capacity to transportation customers, "Gas Utility" must first exhaust its supply of FTS-2 capacity. For all capacity release transactions under Transportation Service, "Gas Utility" will charge the acquiring party a rate equivalent to FERC-approved Transporting Pipeline's maximum rate for FTS-1 capacity. Where FTS-2 capacity is released at FTS-1 maximum rates, the difference will be applied to the Capacity Release Charge as specified in this Section. In the event "Gas Utility" does not possess or completely exhausts its supply of FTS-2, it may release FTS-1 capacity at maximum rates to the extent of availability.

"Gas Utility" will apply a Capacity Release Charge to mitigate costs in situations where FTS-2 capacity is released to transportation customers at FTS-1 FERC-approved maximum rates. The incremental difference in cost will be applied to the Capacity Release Balance. Each month "Gas Utility" will calculate a Capacity Release Charge by dividing the Capacity Release Balance by the projected monthly total therm throughput on "Gas Utility's" system. The Capacity Release Charge will be applied to the total therm throughput for the billing period for each customer on "Gas Utility's" system. "Gas Utility" will true-up the Capacity Release Balance for any over/under recovery from Capacity Release Charge. "Gas Utility" will apply any over/under recovery Capacity Release Balance and establish a new Capacity Release Charge.

When assigning capacity to transportation customers on a Transporting Pipeline other than FGT, "Gas Utility" will charge "Customer or Customer's Agent, a rate equivalent to applicable FERC approved maximum rate.

This capacity assignment methodology will remain in effect until market conditions warrant change. At such time, "Gas Utility" may file a petition with the FPSC to amend the capacity assignment methodology.

OR

- (2) "Gas Utility" will assign capacity, to each Customer requesting

Transportation Service, in proportion to "Gas Utility's" total capacity portfolio. The applicable FERC-approved maximum rate will be applied to each portion of the released capacity.

- F. ALTERNATE CAPACITY ASSIGNMENT METHODOLOGIES. Nothing in this section shall preclude "Gas Utility" from filing a petition to seek approval of an alternate capacity assignment that better meets the needs of "Gas Utility's" system.
- G. CAPACITY RECALL. Released capacity on the Transporting Pipeline would be subject to recall only under the following conditions; (1) to maintain the integrity of "Gas Utility's" system (2) to provide stand-by service in the event such service is utilized by the customer (3) in the event the customer leaves the system or returns to sales service. In the event Customer changes Agents, the released capacity will follow Customer to the new Agent.
- H. RATES SUBSEQUENT TO RECALL. Upon the effective date of any capacity recall, pursuant to this Section, by "Gas Utility" for any portion or all of the released capacity, "Gas Utility" would be subject to the applicable rates and charge from the Transporting Pipeline for the duration of such capacity recall.

XXIV. AGGREGATION SERVICE

- A. **OFFERING OF AGGREGATION SERVICE.** "Gas Utility" shall offer aggregation service to any qualified Customer Agent, with two or more transportation customers. The individual Gas loads of smaller transportation customers will be aggregated into a pool on "Gas Utility's" system. Aggregator will be responsible for delivering Gas to "Gas Utility's" city gate on behalf of the aggregation pool. "Gas Utility" will redeliver to the individual members of the pool pursuant to the Transportation Aggregation Agreement between "Gas Utility" and Aggregator.
- B. **NOMINATIONS BY AGGREGATORS.** Aggregator will place nominations on behalf of the entire aggregated pool. Aggregator will follow the same nomination procedures and requirements detailed in Section XXII of this Tariff.
- C. **AGGREGATED QUANTITY.** "Gas Utility" will, for a cost-based fee, determine an Aggregated Daily Delivery Quantity (ADDQ) calculated monthly for each Aggregator. The ADDQ shall be equal to the sum of the DDQ's for all customers in the Agent's aggregation pool. The Agent has a maximum of five (5) business days to confirm the accuracy of the ADDQ. If "Gas Utility" and Aggregator cannot reach an agreement as to the appropriate ADDQ, "Gas Utility" shall file a petition with the FPSC detailing the events that have transpired along with the supporting calculations used to develop the ADDQ. Aggregator is not obligated to use this service.
- D. **AGGREGATED IMBALANCES.** Imbalances will be calculated on an aggregated basis, not by individual account or delivery point. Imbalances will be determined by comparing the amount of Gas delivered to "Gas Utility" and the Gas actually consumed by Aggregator's pool to determine the overall pool imbalance position. "Gas Utility's" balancing requirements would be applied to that overall position. Unless otherwise agreed to by Customer, Aggregator, and "Gas Utility", Aggregator will be responsible for imbalance charges as addressed Section XXI. of this Tariff.
- E. **RATE IMPACT OF AGGREGATION.** Aggregated loads will not result in lower transportation rates for individual customers. Aggregators will be allowed to establish one or more customer aggregations. Customers in an aggregated group must be located within the territory of "Gas Utility" and in the same operating area.

XXV. AGENTS

- A. **AGENT SERVICE AGREEMENT.** Marketers, Brokers, or other third party suppliers of Gas that wish to either act as agents for customers, or sell and/or deliver natural Gas on "Gas Utility's" system, will be required to sign an Agent Service Agreement. The Agent Service Agreement shall set forth the applicable terms and conditions, in which they agree to be bound by, as well as, other applicable terms and condition of "Gas Utility's" Tariff.
- B. **TERM OF CONTRACT.** Unless otherwise agreed between "Gas Utility" and Customer, or Customer's Agent, if applicable, the term of the Transportation Agreement Contract, and the Agent Service Agreement shall be two (2) year(s) and from month to month thereafter, unless terminated on sixty (60) days notice, or renewed by "Gas Utility" and Customer or Customer's Agent.
- C. **CREDITWORTHINESS.** "Gas Utility" shall not be required to permit any Agent who fails to meet "Gas Utility's" standards for creditworthiness to sell or deliver Gas on its system. "Gas Utility" may require that Agent provide the following information:
1. Financial Information
 2. References
 3. Other items to prove creditworthiness.

Unless otherwise agreed to between "Gas Utility" and Agent, no information shall be required from Agent that would qualify as Confidential under Chapter 366.093, Florida Statutes.

- D. **IDENTIFICATION OF CUSTOMER NAMES AND CONTRACT NUMBERS.** Agent must identify Customer names and contract number(s) on which deliveries will be made. Agent will follow the nomination procedures set forth in Section XXII. of this Tariff. Failure to comply with "Gas Utility's" nominating procedures may result in curtailment of Agent's Gas deliveries or additional monthly cash-outs.

- E. **INDEMNIFICATION.** Agent warrants clear title to any Gas delivered into "Gas Utility's" system, and Agent shall be deemed to be in exclusive control and possession of Gas prior to delivery into "Gas Utility's" system for redelivery to Customer. Agent agrees to indemnify, defend and hold harmless "Gas Utility" from any and all claims, suits or damage actions arising out of deliveries on behalf of a transporting customer.

XXVI. MARKETING AFFILIATES

- A. **DEFINITION.** The term Marketing Affiliate is defined to include any arm of "Gas Utility" or parent of "Gas Utility", either owned or subject to common control, as a function within "Gas Utility" or part of a separate legal entity, which engages in or arranges an unregulated retail sale of Gas to a transportation customer on "Gas Utility's" system.
- B. **APPLICATION OF TARIFF PROVISIONS.** "Gas Utility" will apply tariff provisions relating to Transportation in the same manner to similarly situated affiliated and non-affiliated marketers / brokers, or agents. In addition, "Gas Utility" will abide by the following provisions:
1. "Gas Utility" will not, through a Tariff provision or otherwise, give its Marketing Affiliate or its Marketing Affiliate's customers, preference over non-affiliated marketers or non-affiliated marketer's customers in matters relating to transportation or curtailment priority;
 2. "Gas Utility" will not give its Marketing Affiliate or the Marketing Affiliate's customers a preference in the processing of a request for Transportation Services, specifically including the manner and timing of such processing;
 3. "Gas Utility" will not disclose, or cause to be disclosed, to its Marketing Affiliate or any non-affiliated marketer any information "Gas Utility" receives through its processing of requests for or provision of Transportation Service;
 4. To the extent "Gas Utility" provides a Marketing Affiliate information related to transportation which is not readily available or generally known to other marketers, "Gas Utility" shall provide that information contemporaneously to all non-affiliated marketers on its system.

5. Employees having direct responsibility for the day-to-day operations of "Gas Utility's" transportation, including employees involved in:
- a. receiving Transportation Service requests or tariff sales requests from customers (customer service inquiry employees);
 - b. scheduling Gas deliveries on "Gas Utility's" system;
 - c. making Gas scheduling or allocation decisions;
 - d. purchasing Gas or capacity; and
 - e. selling Gas to end users behind the city gate,

will not be shared with, and will be physically separated from its Marketing Affiliate.

6. "Gas Utility" will charge the Marketing Affiliate the fully allocated costs for any general and administrative and support services provided to Marketing Affiliate.
7. "Gas Utility" will not condition or tie an offer or agreement to provide a transportation discount to a customer in which Marketing Affiliate is involved.
8. "Gas Utility" will not give preference to its Marketing Affiliate regarding surplus Gas or capacity. "Gas Utility" will place surplus Gas and/or capacity on the Transporting Pipeline's electronic bulletin board in order to make it available to all similarly situated marketers.
9. "Gas Utility" will maintain its books and records separately from those of its Marketing Affiliate.

"Gas Utility" will make Monthly tests of each such meter to ensure that it accurately measures the Gas delivered to Customer. If Customer is dissatisfied with the accuracy of the meter at any time, "Gas Utility" will have the meter tested, and if a test has not been made within one Month, will make such test without charge. If the meter has been tested within one Month, "Gas Utility" will nevertheless make the test required, but if the meter, when tested, is proved to be accurate within plus or minus two percent (2%), Customer will pay "Gas Utility" for the costs incurred in conducting such test.