

**RULES AND REGULATIONS GOVERNING THE TRANSPORTATION OF GAS**

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**GAS TRANSPORTATION SERVICE**

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**GAS TRANSPORTATION SERVICE****1. DEFINITIONS**

As used herein in conjunction with transportation service, the following terms shall have the meanings indicated below:

- A. **"Btu"** shall mean the British thermal unit as defined by international standards.
- B. **"Business Day"** shall mean any weekday, excluding federal banking holidays.
- C. **"Central Clock Time"** (C.T.) shall mean Central Standard Time adjusted for Daylight Savings Time.
- D. **"Company"** means ASPIRE ENERGY EXPRESS, LLC, its successors and assigns.
- E. **"Customer"** means any individual, governmental body or corporate entity taking transportation service hereunder.
- F. **"Dekatherm"** or **"Dth"** means 1,000,000 Btus. Dekatherm shall be the standard unit for purposes of nominations, scheduling, invoicing, and balancing.
- G. **"Delivery Point(s)"** shall mean the specific measurement location(s) set forth in the Transportation Service Agreement at which the Company delivers Customer-owned gas to Customer and Customer receives such gas from the Company.
- H. **"Delivery Volume"** shall mean the volume of Gas nominated and confirmed at the Delivery Point(s) by or on behalf of the Customer.
- I. **"Firm"** shall mean that each Dth the Customer nominates and the Company confirms at the Receipt Point(s), within the Customer's MDQ, will be delivered to the Customer's Delivery Point(s) minus the Company's Shrinkage without interruption except under Force Majeure conditions, an Operational Flow Order, or an energy emergency declared by the Commission.
- J. **"Gas"** shall mean natural gas of interstate quality.
- K. **"Gas Day"** or **"Day"** shall mean a period of 24 consecutive hours, beginning at 9:00 a.m. Central Clock Time, as adjusted for Daylight Savings Time, and the date of the Day shall be that of its beginning.

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- L. **"Heating Value"** shall mean the gross heating value on a dry basis, which is the number of British thermal units produced by the complete combustion at constant pressure of the amount of dry gas (gas containing no water vapor) that would occupy a volume of one cubic foot at 14.73 psia and 60°F with combustion air at the same temperature and pressure as the gas, the products of combustion being cooled to the initial temperature of the gas and air, and the water formed by combustion condensed to the liquid state.
- M. **"Imbalance"** shall mean the daily difference between the Delivery Volume and the actual metered volumes allocated to Customer at the Delivery Point(s).
- N. **"Interruptible"** shall mean that each Dth the Customer nominates and the Company confirms at the Receipt Point(s), in excess of the Customer's MDQ, will be delivered to the Customer's Delivery Point(s) less the Company's Shrinkage, if the Company, using reasonable judgment, determines that capacity exists after all the Firm transport needs are accounted for to permit redelivery of tendered gas.
- O. **"Maximum Daily Quantity" or "MDQ"** shall mean the maximum daily firm natural gas quantity which the Customer shall be entitled to nominate during any 24-hour period. The Customer's MDQ shall be negotiated between the Customer and the Company and incorporated into the Customer's Transportation Service Agreement with the Company.
- P. **"Month"** shall mean a calendar month beginning at 9:00 a.m. Central clock time on the first day of the calendar month and ending at 9:00 a.m. Central clock time the first day of the following calendar month.
- Q. **"Nomination"** shall mean the confirmed Quantity of Gas which the Customer shall arrange to have delivered to the Receipt Point(s) for redelivery by the Company to the Delivery Point(s). The Nomination shall include sufficient gas to account for the Company's Shrinkage.
- R. **"Operational Flow Order" or "OFO"** shall mean a declaration made by the Company that conditions are such that the Company will only transport the volumes that the Company believes the Customer can actually both tender to the Receipt Point(s) and receive at the Delivery Point(s) on a daily basis.
- S. **"PUCO" or "Commission"** means the Public Utilities Commission of Ohio, or any successor governmental authority.
- T. **"Quantity of Gas"** shall mean the number of units of gas expressed in Dth unless otherwise specified.
- U. **"Receipt Point(s)"** shall mean those measurement locations where Customer-owned gas enters the Company's system.
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- V. **“Transportation Service Agreement”** shall mean the individual contract that each Customer shall sign and enter into with the Company prior to commencement of service that identifies the Receipt Point(s) and Delivery Point(s), the MDQ, declares whether the transportation is Firm or Interruptible and establishes the cost for the transportation. .
- W. **“Shrinkage”** shall mean the quantity of Gas required by the Company to replace the estimated quantity of Gas, which is required for compressor fuel, and lost-or-unaccounted-for Gas when transporting the tendered quantities. This percentage will be set forth in the Transportation Service Agreement.
- X. **“Written Notice”** shall mean a legible communication received by the intended recipient of the communication by United States mail or overnight courier. Written Notice may also be provided by Email, but shall not be effective until such time as the Email is acknowledged by the intended recipient.

**2. Applicability**

Transportation service pursuant to this schedule is available to all Customers who sign a Transportation Service Agreement with the Company, demonstrate that they have the ability to tender natural gas to the Receipt Point(s), and have made suitable arrangements for such tendered volumes to be delivered to the Delivery Point(s) called for in the Transportation Service Agreement.

**3. Term**

Customers that elect to request transportation service will be required to execute a written Transportation Service Agreement prior to the commencement of any transportation service. Unless otherwise agreed in the Transportation Service Agreement, transportation service agreements shall provide for a primary term of one (1) year, continuing thereafter on a month to month basis subject to cancellation by the Company or the Customer on 30 days' written notice or as otherwise agreed by Company.

**4. Types of Service and Capacity**

The Company shall offer Firm service to a Customer who requests such service, meets tariff standards and executes a Transportation Service Agreement but only if the Company using good industry practice believes it has sufficient pipeline capacity available after accounting for the projected demand of the existing Firm service load to serve such Customer. The Company shall offer Interruptible service to all Customers who request such service, meet the tariff standards and execute a Transportation Service Agreement.

Where the Company has agreed to provide a Customer with Firm service, the Transportation Service Agreement will specify the Company's pipeline capacity allocated to and reserved on

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behalf of the Customer for redelivery of the Customer's supply in terms of the MDQ that can be tendered to the Receipt Point(s) on a daily basis, and the maximum amount which can be transported to a particular Delivery Point. A Customer may have several Delivery Points, but the aggregate of the daily firm accessible Delivery Points must equal or exceed the Receipt Point(s) MDQ, adjusted for Shrinkage.

The Company shall have no obligation to accept any Nomination in excess of the Customer's MDQ. If requested by the Customer, the Company may accept a Nomination and subsequent tender of an amount in excess of the Customer's MDQ on a non-discriminatory basis and if the Company reasonably believes it can physically accommodate the request.

**5. Delivery and Transportation**

The Customer shall arrange with its gas suppliers to have Gas tendered to the Receipt Point(s) for delivery to the Delivery Point(s) in a volume designed to match the Customer's Nomination at the Delivery Point(s) plus Shrinkage for each Day in an amount not to exceed the Customer's MDQ. The Company shall then redeliver, on a firm basis, such quantities, less the Company's Shrinkage, to the Customer at the Delivery Point(s) as specified on Exhibit A of the Customer's Transportation Service Agreement. Transportation service under the Transportation Service Agreement shall be governed by: 1) the Transportation Service Agreement; 2) these Rules and Regulations Governing the transportation of Gas ("Rules and Regulations"); provided, however, the Transportation Service Agreement shall control in the event of any conflict between it and these Rules and Regulations; and 3) the rules and orders of the Commission.

Unless otherwise specified in the Transportation Service Agreement, the Customer shall submit its Nomination to the Company by no later than 11:30 am Central Clock Time for Gas flow the following day. This Nomination should correspond to scheduled deliveries the Customer makes on the upstream interstate pipeline and any downstream local gas distribution and/or interstate pipeline company operating the applicable Delivery Point(s). Should the Customer desire to modify its Nomination either on the current Day or after the Nomination deadline for Gas flow the following day, the Company shall make every attempt to accommodate the Customer's request provided the Company can confirm such quantities with the upstream pipeline at the Receipt Point(s) and downstream entity at the Delivery Point(s).

After the Customer delivers gas or causes gas to be delivered to the Company at the Point(s) of Receipt specified in the Transportation Service Agreement, the Company shall be deemed to be in control and possession of the gas until thermally equivalent quantities (less Shrinkage) are redelivered to the Customer or for the account of the Customer at the Point(s) of Delivery. The Customer shall have no responsibility with respect to any gas deliverable by the Company or on account of anything, which may be, done, happen, or arise with respect to such gas until the Company delivers such gas to the Customer or for the account of the Customer. The Company shall have no responsibility with respect to such gas before the Customer delivers or causes such gas to be delivered to the Company or after the Company redelivers such gas to the Customer or

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for the account of the Customer, or on account of anything which may be done, happen, or arise with respect to such gas before such delivery or after such redelivery.

**6. Shrinkage**

Unless otherwise agreed to in the Transportation Service Agreement, the Customer shall have the right to retain, pursuant to this schedule, 100% of the gas delivered to the Receipt Point(s), less the Shrinkage.

**7. Transportation Rate**

The rates and charges for transportation service will be established pursuant to the Transportation Service Agreement to be submitted to the Commission for approval under Section 4905.31, Revised Code.

**8. Imbalances**

Procedures and penalties related to Imbalances shall be set forth in the Customer's Transportation Service Agreement.

**9. Title to Gas**

Any Customer taking natural gas transportation service pursuant to this Tariff warrants that it has title to the gas delivered to Company free and clear of all claims, demands, obligations, liens and encumbrances, and covenants and agrees to indemnify and hold harmless Company from all suits, actions, debts, accounts, damages, costs, losses, liens, judgments, orders, attorney fees, expenses and liabilities arising from or attributable to the adverse claims of any and all other persons or parties to such gas.

The Customer and the Company each assume full responsibility and liability for the maintenance and operation of its respective properties and shall indemnify and save harmless the other party from all liability and expense on account of any and all damage, claims or actions, including injury to and death of persons, arising from any act or accident in connection with the installation, presence, maintenance and operation of the property and equipment of the indemnifying party; provided however, that neither party agrees to indemnify the other party for the negligence of the other party, its agents, servants or employees.

**10. Operational Flow Orders**

The following paragraph shall apply if the Customer's Transportation Service Agreement does not address Operational Flow Orders.

In the event any one of the following occur: 1) any upstream interstate pipeline supplying the Company declares a force majeure or an operational flow order; 2) the Commission or the

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Governor or any other lawful official or body in Ohio declare an energy emergency; 3) if weather or usage conditions create a situation in which the Company reasonably believes that it cannot accommodate an imbalance from the Customer or 4) any system safety issue arises that limits the Company's ability to safely transport gas, the Company may issue an Operational Flow Order. During an Operational Flow Order the Customer may only tender and receive those volumes that the Company believes the Customer can actually both tender to the Receipt Point(s) and receive at the Delivery Point(s) on a daily basis. The Company will use its best efforts to avoid an Operational Flow Order if reasonably possible, and maintain the Operational Flow Order for as limited a period of time as is reasonably possible.

**11. Quality**

The gas received by Company for Customer's account shall be natural gas conforming to the quality specifications as provided for in the FERC gas tariffs of the immediately upstream pipeline(s) on which the gas was transported. The gas delivered by Company to any Point of Delivery shall be natural gas conforming to the least stringent of the quality specifications contained in the respective FERC gas tariffs of the upstream pipeline(s) that interconnect with Company's system.

Company may perform odorization, or cause to have odorization to be performed, prior to delivery. Such odorization of gas shall not be construed as interfering with the merchantability of gas delivered.

If the natural gas received from Customer or Customer's supplier by Company for delivery shall fail at any time to conform to any of the quality specifications required by these Rules and Regulations or might otherwise interfere with or adversely affect the normal operation of the facilities of Company or Company's other customers, then upon notification by Company to Customer, Company may, at its option, refuse to accept such gas pending correction by Customer or Customer's supplier. In addition, Customer shall be responsible for, and shall indemnify and hold Company harmless from, any damages or liability for injury to or death of any persons, or damage to property of Company or of third parties, or any other costs, liabilities and expenses incurred by Company, as a result of such receipt or delivery of natural gas of non-conforming quality.

**12. Billing and Payment**

On or before the tenth (10<sup>th</sup>) day of each calendar month, the Company shall render to the Customer a statement setting forth the total quantity of Gas nominated by the Customer and confirmed by the Company pursuant to this Tariff during the immediately preceding Month, the billing rate and the amount due. Billing statements shall be deemed as rendered when such statements are deposited by the Company with the U.S. Mail for first-class delivery, as evidenced by the postmark date, deposited by the Company with an overnight courier service for delivery to the Customer, sent via facsimile machine to the Customer or hand-delivered to the Customer's office.

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If it shall be found that at any time or times the Customer has been overcharged or undercharged in any form whatsoever and the Customer has actually paid the bills containing such overcharge or undercharge, the Company shall refund the amount of any such overcharge or the Customer shall pay the amount of any such undercharge within thirty (30) days after final determination of such amounts. In the event an error is discovered in the amount billed in any statement rendered by the Company, such error shall be adjusted within thirty (30) days from the date of discovery of such error provided however, that in no event shall any adjustment be made to any statement after twelve (12) months from the date of such statement.

The Customer shall make payment to the Company for services purchased during the preceding month and billed pursuant to the provisions of this Tariff on or before the twenty-fifth (25<sup>th</sup>) day of the month, unless otherwise agreed to the Transportation Service Agreement. Payment shall be made by wire transfer of Federal Funds at such bank account designated by the Company, except when such day of the month is a Saturday, Sunday or federal bank holiday, in which case payment is due on the following Business Day. All such payments shall be considered to have been made on the date when the Company has use of such funds.

If the Customer, in good faith, disputes the amount of any such invoice or any part thereof, the Customer will pay such amount as it concedes to be correct: provided, however, if the Customer disputes the amount due, it must provide supporting documentation acceptable in industry practice to support the amount paid or disputed. In the event the parties are unable to resolve such dispute, either party may pursue any remedy available at law or in equity to enforce its rights pursuant to this Section.

If the Customer fails to remit the full amount when due, the amount not paid by the due date shall be increased by 1.5 percent (1.5%) of the amount not timely paid each month.

The following paragraph shall apply if the Customer's Transportation Service Agreement does not address Customer's credit support requirements.

The Company reserves the right to review the Customer's credit worthiness at any time. Upon request, but not more than twice in any 12-month period, the Customer must provide current financial credit information. If the Customer's current financial or credit status will not support the level of service contracted for, the Company may request that the Customer post the appropriate amount of collateral. Collateral may be in the form of a prepayment, cash deposit, letter of credit, creditworthy parent guarantee or other security acceptable to the Company.

**13. Discontinuance of Supply on Notice of Defect in Customer's Property**

This section applies only to a Customer operating a natural gas-fired electric generating facility on its property. If the Customer service line, Customer piping, pressure regulators, fittings, valves, connections, equipment, venting and any other associated equipment on Customer's premises are defective or in such condition as to constitute a hazard, the Company, upon notice to it of

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such defect or condition and reasonable notice to the Customer, may discontinue the supply of gas to such Customer until such defect or condition has been rectified by the Customer in compliance with the reasonable requirements of the Company.

**14. Responsibility for Material or Workmanship**

This section applies only to the Company's service to a Customer operating a natural gas-fired electric generating facility on its property. The Company is not responsible for maintenance of, or any imperfect material or defective or faulty workmanship in, the Customer service line, Customer piping, pressure regulators, fittings, valves, connections, equipment, venting and any other associated equipment and is not responsible for any loss or damage arising from inadequate or improper maintenance or from imperfect material or defective or faulty workmanship.

**15. Right to Shut Off Gas**

This section applies only to the Company's service to a Customer operating a natural gas-fired electric generating facility on its property. After reasonable notice and at its sole discretion, the Company shall have the right to discontinue service and the right to disconnect and remove from the premises of any Customer the meter and any other property belonging to the Company for any of the following reasons or purposes:

- (1) Refusing access;
- (2) Non-payment of Company invoices when due under the Transportation Service Agreement;
- (3) Theft of service, tampering of property, or fraudulent representation or practice;
- (4) Customer vacates premises;
- (5) When a safety hazard or emergency may threaten the health and safety of others or other property;
- (6) When a Customer uses gas in a manner detrimental to the service of others;
- (7) Violation of law; and
- (8) Termination of Customer's Transportation Service Agreement.

**16. General Terms and Conditions**

- A. Services provided under this schedule are subject to all applicable Federal, State of Ohio and local laws and to the orders, rules and regulations of any federal, State or local agencies having jurisdiction thereof.
- B. Any imbalance charges under the Transportation Service Agreement shall not be construed as Company's exclusive remedy in the event that Customer fails to fulfill its balancing obligations. In addition, nothing herein shall preclude Company from waiving an imbalance rate or charge provided Customer has undertaken reasonable efforts to eliminate the imbalance condition, the frequency and magnitude of the imbalance condition does not, in the Company's judgment, indicate Customer is utilizing the

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imbalance to obtain an economic advantage related to the cost of natural gas or transportation and related services or the imbalance condition does not disadvantage other customers or Company.

If the Company believes that the Customer may be creating imbalances on the Company's system in order to obtain an economic advantage, it will notify the Customer in writing of such belief and the Customer will have the opportunity to respond. If, within the sixty (60) day period following such notice, the Company concludes that the Customer has engaged in such imbalance activity, the Company may terminate gas transportation service by giving the Customer ten (10) days' notice prior to the end of the calendar month.

- C. Company has the right to inspect and/or test all measuring equipment at its discretion. Customer may request that a meter be tested no more than once every twelve (12) months and Customer will have the right to witness any such test. If the meters test within 2% or better of accurate measurement, then the cost of the test shall be paid by party requesting the test. If the meters are found to be inaccurate by more than 2%, the party owning the meter shall pay for the test. No adjustment based upon meter inaccuracies shall be made for delivery charges or natural gas imbalances unless a meter tests inaccurate by more than 2%. Any such billing correction shall only be to the 2% error level for a period of time no longer than half the period from the date of the last meter testing or six months, whichever is less.
- D. No waiver by the Company or the Customer of one or more defaults by the other of the provisions of service under this schedule shall be construed as a waiver of any other or further default or defaults, whether of a like or a different character.
- E. Any force majeure provisions shall be as set forth in the Customer's Transportation Service Agreement.

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