

# **ENBRIDGE PIPELINES INC.**

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## **CRUDE PETROLEUM TARIFF**

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### **RULES AND REGULATIONS**

Governing the

### **TRANSPORTATION**

of

### **CRUDE PETROLEUM**

on

### **LINE 9**

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▲ Denotes changes in wording from NEB No. 382

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**EFFECTIVE June 1, 2016**

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## 1. DEFINITIONS

As used in this tariff, the following terms have the following meanings:

**"Aggregate Committed Volumes"** means, collectively, the aggregate volume of commitments (including the Committed Volume), measured in bpd, by all Committed Shippers, pursuant to TSAs executed between such shippers and Carrier, as such volume commitments may be modified in accordance with the Open Season Terms.

**"API"** means American Petroleum Institute.

**"ASTM"** means American Society for Testing and Materials.

**"Carrier"** means Enbridge Pipelines Inc.

**"Carrier Force Majeure Initial Volumes"** means volumes not accepted by Carrier for the first 90 days of a force majeure period (as defined in the TSA) as set out in section 7.05.2 of the TSA.

**"Carrier Force Majeure Extended Volumes"** means volumes not accepted by Carrier after the first 90 days of a force majeure period (as defined in the TSA) as set out in section 7.05.2 of the TSA.

**"Committed Shipper"** means a Shipper that has contracted for transporting or paying for a Committed Volume pursuant to the terms of a TSA entered into with Carrier during the open season that commenced on May 17, 2012.

**"Committed Volume"** means with respect to a Committed Shipper, the minimum daily volume of Crude Petroleum set out in Schedule A to the Committed Shipper's TSA during the term of such TSA.

**"Crude Petroleum"** means the direct liquid product of oil wells, oil processing plants, the indirect liquid petroleum products of oil or gas wells, oil sands, or a mixture of such products, but does not include natural gas liquids or refined petroleum products.

**"Density"** means mass per unit volume at 15 degrees Celsius expressed in kilograms per cubic metre.

**"Enbridge Tariff"** has the meaning given to it in the Competitive Toll Settlement dated July 1, 2011.

**"Financial Assurances"** means the financial assurances provided by the Shipper and accepted by the Carrier in accordance with Rule 19.

**"Force Majeure"** means an event, which is unforeseen, and beyond the control of the Shipper that either prevents the Shipper from delivering the affected volume to Carrier or prevents the Shipper from accepting delivery of the affected volume from Carrier. The following are the only instances that will be recognized as Force Majeure events: earthquakes; floods; landslides; civil disturbances; sabotage; the acts of public enemies; war; blockades; insurrections; riots; epidemics; the act of any government or other authority or statutory undertaking; the inability to obtain or the curtailment of electric power, water or fuel; strikes, lockouts or other labour disruptions; fires; explosions; breakdowns or failures of pipe, plant, machinery or equipment; and contamination or poisoning of catalyst and/or solvent or biological treatment facilities. For greater certainty, a lack of funds; the availability of a more attractive market; Shipper's inability to purchase Crude Petroleum; or inefficiencies in operations do not constitute events of Force Majeure.

**"Heavy Crude Petroleum"** has the meaning given to it in the Enbridge Tariff.

**"Kilopascal"** is equivalent to 0.1450377 pounds per square inch.

"**Light Crude Petroleum**" has the meaning given to it in the Enbridge Tariff.

"**Make-up Volumes**" means volumes shipped by a Committed Shipper in excess of Committed Volume, for which a Monthly Deficiency Payment, as defined in section 7.04 of the TSA, has been paid.

"**Medium Crude Petroleum**" has the meaning given to it in the Enbridge Tariff.

"**Monthly Volume**" means the product of the Committed Volume multiplied by the number of days in the relevant month (or partial month).

"**NEB**" means the National Energy Board.

"**Nomination**" means an offer by a Shipper to the Carrier in accordance with this tariff for the transportation of a stated quantity of Crude Petroleum from a Regular Receiving Point to a Regular Delivery Point.

"**Non-Performance Penalty**" means the charge and cost referred to in Rule 18(e).

"**Pipeline**" means the Carrier's pipeline from Sarnia, Ontario, via Westover, Ontario, to Montreal, Québec.

▲ "**Regular Delivery Point**" means a location for the delivery of Crude Petroleum as provided for in the Carrier's tariff for ~~tolls~~ Tolls applying Applying on Crude Petroleum.

▲ "**Regular Receiving Point**" means a location for the receipt of Crude Petroleum as provided for in the Carrier's tariff for ~~tolls~~ Tolls applying Applying on Crude Petroleum.

"**Retention Stock**" means the volume of Crude Petroleum required by the Carrier for operational and scheduling purposes as specified from time to time by the Carrier and includes working stock, tank bottoms and idle loop fill.

"**Selected Delivery Point**" means a Delivery Point selected by Shipper in Schedule A of the TSA.

"**Shipper**" means the party that contracts with the Carrier for the transportation of Crude Petroleum under the terms of this tariff, and that has satisfied the Carrier of that party's capacity to perform its financial obligations that may arise from the transportation of its Crude Petroleum under the terms of this tariff, and includes a transferee of a Shipper's rights and obligations, as approved in accordance with Rule 15(c).

"**TSA**" means a transportation services agreement executed by a Committed Shipper with Carrier with respect to the Pipeline pursuant to the open season that commenced on May 17, 2012.

"**Uncommitted Volumes**" means volumes of Crude Petroleum received in a month by Carrier for transportation on the Pipeline: (a) for any Shipper that is not a Committed Shipper, (b) for a Committed Shipper, that are nominated for delivery to the Selected Delivery Point, but that are in excess of the product of Committed Shipper's Committed Volume for that Selected Delivery Point and the number of days in the month and that are not Make-up Volumes, Carrier Force Majeure Initial Volumes or Carrier Force Majeure Extended Volumes, and (c) for a Committed Shipper, that are nominated to a delivery point that is not the Selected Delivery Point.

"**Unused Committed Capacity**" means, for any month, the amount, if any, by which the Aggregate Committed Volumes exceed the aggregate Nominations of Committed Volumes (excluding Nominations of Make-up Volumes, Carrier Force Majeure Initial Volumes or Carrier Force Majeure Extended Volumes) by Committed Shippers.

## 2. COMMODITY

This tariff applies to the transportation of Crude Petroleum by the Carrier.

## 3. ORIGIN AND DESTINATION FACILITIES

- a. Subject to the further provisions of this tariff, the Carrier will only accept Crude Petroleum for transportation:
  - i. at Regular Receiving Points;
  - ii. when the Crude Petroleum has been specified to be delivered to one or more Regular Delivery Points; and
  - iii. when the party taking delivery of the Crude Petroleum has been specified in writing to the Carrier.
- b. Except where the Carrier provides such facilities, the Carrier will only accept Crude Petroleum for transportation when the Shipper has provided the necessary facilities satisfactory to the Carrier at the specified Regular Delivery Point for such Crude Petroleum.

## 4. SPECIFICATIONS AS TO QUALITY

- a. A Shipper shall not deliver to the Carrier and the Carrier shall not be obligated to accept Crude Petroleum that, as determined by the Carrier, has on receipt:
  - i. a temperature greater than 38 degrees Celsius;
  - ii. a vapour pressure in excess of 95 Kilopascals for Crude Petroleum that is received during the period from May 1<sup>st</sup> through September 15<sup>th</sup> of the year, or a vapour pressure in excess of 103 Kilopascals for Crude Petroleum that is received during the period September 16<sup>th</sup> through April 30<sup>th</sup> of the year;
  - iii. sediment and water in excess of 0.5 percent by volume;
  - iv. a Density in excess of 940 kilograms per cubic metre at 15 degrees Celsius;
  - v. a kinematic viscosity in excess of 350 square millimetres per second determined at the Carrier's reference line temperature;
  - vi. any organic chlorides; or
  - vii. physical or chemical characteristics that may render such Crude Petroleum not readily transportable by the Carrier or that may materially affect the quality of other commodities transported by the Carrier or that may otherwise cause disadvantage to the Carrier.
- b. A Shipper shall, as required by the Carrier, provide to the Carrier a certificate with respect to the specifications of Crude Petroleum to be received by the Carrier from such Shipper. If a Shipper fails to provide the Carrier with such certificate, then the Carrier shall not be obligated to accept the Shipper's Crude Petroleum.
- c. If the Carrier determines that a Shipper does not comply with the provisions of paragraph (a) of Rule 4 of this tariff, then such Shipper shall remove its Crude Petroleum from the facilities of the Carrier as directed by the Carrier.
- d. If a Shipper fails to remove its Crude Petroleum from the facilities of the Carrier as directed by the Carrier, then the Carrier shall have the right to remove and sell such Crude Petroleum in such lawful manner as deemed appropriate by the Carrier. The Carrier shall pay from the proceeds of such sale all costs incurred by the Carrier with respect to the storage, removal and sale of such Crude Petroleum. The remainder of such proceeds, if any, shall be held by the Carrier for the Shipper and any other party lawfully entitled to such proceeds.

## 5. CHANGES IN QUALITY AND SEGREGATION

- a. The Carrier shall endeavour to deliver substantially the same type of Crude Petroleum as that received from a Shipper, however the Carrier shall not be obligated to make delivery of the identical Crude Petroleum received by the Carrier.
- b. If Crude Petroleum Nominated to the Carrier is of a kind or quality that is not currently being transported by the Carrier, then the Carrier shall, at the request of the Shipper of such Crude Petroleum and subject to the operating conditions of the facilities of the Carrier, endeavour to segregate such Crude Petroleum during transportation by the Carrier. In such circumstances, the Shipper shall, at the request of the Carrier, make such Crude Petroleum available in such quantities and at such times as may be necessary to permit such segregated movements.
- c. Subject to paragraph (a) of Rule 12 of this tariff, the Carrier shall not be liable for any damage, loss or consequential loss resulting from a change in the Density or other quality of a Shipper's Crude Petroleum as a result of the Carrier's transportation of such Crude Petroleum, including without limitation the mixing of Crude Petroleum with other petroleum in the facilities of the Carrier.

## 6. NOMINATIONS, RATES, VOLUMES AND NOMINATION DISCLOSURE

- a. Nominations shall be submitted to the Carrier in accordance with the notice of shipment format prescribed by the Carrier no later than the time and date set out in the Carrier's monthly Nomination schedule. The Carrier shall notify all Shippers of the monthly Nomination schedule applicable for the calendar year. Notice of any amendment to a monthly Nomination date shall be provided by the Carrier to all Shippers at minimum 24 hours in advance of the proposed change in Nomination date.
- b. The Carrier may, subject to the availability of space and the operating conditions of the facilities of the Carrier, accept Nominations or revised Nominations after such time. The Carrier may publicly disclose the volume of Crude Petroleum tendered to the Carrier by the categories of:
  - i. Light Crude Petroleum
  - ii. Medium Crude Petroleum; and
  - iii. Heavy Crude Petroleum;

on a consolidated basis, so long as each category is comprised of volumes from at least three Shippers.

- c. A Shipper shall, upon notice from the Carrier, provide written third party verification as required by the Carrier in support of such Shipper's Nomination. The Carrier shall not be obligated to accept a Shipper's Crude Petroleum where such verification is, in the sole discretion of the Carrier, unacceptable to the Carrier.
- d. The Carrier shall not be obligated to accept a Shipper's Crude Petroleum if the volume of such Crude Petroleum is less than the minimum volume or if the rate at which such Crude Petroleum is received by the Carrier is less than or greater than the rates specified from time to time by the Carrier for each Regular Receiving Point.
- e. The Carrier shall not be obligated to make a delivery of a Shipper's Crude Petroleum of less than the minimum volume or at a rate less than or greater than the rates specified from time to time by the Carrier for each Regular Delivery Point.
- f. A Shipper shall supply its share of Retention Stock by types and volumes as determined from time to time by the Carrier.

## 7. APPLICATION OF TOLLS

The Carrier shall charge a Shipper the Carrier's toll for the transportation of Crude Petroleum that is in effect on the date of delivery of such Crude Petroleum by the Carrier.

## 8. PAYMENT OF TOLLS AND LIEN FOR UNPAID CHARGES

- a. A Shipper shall pay all charges and costs as provided for in this tariff or otherwise lawfully due to the Carrier relating to the transportation or other handling of the Shipper's Crude Petroleum by the Carrier. The Shipper shall pay such charges and costs upon receipt of the Carrier's invoice respecting such charges and costs. If required by the Carrier, the Shipper shall pay such charges and costs before delivery, or before acceptance of a transfer, of the Shipper's Crude Petroleum by the Carrier.
- b. The Carrier shall have a general lien on all of a Shipper's Crude Petroleum that is in the possession of the Carrier to secure the payment of all charges and costs accruing or due relating to the transportation or other handling of the Shipper's Crude Petroleum by the Carrier. The general lien provided herein shall be in addition to any lien or security interest otherwise provided by law or contract. The Carrier may withhold the Shipper's Crude Petroleum from delivery and may exercise any other rights and remedies provided at law or by contract, until all such charges and costs have been paid.
- c. If charges for the transportation of Shipper's Crude Petroleum remain unpaid for ten days after notice of demand for payment of such charges is made to such Shipper by the Carrier, then the Carrier shall have the right to remove and sell any or all of such Shipper's Crude Petroleum that is in the possession of the Carrier in such lawful manner as deemed appropriate by the Carrier.
- d. The Carrier shall pay from the proceeds of such sale all charges and costs accruing or due relating to the transportation of such Shipper's Crude Petroleum by the Carrier and all costs incurred by the Carrier with respect to the storage, removal and sale of such Shipper's Crude Petroleum. The remainder of such proceeds, if any, shall be held by the Carrier for the Shipper and any other party lawfully entitled to such proceeds.
- e. When required, the Carrier shall, with or without notice to the Shipper, appoint agent(s) to retain possession of the Shipper's Crude Petroleum on behalf of the Carrier for the purpose of enforcing the general lien described in this Rule. The Carrier hereby advises that it has appointed Enbridge Energy, Limited Partnership as one agent appointed to hold possession of the Shipper's Crude Petroleum for the purpose of enforcing its general lien.

## 9. MEASURING, TESTING AND DEDUCTIONS

- a. The Carrier shall gauge or metre, or cause to be gauged or metered, a Shipper's Crude Petroleum upon delivery by the Carrier. The Shipper or the designate of the Shipper may be present at such gauging or metering. If tank gauges are used, the volume of Crude Petroleum shall be computed from tank tables on a 100 percent volume basis.
- b. The Carrier shall not be obligated to receive or deliver a Shipper's Crude Petroleum from or to a connecting carrier which is conducting the measurement unless the connecting carrier measures such Crude Petroleum using custody transfer equipment approved of by the Carrier and conducts measurement in accordance with the Carrier's measurement manual, and unless the Carrier or its representative has been provided the right to enter upon the premises where and when Crude Petroleum is being measured and is granted access to all tanks, storage receptacles, or other facilities used for the purpose of gauging or metering to make any examination, inspection, measurement or test as required by the Carrier to verify the accuracy of such facilities and the quality of such Shipper's Crude Petroleum.
- c. The Carrier shall correct the Density and volume of Crude Petroleum received and delivered by the Carrier from the actual temperature of such Crude Petroleum to 15 degrees celsius by use of API 2540 Petroleum Measurement Standards or the latest revision to such Standards.

- d. The Carrier shall correct the metered volume of Crude Petroleum for compressibility by the use of API Manual of Petroleum Measurement Standards, Chapter 11.2.1 M or the latest revision to such Chapter.
- e. The Carrier shall determine the percentage of sediment and water in Crude Petroleum by the use of a centrifuge or other method agreed to by the Carrier and the Shipper. The Carrier shall deduct the amount of sediment and water from the corrected volume of such Crude Petroleum.
- f. The Carrier shall, as deemed necessary by the Carrier, adjust the measured volume of Crude Petroleum for shrinkage in accordance with API Bulletin 2509 C or the latest revision to such Bulletin.
- g. The Carrier shall, as deemed necessary by the Carrier, determine the kinematic viscosity of Crude Petroleum received by the Carrier in accordance with ASTM D 445 or the latest revision to such Standard or such other test as may be agreed to by the Carrier and the Shipper.
- h. The results of all such gauging, metering and testing by the Carrier shall be final.
- i. The Carrier shall deduct, as allowance oil, 1/20<sup>th</sup> of 1 percent of the volume of Crude Petroleum delivered to the Shipper at Montreal to cover losses inherent in the transportation of Crude Petroleum in the Pipeline.

#### 10. EVIDENCE OF RECEIPTS AND DELIVERIES

▲The Carrier shall evidence the delivery of Crude Petroleum by tickets showing the volume, type, temperature, Density, sediment and water and any other data with respect to such Crude Petroleum as may be specified from time to time by the Carrier. ~~Such tickets shall be signed by the Shipper, or the designate of the Shipper, and the Carrier.~~

#### 11. REMOVAL, DELIVERY AND ACCEPTANCE

- a. A Shipper or the designate of the Shipper shall accept such Shipper's Crude Petroleum upon arrival at the designated Regular Delivery Point for such Crude Petroleum, or as otherwise directed by the Carrier.
- b. If a Shipper fails to remove its Crude Petroleum from the facilities of the Carrier in accordance with the provisions of paragraph (a) of Rule 11 of this tariff, and a disruption of Carrier's operations results, Shipper shall be solely responsible for all costs or losses to Carrier associated with such disruption, including loss of revenue resulting therefrom, unless the non-removal of such Crude Petroleum is due to the direct negligence or wilful misconduct of Carrier.

#### 12. LIABILITY OF THE CARRIER

- a. Except where caused by the direct negligence or wilful misconduct of the Carrier, the Carrier shall not be liable to a Shipper for any delay, damage, loss or consequential loss resulting from any cause while the Carrier is in possession or control of such Shipper's Crude Petroleum, including without limitation the breakdown of the facilities of the Carrier.
- b. ▲If damage or loss to Crude Petroleum results from any cause other than the direct negligence or wilful misconduct of the Carrier while the Carrier is in possession or control of such Crude Petroleum, then the Carrier may apportion the cost of such damage or loss on a pro rata basis among all Shippers. Each Shipper's share of such cost shall be determined by the Carrier based on the proportion of the volume of the Shipper's Crude Petroleum in the possession of the Carrier on the date of such loss to the total volume of Crude Petroleum in the possession of the Carrier on the date of such loss. Carrier shall be obligated to deliver only that portion of the Crude Petroleum remaining after such deduction.

#### 13. INDEMNIFICATION BY THE SHIPPER

A Shipper shall indemnify the Carrier for any damage, loss, costs or consequential loss incurred by the Carrier or any other party as a result of such Shipper's failure to comply with any provision of this tariff.

#### 14. PRIORITY SERVICE AND APPORTIONMENT

- a. For the purposes of this article,
  - i. **"Available Monthly Capacity"** means the capacity of the Pipeline available to transport, as determined by Carrier, but shall not exceed the ability of Carrier to deliver, Crude Petroleum in a given month; and
  - ii. **"Uncommitted Capacity"** means the Available Monthly Capacity less the lesser of (i) the Aggregate Committed Volumes, or (ii) the total of Nominations by all Committed Shippers for Committed Volumes, Make-up Volumes, Carrier Force Majeure Initial Volumes and Carrier Force Majeure Extended Volumes.
- b. Make-up Volumes shall be accepted for shipment in accordance with Section 7.04 of the TSA.
- c. Carrier Force Majeure Initial Volumes and Carrier Force Majeure Extended Volumes shall be accepted for shipment in accordance with Section 7.05 of the TSA.
- d. Subject to Rule 14(e) and (f), Carrier shall allocate Available Monthly Capacity to transport Crude Petroleum in the following order of priority:
  - i. Committed Volumes, excluding Make-up Volumes, to the level of Aggregate Committed Volumes;
  - ii. Committed Shippers' Make-up Volumes to the extent there is Unused Committed Capacity;
  - iii. Carrier Force Majeure Initial Volumes to the extent there is Unused Committed Capacity;
  - iv. Carrier Force Majeure Extended Volumes to the extent there is Unused Committed Capacity;
  - v. Uncommitted Volumes;
  - vi. Make-up Volumes in excess of Unused Committed Capacity;
  - vii. Carrier Force Majeure Initial Volumes in excess of Unused Committed Capacity;
  - viii. Carrier Force Majeure Extended Volumes in excess of Unused Committed Capacity.
- e. If, in a month, Nominations exceed Available Monthly Capacity, as determined by Carrier, Carrier shall apportion capacity in the following order and manner:
  - i. where the total amount of Heavy Crude Petroleum nominated, other than as Uncommitted Volumes, exceeds the aggregate of Heavy Crude Petroleum specified in all TSAs, each Committed Shipper shall be allocated:
    - A. such Shipper's Nominations for Heavy Crude Petroleum up to the amount designated in their TSA, and
    - B. a pro rata share of any capacity for the aggregate of Heavy Crude Petroleum specified in all TSAs in the proportion that the Shipper's Nomination of Heavy Crude Petroleum bears to the aggregate Nominations for Heavy Crude Petroleum;



- ii. where the total of Carrier Force Majeure Initial Volumes and Carrier Force Majeure Extended Volumes nominated by Committed Shippers exceeds the sum of Unused Committed Capacity, Nominations for Uncommitted Volumes and Nominations for Make-up Volumes in excess of Unused Committed Capacity, each Committed Shipper shall be allocated:
    - A. a pro rata share of any available capacity for Carrier Force Majeure Initial Volumes in the proportion that such Shippers' Committed Volume bears to the aggregate of Committed Volumes of Committed Shippers nominating Carrier Force Majeure Initial Volumes, and
    - B. to the extent any available capacity remains, a pro rata share of such available capacity for Carrier Force Majeure Extended Volumes in the proportion that such Shippers' Committed Volume bears to the aggregate of Committed Volumes of Committed Shippers nominating Carrier Force Majeure Extended Volumes;
  - iii. where the total of Make-up Volumes nominated by Committed Shippers exceeds the Unused Committed Capacity, each Committed Shipper shall be allocated:
    - A. a pro rata share of the Unused Committed Capacity in the proportion that such Shippers' Committed Volume bears to the aggregate of Committed Volumes of Committed Shippers nominating Make-up Volumes, and
    - B. a pro rata share of the Available Monthly Capacity that exceeds the total of the Aggregate Committed Volumes and the nominated Uncommitted Volumes in the proportion that such Shippers' Committed Volume bears to the aggregate of Committed Volumes of Committed Shippers nominating Make-up Volumes:
  - iv. where the total of Uncommitted Volumes nominated exceeds Uncommitted Capacity, each Shipper shall be allocated a pro rata share of the Uncommitted Capacity in the proportion that its Nomination of Uncommitted Volumes bears to the aggregate Nominations for Uncommitted Volumes; and
  - v. where the Available Monthly Capacity is less than the Aggregate Committed Volumes and the total of Committed Volumes nominated exceeds the Available Monthly Capacity, Carrier shall allocate to each Committed Shipper a pro rata share of the available capacity in the proportion that its Nomination of Committed Volumes bears to the aggregate of Nominations for Committed Volumes.
- f. All volumes, including Committed Volumes and Make-up Volumes, nominated by a Committed Shipper to whom notice has been given pursuant to Section 9.02.2 of the TSA shall be deemed to be Uncommitted Volumes for the purposes of this Rule 14.

#### **15. REQUESTED CHANGE BY THE SHIPPER**

- a. Subject to the operating conditions of the facilities of the Carrier, and Shippers' commitments under a TSA, the Carrier may, upon the written request of a Shipper, allow a Shipper to change:
  - i. the designated volume and type of its Crude Petroleum to be received at a designated Regular Receiving Point;
  - ii. the designated Regular Delivery Point for its Crude Petroleum;
  - iii. the designated volume and type of its Crude Petroleum to be delivered to a designated Regular Delivery Point; and
  - iv. the party designated to take delivery of its Crude Petroleum.

- b. The Carrier may allow a Shipper to transfer, in such manner as may be specified by the Carrier from time to time, such Shipper's rights and obligations under this tariff respecting its Crude Petroleum to another Shipper.
- c. A transfer of a Shipper's rights and obligations under Rule 15(b) under this tariff respecting its Crude Petroleum will not be binding or effective on the Carrier until the Carrier has provided a notice of acceptance to the transferor and transferee. The Carrier will not provide a notice of acceptance of a transfer until such time as the transferee has satisfied the Carrier of its capacity to undertake the transferor's obligations and has provided any Financial Assurances requested by the Carrier in accordance with Rule 19 of this tariff.

#### **16. ADVERSE CLAIMS AGAINST CRUDE PETROLEUM**

- a. A Shipper shall not nominate or deliver to the Carrier Crude Petroleum which is involved in litigation, the ownership of which may be in dispute or which is encumbered by a lien or charge of any kind unless the Shipper provides written notification to the Carrier of such litigation, dispute, lien or charge not less than 20 days before such Nomination is made to the Carrier.
- b. The Carrier shall not be obligated to accept Crude Petroleum that is involved in litigation, the ownership of which may be in dispute or which is encumbered by a lien or charge of any kind.
- c. A Shipper shall advise the Carrier in writing if, at any time while the Shipper's Crude Petroleum is in the possession of the Carrier, such Crude Petroleum becomes involved in litigation, the ownership of such Crude Petroleum becomes in dispute or such Crude Petroleum becomes encumbered by a lien or charge of any kind.
- d. A Shipper shall, upon demand from the Carrier, provide a bond or other form of indemnity satisfactory to the Carrier protecting the Carrier against any liability or loss that may arise as a result of such Shipper's Crude Petroleum that is involved in litigation, the ownership of which may be in dispute or which is encumbered by a lien or charge of any kind.

#### **17. CLAIMS, SUITS AND TIME FOR FILING**

- a. A Shipper shall advise the Carrier in writing of any claim for delay, damage or loss resulting from the transportation of such Shipper's Crude Petroleum by the Carrier within 30 days of delivery of such Crude Petroleum by the Carrier or, in the case of a failure to make delivery, then within 30 days after a reasonable time for delivery has elapsed.
- b. A Shipper shall institute any action arising out of any claim against the Carrier within 180 days from the date that written notice is given by the Carrier to such Shipper that the Carrier has disallowed such claim or any part of such claim.
- c. If a Shipper fails to comply with the provisions of paragraph (a) or paragraph (b) of Rule 17 of this tariff, then such Shipper waives all rights it has to bring an action against the Carrier with respect to such claim.

#### **18. NON-PERFORMANCE FOR UNCOMMITTED VOLUMES**

- a. In periods of apportionment, all Uncommitted Volume Nominations which are apportioned, shall have the Non-Performance Penalty applied to that portion of shortfall in receipts by a Shipper that exceeds five (5) percent of that Shipper's apportioned volume. However, the Non-Performance Penalty will not be applied in respect of a Line 9 Nomination where a Non-Performance Penalty has already been applied to that Nomination by Enbridge Pipelines Inc. upstream of the Pipeline, nor will it be applied to that portion of shortfalls caused by Force Majeure events; Carrier imposed restrictions on pipeline deliveries to the Interconnection Point; or any carry over volumes.

- b. The Shipper shall provide the Carrier with written notice of the Force Majeure event within four business days of the event. Such notice shall state the nature of the event, the estimated duration of the event, and the volume affected. The Shipper shall use reasonable diligence to remedy the Force Majeure event as quickly as reasonably practicable and shall keep Carrier informed as to the progress in the efforts to remedy the event; provided the Shipper shall not be required to settle strikes, lockouts or other labour disruptions contrary to its wishes.
- c. At any time up to thirty (30) calendar days following the receipt of the notice referred to in Rule 18(b) the Carrier will issue written notice to the Shipper informing the Shipper in the event the Carrier disputes all or a portion of the Shipper's claim of Force Majeure. The Carrier shall invoice the Shipper for the amount of the Non-Performance Penalty calculated in accordance with Rule 18(a) and the Shipper shall be obligated to make payment of the invoiced amount.
- d. The Carrier shall publish, on at least a monthly basis, a summary of all Force Majeure notices issued pursuant to Rule 18(b) and 18(c), which shall contain only the name of the Shipper claiming Force Majeure, volume affected, the amount of the Non-Performance Penalty disputed and/or undisputed, and the status of all disputed claims.
- e. The Non-Performance Penalty of \$17.00 per cubic metre will be charged in accordance with the provisions of paragraph (a) of Rules 18 and 19 of this tariff.
- f. For Committed Volumes, the penalty for non-performance will be determined pursuant to the TSA.

#### 19. FINANCIAL ASSURANCES

- a. At any time, upon the request of the Carrier, any prospective or existing Shipper shall provide information to the Carrier that will allow the Carrier to determine the prospective or existing Shipper's capacity to perform any financial obligations that could arise from the transportation or other handling of that Shipper's Crude Petroleum under the terms of this tariff, including the payment of transportation or other handling charges, equalization obligations and the value of the allowance oil and negative Shipper's balance positions. The Carrier shall not be obligated to accept Crude Petroleum for transportation from an existing or prospective Shipper if the Shipper or prospective Shipper fails to provide the requested information to the Carrier within ten (10) days of the Carrier's written request, or if the Carrier's review of the requested information reveals that the existing or prospective Shipper does not have the capacity to perform any financial obligations that could arise from the transportation of that Shipper's Crude Petroleum under the terms of this tariff, including the payment of transportation charges, equalization obligations and the reasonably determined value of the allowance oil and negative Shipper's balance positions and has not provided the Carrier with a Financial Assurance in accordance with Rule 19 (b), if so requested by the Carrier.
- b. Subject to the provisions of Rule 19(c), the Carrier, upon notice to the Shipper, may require one or more of the following Financial Assurances or the payment of all charges and costs as provided for in this tariff, or otherwise lawfully due to the Carrier, to be provided at the expense of the Shipper:
  - i. prepayment;
  - ii. a letter of credit in favour of Carrier in an amount sufficient to ensure payment of all costs and charges that could reasonably accrue due to the Carrier, in a form and from an institution acceptable to Carrier;
  - iii. a guarantee in an amount sufficient to ensure payment of all such costs and charges that could reasonably accrue due to the Carrier, in a form and from a third party acceptable to Carrier; or
  - iv. such other enforceable collateral security, including but not limited to security agreements over assets of the Shipper, in a form acceptable to the Carrier (the "Financial Assurances").

c. In the event that the Carrier reasonably determines that:

- i. the existing or prospective Shipper's financial condition is or has become impaired or is unsatisfactory;
- ii. any Financial Assurances previously provided by the Shipper no longer provide adequate security for the performance of the Shipper's obligations that could arise from the transportation of its Crude Petroleum under the terms of this tariff; or
- iii. the Carrier otherwise determines that it is necessary to obtain Financial Assurances from the Shipper,

then the Shipper shall provide Financial Assurances for the payment of the charges and costs as provided for in this tariff or otherwise lawfully due to the Carrier relating to the transportation of the Shipper's Crude Petroleum by the Carrier. For the purpose of this tariff, and without limiting the generality of the charges and costs lawfully due to the Carrier relating to the transportation of the Shipper's Crude Petroleum, those charges and costs shall include transportation charges, equalization obligations, negative Shipper's balance positions and the allowance oil. The Carrier shall not be obligated to accept Crude Petroleum for transportation from an existing or prospective Shipper if the Shipper or prospective Shipper fails to deliver the Financial Assurances to Carrier within ten (10) days of Shipper's receipt of Carrier's written request for such Financial Assurances.

## 20. PRACTICES

In addition to these Rules & Regulations, Enbridge Pipelines Inc. Line 9 Crude Petroleum Tariff also incorporates the following practices:

- a. ▲ Practice applicable to automatic balancing
- b. Practice governing in-line transfers

Effective Date: June 1, 2016

Effective Date: January 1, 2004

Copies of Carrier's Practices and Procedures are available on-line at:

▲ <http://www.enbridge.com/DeliveringEnergy/Shippers/TariffsandTolls.aspx>

<http://www.enbridge.com/Projects-and-Infrastructure/For-Shippers/Tariffs>

or through the Carrier's Shipper Services group, located at:

#3000, 425—1<sup>st</sup> Street, SW  
Calgary, AB T2P 3L8  
Canada