



PRODUCER TRANSPORTATION SERVICE RULES

Effective: January 1, 2024

Apex Utilities Inc.

Producer Transportation Service Rules

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ARTICLE 1 – CONTEXT

1.1. Application

These Producer *Transportation Service* Rules are part of every *Transportation Contract* of *Apex*.

1.2. Relationships

These Producer *Transportation Service* Rules govern the relationship between *Apex* and a Producer. They are part of *Apex's Gas Distribution Tariff* and as such must be approved by the *Commission*. They apply to every Producer unless varied by an agreement approved by the *Commission*.

1.3. Applicable Rate

When accepting a *Transportation Contract*, *Apex* will designate the rate to be applied to the service.

1.4. Definitions

The following words or terms when used in these Producer *Transportation Service* Rules, the *Rate Schedule* or in a *Transportation Contract* will, unless the context otherwise requires, have the meanings given below:

“10³m³” means one thousand (1,000) cubic metres of *Gas*;

“Act” means the *Gas Utilities Act – R.S.A. 2000 c.G-5*, as amended from time to time and any legislative enactment in substitution or replacement thereof;

“Allocation Method” means the procedure used to assign portions of the *Gas* flows at a *Point of Receipt* or *Point of Delivery* to the various *Transportation Contracts* moving gas at the location;

“Apex Utilities Inc.” or “Apex” or “the Company” means *Apex Utilities Inc.* or its successor;

“Billing Commencement Date” means the commencement date for assessing the tariffs and charges as set forth in these Producer *Transportation Service* Rules; provided however that the *Billing Commencement Date* will be adjusted by *Apex* if *Apex* is unable to commence *Transportation Service* under the *Transportation Contract* on such date;

“Commission” means the Alberta Utilities Commission;

“Contract Demand” means the maximum quantity of *Gas* in any consecutive twenty-four (24) hour period that *Apex* will be obligated to receive at the *Point of Receipt*, as agreed between the parties to the *Transportation Contract*;

“Cubic metre of *Gas*” or “m³” means the quantity of *Gas* which at a temperature of fifteen degrees Celsius (15°C) and at a pressure of one hundred one and three hundred twenty-five one-thousandths (101.325) *kPa* absolute occupies one (1) cubic metre;

“Date of Initial Delivery” means the date *Apex* commenced *Transportation Service* under the *Transportation Contract*;

“Day” means a period of twenty-four (24) consecutive hours, beginning and ending at eight hours (08:00), Mountain Standard Time;

“Gas” means all natural gas both before and after it has been subjected to any treatment or process by absorption, purification, scrubbing or otherwise, and includes all fluid hydrocarbons;

“Gas Distribution Tariff” means the rates, tolls, charges and terms and conditions of service fixed by the *Commission*, as defined in the *Act*, as amended from time to time;

“Gas Pipeline System” means all those facilities, including the *Specific Facilities*, owned or used by *Apex* in the receipt, transportation, measurement, testing and delivery of *Gas*;

“GJ” means gigajoules or one billion (1,000,000,000) joules;

“Gross Heating Value” means the number of megajoules obtained from the combustion of a *Cubic metre of Gas* at a temperature of fifteen degrees Celsius (15°C), with the *Gas* free of water vapour, and at a pressure of one hundred one and three hundred twenty five one-thousandths (101.325) *kPa* absolute and with the products of combustion cooled to the initial temperature of the *Gas* and the water formed by the combustion condensed to the liquid state;

“J” means joule;

“kPa” means kilopascal of pressure gauge unless otherwise specified;

“Maximum Contract Pressure” has the meaning given in Article 5;

“MJ” means megajoules or one million (1,000,000) joules;

“Minimum Contract Pressure” has the meaning given in Article 5;

“Month” means a period beginning at eight hours (08:00), Mountain Standard Time, on the first Day of a calendar month and ending at eight hours (08:00), Mountain Standard Time, on the first Day of the next succeeding calendar month;

“Nomination” means a written or electronic request for *Gas* to flow at a *Point of Receipt* or a *Point of Delivery*: 1) at a specified rate of flow, commencing at a specified time, or 2) a specified quantity on a specified date;

“Point of Delivery” means the point on *Apex*’s system at which *Apex* delivers from the *Gas Pipeline System* to a *Producer* the *Gas* that has been transported under the *Transportation Contract*;

“Point of Receipt” means the point on *Apex*’s system at which the *Gas* to be transported under the *Transportation Contract* first enters the *Gas Pipeline System*;

“Producer Transporter” or “Producer” means a person, firm, partnership, corporation or organization that is an owner of natural gas requiring *Transportation Service* for transporting Gas through Apex’s *Gas Pipeline System*, served under the Rate 10 class of rates, pursuant to Apex’s *Rate Schedule*;

“Rate Schedule” means the *Gas Distribution Tariff* rate schedule, including the general terms and conditions of service and any applicable rate riders, for the rate specified in and applicable to the *Transportation Contract*, or such other rate schedule in replacement thereof, as approved by the *Commission* and determined by Apex to be in effect from time to time;

“Specific Facilities” means those facilities installed by Apex for the benefit of a *Producer* and required to transport Gas;

“Standard Conditions” means *Standard Temperature* and *Standard Pressure*;

“Standard Pressure” means

- (a) in the International system of units, an absolute pressure equal to 101.325 *kPa*, and
- (b) in the Imperial system of units,
 - (i) 14.73 psia, or
 - (ii) 30 in. of mercury at 32°F;

“Standard Temperature” means a temperature that is equal to

- (a) 15°C in the International system of units, or
- (b) 60°F in the Imperial system of units;

“Transportation Contract” means the transportation Contract between Apex and a *Producer* and includes all schedules attached thereto and these *Producer Transportation Service Rules*;

“Transportation Service” means the service of transporting Gas through Apex’s *Gas Pipeline System* or other facilities;

“TC Energy” means TC Energy Corporation, including any facilities operated under Nova Gas Transmission Ltd., or their successor(s);

“Year” means a period commencing on the *Billing Commencement Date* or anniversary of same and ending on the next succeeding anniversary of the *Billing Commencement Date*.

1.5. Interpretation

- (1) In the interpretation of the *Transportation Contract*, words in the singular will be read and construed in the plural or words in the plural will be read and construed in the singular where the context so requires.
- (2) The headings used throughout the *Transportation Contract* are inserted for reference purposes only and are not to be considered or taken into account in construing the terms or provisions of any article, clause, or schedule or to be deemed in any way to qualify, modify, or explain the effect of any such provisions or terms.

- (3) The definitions of all units of measurement and their prefixes used throughout the *Transportation Contract* will be in accordance with the International System of Units.

ARTICLE 2 – GENERAL PROVISIONS

2.1. Transportation Only

The *Transportation Contract* is solely for *Transportation Service* and a *Producer* will not acquire any title or interest in the *Gas Pipeline System* of Apex and Apex will not acquire any title or interest in the *Gas* being transported under the *Transportation Contract*.

2.2. Request for Service

When a *Producer* requests *Transportation Service* from Apex, Apex must inform the *Producer* of the conditions to be satisfied before a *Transportation Contract* may be accepted and service commenced. A *Producer* must provide any information Apex reasonably requires to assess the request. Apex retains the right to refuse a *Producer's* request for *Transportation Service*.

2.3. Need for a Contract

Every *Producer* must sign a *Transportation Contract* to receive *Transportation Service*.

2.4. Land Use

A *Producer* must ensure, with respect to property owned or controlled by the *Producer*, Apex is provided, at no cost, with any land use rights required to provide and maintain the service.

2.5. Right of Entry

- (1) Apex has the right to enter the installation or complex of the *Producer* at any reasonable time:
- (a) to install, maintain, or remove its facilities,
 - (b) to read, inspect, repair, or remove its metering devices, or
 - (c) to do anything else incidental to providing or discontinuing the *Transportation Service*.
- (2) If any of Apex's equipment is situated within the *Producer's* installation or complex, the *Producer* must ensure Apex can obtain access to the equipment when necessary.

2.6. Gas Under Apex Control

Gas delivered to Apex by a *Producer* for *Transportation Service* will be under the exclusive control of Apex from the time such Gas is accepted for *Transportation Service* at the *Point of Receipt* until delivered at the *Point of Delivery*.

2.7. Apex Determines Routing

Apex does not dedicate the Gas Pipeline System or any segment thereof for Transportation Service for a Producer and, accordingly, the routing and facilities used for Transportation Service for a Producer will be at Apex's discretion and may change from time to time.

2.8. Gas May be Commingled

- (1) *Apex may, in the course of transporting Gas in the Gas Pipeline System, commingle with, or exchange for, Gas owned by, or transported for, others or remove certain hydrocarbon components present in the Gas.*
- (2) *As commingling, exchanging or the removal of certain hydrocarbon components may alter the Gross Heating Value or constituent parts of the Gas between the Point of Receipt and the Point of Delivery, Apex will not be required to deliver, at the Point of Delivery, Gas with the same Gross Heating Value or containing the same constituent parts as Gas delivered at the Point of Receipt and Apex will make whatever compensating adjustments to volume and Gross Heating Value as may be warranted.*
- (3) *In the event, and to the extent any hydrocarbon components in the Gas delivered at the Point of Receipt are absent from the Gas delivered at the Point of Delivery as the result of commingling, exchanging, or removal of such hydrocarbon components in the course of transporting the Gas, title to such hydrocarbon components will, notwithstanding anything to the contrary otherwise contained in the Transportation Contract, be deemed conclusively to have passed to Apex at the Point of Receipt.*

2.9. Producer Confirms Right to Transport

The Producer and Apex acknowledge and agree the Producer will have the right to transport all Gas delivered under the Transportation Contract to Apex at the Point of Receipt.

2.10. Commitment to Maintain Systems

Apex and the Producer mutually undertake to operate and maintain their respective pipeline systems and equipment safely and in such a manner as not to interfere with the system or equipment owned by the other party and, in particular, Apex and the Producer each undertake and agree to consult with the other before commencing construction or operation of any new equipment or facilities which Apex or the Producer reasonably expects may interfere with, or affect, the operation of the other party's pipeline system or equipment and to make modifications to the design or construction of any such equipment or facilities, as practically may be requested, to minimize any such interference.

2.11. Specific Facilities

A Producer may be required to pay a contribution for any incremental facilities ("Specific Facilities") required to provide the service.

ARTICLE 3 – QUALITY OF GAS

3.1. Gas Must be of Merchantable Quality

- (1) All Gas tendered for *Transportation Service* must be of merchantable quality and, without restricting the generality of the foregoing:
 - (a) must not contain sand, dust, gums, crude oil, impurities and other substances which may be injurious to pipelines or which may interfere with its transmission through pipelines or its commercial utilization;
 - (b) must not have a hydrocarbon dew point in excess of minus ten degrees Celsius (-10°C) at an absolute pressure of five thousand five hundred ($5,500$) *kPa*;
 - (c) must not contain more than six milligrams per cubic metre (6 mg/m^3) of hydrogen sulphide;
 - (d) must not contain more than five milligrams per cubic metre (5 mg/m^3) of mercaptan sulphur;
 - (e) must not contain more than twenty-three milligrams per cubic metre (23 mg/m^3) of total sulphur;
 - (f) must not contain more than two percent (2%) by volume of carbon dioxide;
 - (g) must not contain more than sixty-four milligrams per cubic metre (64 mg/m^3) of water vapour;
 - (h) must not exceed fifty degrees Celsius (50°C) in temperature;
 - (i) must be as free of oxygen as can be achieved through the exercise of all reasonable precautions and must not, in any event, contain more than four-tenths percent (0.4%) by volume of oxygen; and,
 - (j) must have a *Gross Heating Value* of not less than thirty-six and five-tenths megajoules per cubic metre (36.5 MJ/m^3). However, with the prior written consent of Apex, Gas of a lower *Gross Heating Value* may be delivered.
- (2) If, in Apex's sole opinion, Gas received by Apex at the *Point of Receipt* fails to be of merchantable quality or fails to meet any one or more of the quality specifications set forth in this Article, Apex may, at any time, from time to time, immediately and/or without prior notice, cease to receive further deliveries of Gas at the *Point of Receipt* pending the remedying by the *Producer* of such failure to the satisfaction of Apex. Apex may install, at the *Producer's* expense, such *Specific Facilities*, including any Gas quality control, monitoring and/or shutdown equipment deemed necessary, in Apex's sole opinion, to ensure Gas received by Apex at the *Point of Receipt* meets the quality specifications set forth in this Article.

3.2. Quality on Delivery

All Gas delivered by Apex to a Producer at the Point of Delivery will have the Gross Heating Value and quality that results from the Gas having been commingled in Apex's system.

3.3. Notice on Change in Input Quality

The Producer will notify Apex as soon as practicable in the event of any adverse change in Gas quality determinable by the Producer and which may be delivered into the Gas Pipeline System at the Point of Receipt.

3.4. Notice on Change in Output Quality

Apex will notify the Producer as soon as practicable in the event of any adverse changes in Gas quality determined by Apex and which may be delivered from the Gas Pipeline System at the Point of Delivery.

ARTICLE 4 – MEASUREMENT

4.1. Statutory Standards Apply

All measurements, calculations and procedures used in determining the quantities of Gas delivered at the Point of Receipt or at the Point of Delivery, will be in accordance with the Electricity and Gas Inspection Act R.S. 1985 c.E-4, as amended, and all applicable regulations issued pursuant thereto.

4.2. Measuring Equipment

All measuring equipment, devices and materials required to measure the Gas at the Point of Receipt or at the Point of Delivery will be installed, maintained, and operated by Apex, its agents or third parties acceptable to Apex and will be of standard manufacture and type approved by Industry Canada, Electricity and Gas. The Producer may install and operate check measuring equipment; provided it does not interfere with the operation of Apex's equipment or system.

4.3. Testing of Measuring Equipment

The accuracy of the measuring equipment will be verified by tests in accordance with Industry Canada guidelines and at other times at the initiative of Apex or upon the reasonable request of the Producer. Notice of the time and nature of each test will be given by Apex to the Producer sufficiently in advance to permit a representative of the Producer to be present. If, after notice, the Producer fails to have a representative present, the results of the test and adjustment, if any, made by Apex or its agents will nevertheless be accepted until the next test. All tests of such measuring equipment will be made at Apex's expense, except the Producer will bear the expense of tests made at its request if the inaccuracy is found to be two percent (2%) or less.

4.4. Inspection of Records and Equipment

Apex and the *Producer* will have the right to inspect the charts, measurement or test data and measuring equipment installed or furnished by the other under this Article and Article 3, at all times during business hours. However, readings, calibration and adjustment of such measuring equipment will be done only by the party furnishing the measuring equipment. Unless the parties otherwise agree, each party will preserve all original test data, charts and other similar records in their possession for a period of at least six (6) years.

4.5. Units Used

- (1) Unit of Measurement: The unit of volume for purposes of measurement will be one (1) *Cubic metre of Gas*. *Apex* will mathematically convert measurement information into International system of units where metering is performed using the Imperial system of units.
- (2) Unit of Billing/Payment: For the purpose of determining the amount to be billed by *Apex* and paid by the *Producer* for *Transportation Service* under the *Transportation Contract*, the *Gross Heating Value* of each *Cubic metre of Gas* transported will be determined in accordance with this Article and *Apex* will, on the basis of such measurement, bill the *Producer* and the *Producer* will pay *Apex* the applicable charges for each *GJ* of *Gas* transported.
- (3) Atmospheric Pressure: For the purposes of measurement, the atmospheric pressure at the *Point of Receipt* and at the *Point of Delivery* will be determined in accordance with this Article and will be rounded to the nearest one-hundredth (1/100) of a *kPa* and deemed to be constant.

4.6. Method of Measurement

In determining the quantities of *Gas* delivered at the *Point of Receipt* or at the *Point of Delivery*, the following practices will prevail:

- (1) Metering
 - (a) The gas to be metered at the *Point of Receipt* and at the *Point of Delivery* will be metered by one or more metering devices approved by Industry Canada and adopted by *Apex*.
 - (b) Measurement by orifice meters will be in accordance with the methods prescribed in "Orifice Metering of Natural Gas and Other Related Hydrocarbon Fluids", American Gas Association Report No. 3/ANSI/API 2530, or any subsequent revisions approved by Industry Canada and adopted by *Apex*.
 - (c) Measurement by turbine meter will be in accordance with the methods prescribed in "Measurement of Fuel Gas by Turbine Meters", American Gas Association Committee Report No. 7, or any subsequent revisions approved by Industry Canada and adopted by *Apex*.

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- (d) Correction will be made for the deviation of the *Gas* from the *Standard Conditions* at the pressure and temperature at which the *Gas* is metered in accordance with the methods prescribed in the “Manual for the Determination of Supercompressibility Factors for Natural Gas” based on PAR Research Project NX-19 completed December 1962, as published by the American Gas Association and any subsequent revision or amendment or as prescribed in “Compressibility and Supercompressibility for Natural Gas and Other Hydrocarbon Gases”, American Gas Association Transmission Measurement Committee Report No. 8 or any subsequent revision thereof or any other method approved by Industry Canada and adopted by *Apex*. To determine the factors for such corrections a quantitative analysis of the *Gas* will be made at reasonable intervals.
- (2) **Gas Sampling**
 - (a) *Gas* samples will be representative of the *Gas* being metered at the time such samples are taken and may be either spot samples or samples taken over a period of time.
 - (b) Samples will be taken at reasonable intervals by *Apex* or its agents. However, *Apex* will take additional samples when reasonably requested to do so by the *Producer*.
 - (c) The *Gas* characteristics determined by any test will apply to the *Gas* metered from the date the spot sample was taken or from the commencement date of a sample taken over a period of time, as the case may be, until the next test.
- (3) **Temperature**
 - (a) The flowing temperature of the *Gas* being metered will be determined by means of a temperature transmitter or recording thermometer installed and maintained in accordance with the specifications as published by Industry Canada or any subsequent revisions thereof adopted by *Apex*, whichever is appropriate.
 - (b) Real time *Gas* temperature will be used in computing the quantities of *Gas* metered during such Day.
- (4) **Correction and Adjustment**
 - (a) If, at any time, any of the measuring equipment is found to be registering inaccurately by an amount exceeding two percent (2%) or such other amount as mutually agreed upon by the *Producer* and *Apex* at a reading corresponding to the average hourly rate of flow over one hour, it will be immediately adjusted to read as accurately as possible and the readings of such equipment will be adjusted to zero error for any period definitely known or agreed upon, If the period is not so known or agreed upon, the adjustment will be for a period of sixteen (16) Days or one-half (1/2) of the elapsed time since the last test, whichever is shorter.

- (b) If the measuring equipment is found to be not registering, the quantity of Gas delivered during such period will be determined:
- i. by using the data recorded by any check measuring equipment registering accurately; or
 - ii. if such check measuring equipment is not registering accurately, but the percentage of error is ascertainable by a calibration test, by using the data recorded and adjusted to zero error; or
 - iii. if neither of the methods provided in (i) or (ii) above can be used, by estimating the quantity delivered by reference to deliveries under similar conditions during a period when *Apex's* equipment was registering accurately.

4.7. Gross Heating Value

Tests to determine the *Gross Heating Value* of Gas transported will be established by the use of a *Gas* chromatograph, recording calorimeter or any other device approved by Industry Canada and adopted by *Apex* and will be used in the calculation of the number of gigajoules transported under the *Transportation Contract*.

4.8. Composition

- (1) The composition of the *Gas* transported will be determined by tests of representative samples of *Gas* so transported and conducted by *Apex* or its agents utilizing a chromatograph of standard manufacture.
- (2) Such tests will be done once per *Month* or at such other intervals as may be justified by the consistency of previous tests of the composition of the *Gas*.
- (3) The results of any such test will be used during the period commencing on the Day the sample is taken or, if a sample is taken over a period of time, from the commencement date, as the case may be, until the next test. *Apex* and the *Producer* agree the results of the first such test will be used from the *Date of Initial Delivery* of *Gas* until the second test.

4.9. Gas Characteristics

- (1) The *Gas* characteristics, including, without limiting the generality of the foregoing, *Gross Heating Value*, relative density, nitrogen, and carbon dioxide content of the *Gas*, will be determined by continuous recording equipment or by laboratory equipment.
- (2) The *Gas* samples to be tested will be representative of the *Gas* delivered at the time such samples are taken and may be either spot samples or samples taken over a period of time.
- (3) If continuous recording equipment is used, the arithmetic average of the recordings for each Day will be used to determine *Gas* characteristics.

- (4) If spot samples are taken or a spot sampler is used, Gas characteristics will be determined from the analysis of the samples using laboratory equipment.

4.10. Pulsation Dampening

If there are any compression facilities upstream of the *Point of Receipt* or downstream of the *Point of Delivery*, the *Producer* will cause to be provided sufficient pulsation dampening equipment to ensure the compression facilities do not interfere with the operation of Apex's facilities.

4.11. Facilities Interference

In the event the *Producer's* facilities interfere with Apex's ability to provide accurate measurement at the *Point of Receipt* or the *Point of Delivery*, Apex may immediately and without prior notice cease to receive further deliveries of Gas at the *Point of Receipt* pending the remedying by the *Producer* of the cause of such interference to the satisfaction of Apex.

4.12. Use of TC Energy or Other Measurements

Notwithstanding anything contained elsewhere in the *Transportation Contract*, Apex and the *Producer* agree, at a *Point of Delivery* or a *Point of Receipt* which is a *TC Energy/Apex Utilities Inc.* system interconnection, where *TC Energy's* measuring equipment is used or relied on by Apex for measuring Gas transported under the *Transportation Contract*, *TC Energy's* measurement and testing of Gas procedures will apply. At a *Point of Delivery* or at a *Point of Receipt* which is not a system interconnection with *TC Energy*, measurement and testing will be based on procedures agreeable to Apex and the *Producer*.

4.13. Forecast Volumes

The *Producer* agrees to provide to Apex, for planning purposes, such forecasts of future volumes per *Month* to be transported under the *Transportation Contract* as Apex may reasonably request from time to time.

ARTICLE 5 – GAS DELIVERY

5.1. Matching Receipts and Deliveries

Subject to the other provisions of this Article, Apex agrees to receive from the *Producer* at the *Point of Receipt* the quantity of Gas which the *Producer* tenders for transportation up to the *Contract Demand*. However, Apex will not be required to accept at the *Point of Receipt* a quantity of Gas in any hour greater than 1/20th of the *Contract Demand*, unless otherwise specified on the applicable *Rate Schedule*. Apex agrees to tender for transportation to the *Producer* and the *Producer* will receive at the *Point of Delivery*, a volume of Gas containing the equivalent number of joules as are contained in the volume of Gas tendered by the *Producer* at the *Point of Receipt* less the *Producer's* share of Apex's Unaccounted-For-Gas and compressor fuel.

5.2. Overriding Rights and Obligations

Notwithstanding anything contained elsewhere in this Article, *Apex* reserves the right to restrict the flow of *Gas* at the *Point of Receipt* or the *Point of Delivery* to achieve a balance, to correct any imbalance or in the event the *Producer* repeatedly exceeds the *Contract Demand* without *Apex's* authorization.

5.3. Inability to Exchange

- (1) Notwithstanding anything contained elsewhere in the *Transportation Contract*, if a *Point of Delivery* is an interconnection with a pipeline system of a third party ("Other System") the *Producer* recognizes and agrees *Apex's* ability to deliver *Gas* may be dependent upon an exchange with volumes of *Gas* which would normally be delivered into the *Gas Pipeline System*.
- (2) The *Producer* further recognizes and agrees changes in such incoming volumes of *Gas* or changes in either the capacity of the interconnection with the Other System or the capacity of the *Gas Pipeline System* may occur from time to time.
- (3) In the event *Apex*, at an interconnection with the Other System, is unable to continue to exchange volumes of *Gas* at the *Point of Delivery* with volumes of *Gas* which would normally be delivered into the *Gas Pipeline System* at the *Point of Delivery* or there are changes in incoming *Gas* volumes or capacity, this will constitute an event of Force Majeure and *Apex* will serve written notice to the *Producer* advising of its inability to continue to provide *Transportation Service* under the *Transportation Contract* by the exchange of volumes of *Gas* which would normally be delivered into the *Gas Pipeline System*.
- (4) The notice under Clause 5.3(3) will specify:
 - (a) The *Producer's* proportionate share of the additional costs associated with the capital improvements required to maintain *Transportation Service* at that *Point of Delivery*;
 - (b) The volume of *Gas* *Apex* is able to receive and transport to that *Point of Delivery* if no capital improvements are made; and
 - (c) The location of alternate Points of Delivery where *Apex* can continue *Transportation Service* at the then current level.
- (5) In the event the *Producer* receives notice pursuant to Clause 5.3(3), the *Producer* will, within thirty (30) Days after the receipt of such notice, provide written notice to *Apex* indicating which of the options set out in such notice the *Producer* intends to exercise.
- (6) In the event none of the options provided by *Apex* are acceptable to the *Producer*, the *Producer* may terminate the *Transportation Contract* effective on the date such notice is received by the *Producer*. However, in the event the *Producer* chooses to terminate the *Transportation Contract*, the *Producer* will reimburse *Apex* for the *Producer's* share of the undepreciated book value of the *Specific Facilities* at the

effective date of termination, together with all costs of abandoning or removing such facilities.

5.4. Minimum and Maximum Contract Pressures

- (1) The *Minimum Contract Pressure* and *Maximum Contract Pressure* of the *Gas* at the *Point of Receipt* will be as specified by *Apex* for that location.
- (2) *Apex*, at its sole discretion, may grant relief from the *Minimum Contract Pressure* at the *Point of Receipt* to permit delivery of *Gas* at a reduced pressure and such relief will continue until *Apex* provides written notice to revise the reduced pressure then in effect to a pressure not in excess of the *Maximum Contract Pressure*.
- (3) Subject to Clause 5.4(2), the *Producer* will deliver the *Gas*, or cause the *Gas* to be delivered, to *Apex* at the *Point of Receipt* at such pressures as *Apex* may require from time to time at the *Point of Receipt* up to the *Maximum Contract Pressure*.
- (4) *Apex* will deliver the *Gas*, or cause the *Gas* to be delivered, to the *Producer* at the *Point of Delivery* at such pressures as are available in the *Gas Pipeline System* from time to time.

5.5. Lost Gas

Subject to Clause 10.1(3), *Apex* will not be responsible for *Gas* lost by pipeline rupture, explosion, fire, or other similar calamity, but will maintain and provide to the *Producer* a record of the *Producer's* proportionate share of any such loss and cooperate with all reasonable requests of the *Producer's* insurers or their agents during the course of an investigation of any claim arising from any such loss.

5.6. Allocations

- (1) For the purpose of administering *Transportation Contracts*, *Gas* flows will be allocated to determine the daily flow under each agreement.
- (2) The *Producer* and *Apex* will agree on an *Allocation Method* prior to the flow of *Gas*, and it will be confirmed in a letter agreement. In the event the *Producer* and *Apex* are unable to agree on an acceptable *Allocation Method*, *Apex* reserves the right to decide on the *Allocation Method* to be used.
- (3) One of the following *Allocation Methods* may be used or a mutually acceptable alternative method may be determined:
 - (a) Allocation prorated to *Nomination*;
 - (b) Allocation equal to *Nomination* for all *Transportation Contracts* but one, which is allocated the difference between total *Nomination* and physical flow;
 - (c) Allocation by entitlement (allocation of deliveries based on actual receipts); or,

- (d) Allocation based on pre-set priority (first-next).
- (4) At locations where a portion of the *Gas* flowing belongs to parties other than the *Producer* and *Apex*, all parties must agree in writing on the *Allocation Method* used between those parties at that location.
- (5) A request for change in *Allocation Method* must be made by either the *Producer* or *Apex*, thirty (30) days prior to the requested change date. The *Producer* and *Apex* will agree on the revised *Allocation Method* prior to the change, and it will be confirmed in a letter agreement.
- (6) In the event the *Producer* and *Apex* are unable to agree on an acceptable revised *Allocation Method*, *Apex* reserves the right to decide on the revised *Allocation Method* to be used.

5.7. Impaired Transportation

- (1) If, by reason of the causes set out in Clause 5.7(3), *Apex* is unable, in whole or in part, to transport the quantities of *Gas* provided for in the *Transportation Contract*, then *Apex* will be relieved of liability for not transporting such quantities and *Apex* may curtail or discontinue *Transportation Service* under the *Transportation Contract* during the continuance and to the extent of the inability to transport. However, *Apex* will endeavour to give reasonable notice of any curtailment or discontinuance of *Transportation Service* arising by virtue of such causes and will promptly endeavour to remedy the cause of any curtailment or discontinuance of *Transportation Service* as soon as reasonably possible.
- (2) Such notice will specify *Apex's* estimate of the duration of any such curtailment or discontinuance of *Transportation Service* under the *Transportation Contract*.
- (3) The causes referred to in 5.7(1) are the necessity, in *Apex's* sole opinion, of making repairs, modifications, or improvements to the *Gas Pipeline System*. However, *Apex* will, when practicable, endeavour to effect such modifications or improvements, which are not emergency in nature, at a time and in a manner which will not unduly interfere with or interrupt transportation of *Gas*.

ARTICLE 6 – FINANCIAL MATTERS

6.1. Producer Pays Tariffs

- (1) Commencing on the *Billing Commencement Date*, the *Producer* will pay to *Apex*, for *Transportation Service* provided under the *Transportation Contract*, the charges set forth in the *Transportation Contract*.
- (2) The *Producer* will not be relieved from the obligation to pay the charges set forth pursuant to this Article unless Force Majeure has been invoked by *Apex*, as described in Article 7 of these *Producer Transportation Service Rules*.

6.2. Billing

- (1) On or before the twenty fifth (25th) Day of each *Month*, *Apex* may render to the *Producer* a statement with respect to *Gas* transported for the *Producer* during the preceding *Month* for:
 - (a) the amount payable by the *Producer* calculated in accordance with this Article, and
 - (b) the volume, *Gross Heating Value* and total energy of the *Gas* measured or estimated at the *Point of Receipt*.
- (2) *Apex* will make corrections to prior statements, as may be required, and will present the corrections to the *Producer* as soon as reasonably possible.

6.3. Payment

- (1) On or before the twenty first (21st) Day following the rendering of the statement by *Apex* to the *Producer*, the *Producer* agrees to pay *Apex* the total amount payable by the *Producer*, as set forth in the statement.
- (2) Each such payment will be made in Canadian funds through an agreed upon electronic transfer of funds to *Apex* or by cheque drawn in *Apex's* favour and delivered to *Apex* at the address stated in the *Transportation Contract*.

6.4. Unpaid Bills

Apex will assess a late payment charge calculated as 1.5% of any unpaid balance from a previous *Month's* statement, including unpaid previous late payment charges. Any unpaid balance from a previous *Month's* statement is considered past due. All payments will first be applied to unpaid balances.

6.5. Disputes

In the event the *Producer* disputes any part of any statement, the *Producer* will nevertheless pay to *Apex* the full amount of the statement when payment is due.

6.6. Failure to Pay

In the event the *Producer* fails to pay the full amount of any statement within sixty (60) Days after payment is due, *Apex*, in addition to any other remedy it may have, may suspend the receipt and delivery of *Gas* until full payment is made and such suspension will not terminate or otherwise affect the *Producer's* obligations to *Apex*.

6.7. Letter of Credit

- (1) The *Producer* will provide *Apex* with any financial information *Apex* reasonably requests to establish the *Producer's* credit worthiness.

- (2) *Apex* may require the *Producer* to provide, and at all times maintain, an irrevocable letter of credit in favour of *Apex* issued by a financial institution acceptable to *Apex* in an amount equal to the sum of the maximum amount payable by the *Producer* under this *Transportation Contract* for ninety (90) Days of service plus the installation cost of *Specific Facilities*.
- (3) Where *Apex* requires the *Producer* to provide a letter of credit and the *Producer* is able to provide alternative security acceptable to *Apex*, *Apex* will accept such security in lieu of a letter of credit.
- (4) *Apex* may, in any *Month*, draw on the letter of credit in an amount necessary to satisfy the charges due for the previous *Month* where the *Producer* has not paid such charges within the time and manner provided for in Clause 6.3.
- (5) *Apex* will return the letter of credit within thirty (30) Days after termination of the *Transportation Contract* less any amounts outstanding and unpaid at that time.

ARTICLE 7 – FORCE MAJEURE

7.1. Effect of Force Majeure on Breach

Subject to the other provisions of this Article, if either party to the *Transportation Contract* fails to observe or perform any of the covenants or obligations herein imposed upon it and such failure is occasioned by, in connection with or in consequence of Force Majeure, as hereinafter defined, such failure will be deemed not to be in a breach of such covenants or obligations.

7.2. Meaning of Force Majeure

For the purposes of the *Transportation Contract*, “Force Majeure” means any cause, other than financial, beyond the control of the party claiming suspension and which the party could not have prevented or overcome by due diligence, including, but not limited to:

- (a) Acts of God, such as lightning, earthquakes, storms, floods, fires, landslides, and washouts,
- (b) strikes, lockouts or other industrial disturbances,
- (c) Acts of the Queen’s enemy, sabotage, wars, blockades, insurrections, riots, epidemics, civil disturbances, arrests, and restraints,
- (d) explosions, breakages of or accidents to machinery or lines of pipe,
- (e) hydrate obstructions of lines of pipe or equipment,
- (f) temporary failure of Gas supply,
- (g) freezing of wells or delivery facilities, well blowouts, and craterings, and
- (h) the orders of any court or governmental authority.

7.3. Exceptions to Force Majeure

Notwithstanding Section 7.2(h), a decision, direction, or order made by the *Commission* in the normal course of it exercising its authority to establish the appropriate revenue requirement or rates of the parties to this agreement will not be considered an event of Force Majeure.

Neither party is entitled to the benefit of the provisions of Clause 7.1 of this Article under any of the following circumstances:

- (a) to the extent the failure was caused by the sole negligence of the party claiming suspension;
- (b) to the extent the failure was caused by the party claiming suspension having failed to remedy the condition where it is within that party's ability, alone, to do so and to resume the performance of such covenants or obligations with reasonable dispatch;
- (c) if the failure was caused by lack of funds or with respect to the payment of any amount or amounts then due under the *Transportation Contract*; or,
- (d) unless, as soon as possible after the happening of the occurrence relied upon or as soon as possible after determining the occurrence was in the nature of Force Majeure and would affect the claiming party's ability to observe or perform any of its covenants or obligations under the *Transportation Contract*, the party claiming suspension will have given to the other party notice, either in writing or electronically, to the effect such party is unable, by reason of Force Majeure (the nature of which to be specified in the notice), to perform the particular covenants or obligations.

7.4. Notice of Remedy

The party claiming suspension will likewise give notice, as soon as possible after the Force Majeure condition is remedied, to the effect the same is remedied and that party has resumed, or is then in a position to resume, the performance of such covenants or obligations.

7.5. Labour Disputes

Notwithstanding anything to the contrary in this Article, expressed or implied, *Apex* and the *Producer* agree the settlement of strikes, lockouts and other industrial disturbances will be entirely within the discretion of the particular party involved in the labour dispute and such party may make settlement of that dispute at such time and on such terms and conditions as it may deem to be advisable. No delay in making such a settlement will deprive a party of the benefit of Clause 7.1 of this Article.

ARTICLE 8 – TERMINATION ON DEFAULT

8.1. Non-Defaulting Party May Terminate

If either party fails to perform any of the covenants or obligations imposed upon it under, and by virtue of, the *Transportation Contract* (the “Defaulting Party”), then the other party (the “Non-Defaulting Party”) may, at its option, terminate the *Transportation Contract* by proceeding as set out in this Article.

8.2. Notice of Intent

The Non-Defaulting Party will cause a notice in writing to be given to the Defaulting Party advising as to the nature of the default and declaring it to be the intention of the Non-Defaulting Party to terminate the *Transportation Contract*.

8.3. Time to Remedy

The Defaulting Party will have ninety (90) Days after receiving any such notice to remedy the default specified and if, within the said period of ninety (90) Days, the Defaulting Party remedied any such default to the satisfaction of the Non-Defaulting Party, then the notice given pursuant to Clause 8.2 of this Article will be deemed to be withdrawn and the *Transportation Contract* will continue in full force and effect.

8.4. Producer’s Failure to Remedy

- (1) In the event the *Producer* does not remedy any default of which it has been given notice by *Apex* to the reasonable satisfaction of *Apex* within the said ninety (90) Day period, then *Apex* may terminate the *Transportation Contract* after the said ninety (90) Day period and the appropriate charges for all *Specific Facilities*, as well as the present value of all system tariffs in effect until the termination of the *Transportation Contract*, discounted at a rate equal to *Apex*’s after-tax weighted average cost of capital as approved by the *Commission* and in effect on the date the *Transportation Contract* is terminated by such default, will become due and payable.
- (2) All other rights and obligations of the parties under the *Transportation Contract* will cease upon termination of the *Transportation Contract*. However, any such termination will not affect any other remedy *Apex* may have at law or in equity.

8.5. Apex’s Failure to Remedy

- (1) In the event *Apex* does not remedy any default of which it has been given notice by the *Producer* to the reasonable satisfaction of the *Producer* within the said ninety (90) Day period, then the *Producer* may terminate the *Transportation Contract*.
- (2) All other rights and obligations of the parties under the *Transportation Contract* and these *Producer Transportation Service Rules* will cease upon the termination of the *Transportation Contract*. However, any such termination will not effect any other remedy the *Producer* may have at law or in equity.

ARTICLE 9 – NOTICE

9.1. Notice in Writing

Every notice, request, statement, or bill provided for by the *Transportation Contract* or any notice either *Apex* or the *Producer* may desire to give to the other will be in writing, directed to the party to whom it is given and delivered at such party's address as stated in the *Transportation Contract*.

9.2. Delivery of Notice

- (1) Any notice may be given by mailing the same, postage prepaid, in an envelope properly addressed to the person to whom the notice is being given and will be deemed to be given four (4) business days after the mailing thereof, Saturdays, Sundays, and statutory holidays excepted.
- (2) Any notice may also be given by facsimile at the facsimile number designated in the *Transportation Contract*. Any such notice served by facsimile will be deemed to have been given twenty-four (24) hours after transmission of the same, Saturdays, Sundays, and statutory holidays excepted.
- (3) Any notice may also be delivered by hand to the person or their representative to whom such notice is to be given at such person's address for notice and such notice will be deemed to have been given when received by such person or representative.
- (4) Any notice may also be given by telephone or other electronic means followed immediately by letter or facsimile and any notice so given will be deemed to have been given as at the date and time of the telephone notice.

9.3. Disruption of Mail

In the event of disruption of regular mail every payment will be personally delivered and every notice, demand, statement, or bill will be given by one of the alternative means set out in Clause 9.2 of this Article.

ARTICLE 10 – MISCELLANEOUS MATTERS

10.1 Indemnity

- (1) The *Producer* agrees to indemnify and save *Apex* harmless from and against any and all claims, demands, suits, actions, debts, accounts, damages, costs, losses, liabilities and expenses of whatsoever nature or kind and howsoever and by whosoever made or incurred arising out of or in any way connected, either directly or indirectly, with any act, omission or default on the part of the *Producer* under the *Transportation Contract*;
- (2) Notwithstanding subsection 10.1(1), in no event, whether as a result of alleged negligence on the part of the *Producer* or otherwise, will the *Producer* be liable to *Apex* for loss of profits or revenues, cost of capital, loss for failure to deliver *Gas*,

cost of purchased or replacement *Gas*, claims of *Apex's* customers for failure to deliver *Gas*, cancellation of permits, termination of *Contracts* or other similar special or consequential damages or claims.

- (3) *Apex* agrees to indemnify and save the *Producer* harmless from and against all claims, demands, suits, actions, debts, accounts, damages, costs, losses, liabilities, and expenses of whatsoever nature or kind and howsoever and by whosoever made or incurred arising out of the gross negligence or wilful misconduct of *Apex* under the *Transportation Contract*.
- (4) Notwithstanding subsection 10.1(3), in no event, whether as a result of alleged gross negligence on the part of *Apex* or otherwise, will *Apex* be liable to the *Producer* for loss of profits or revenues, cost of capital, loss for failure to deliver *Gas*, cost of purchased or replacement *Gas*, claims of the *Producer's* customers for failure to deliver *Gas*, cancellation of permits, termination of *Contracts* or other similar special or consequential damages or claims.

10.2 Producer Transportation Service Rules Prevail

No representation or commitment inconsistent with these *Producer Transportation Service Rules* has any effect unless approved by the *Commission*.

10.3 General Laws Apply

The *Transportation Contract* and the rights and obligations of the parties to the *Transportation Contract* are subject to all applicable present and future laws, rules, regulations and orders of any legislative body or duly instituted authority now or hereafter having jurisdiction.

10.4 Commitment to Performance

Apex and the *Producer* will, from time to time and at all times, do all such further acts and execute and deliver all such further deeds and documents as will be reasonably required to fully perform and carry out the terms of the *Transportation Contract* and these *Producer Transportation Service Rules*.

10.5 No Waiver

No waiver by *Apex* or the *Producer* of any default by the other under the *Transportation Contract* and these *Producer Transportation Service Rules* will operate as a waiver of a future default, whether of a like or different character.

10.6 Application to All Receipt Points

The *Transportation Contract* and these *Producer Transportation Service Rules* will apply mutatis mutandis to each *Point of Receipt* and corresponding *Point of Delivery*.

10.7 Application to Successors

The *Transportation Contract* will bind and enure to *Apex* and the *Producer's* respective successors and assigns. However, no assignment will release either party from such

party's obligations under the *Transportation Contract* without the written consent of the other party to such release. Such consent may not be unreasonably withheld.

10.8 Use as Security

Nothing contained in the *Transportation Contract* or these *Producer Transportation Service Rules* will prevent either party from pledging or mortgaging its rights under the *Transportation Contract* as security for its indebtedness.

10.9 Applicable Laws

The *Transportation Contract* will be construed in accordance with the laws of the Province of Alberta and the laws of Canada, as applicable.