

# **BOARDWALK LOUISIANA MIDSTREAM, LLC**

## **LOCAL PIPELINE TARIFF**

Containing Rates and Terms & Conditions of Service

Applying On Interstate Transportation by Pipeline of

**ETHYLENE**  
(As Defined Herein)

From and To Points Named Herein on Carrier's Choctaw Ethylene Pipeline System

Carrier will accept and transport Ethylene offered for transportation through Carrier's Choctaw Ethylene Pipeline System facilities only as provided by law and pursuant to the Rules and Regulations published herein, supplements hereto and reissues hereof.

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The provisions published herein will, if effective, not result in an effect on the quality of the human environment.

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**Effective: February 13, 2019**

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**RATE TABLES & ROUTINGS**

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**NO.**

Table 1: Non-Committed Volumes

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The terms and conditions of service published herein apply in their entirety to the services covered by this Tariff, that is, subject to the provisions of Item 115, to the interstate transportation of Ethylene from the Points of Origin to the Points of Destination named herein. Requests for copies of the standards referred to in this Tariff should be directed to the officials of Carrier listed on the front page of this Tariff.

**TABLE 1  
TRANSPORTATION RATES  
APPLICABLE TO NON-COMMITTED VOLUMES**

<b>FROM (ORIGIN(S))</b>	<b>TO (DESTINATION(S))</b>	<b>RATE (IN DOLLARS PER UNITED STATES POUND)</b>
<ul style="list-style-type: none"> <li>• Boardwalk Petrochemical Pipeline interconnection, near Jackson Lamotte Lane, West Baton Rouge Parish, LA;</li> <li>•</li> </ul>	<ul style="list-style-type: none"> <li>• BASF Geismar plant, Ascension Parish, LA;</li> <li>• Deltech North Baton Rouge plant, East Baton Rouge Parish, LA;</li> <li>• Formosa North Baton Rouge plant, East Baton Rouge Parish, LA;</li> <li>• Lion Copolymer Geismar plant, Ascension Parish, LA;</li> <li>• OxyChem Convent plant, St. James Parish, LA;</li> <li>• OxyChem Geismar plant, Ascension Parish, LA;</li> <li>• Shell Pipeline interconnection near the Williams Geismar plant, in Ascension Parish, LA;</li> <li>• TOTAL Cosmar plant, Iberville Parish, LA;</li> <li>• Westlake Geismar Vinyls plant, Ascension Parish, LA.</li> <li>• Shintech Plaquemine plant, Iberville Parish, LA;</li> <li>• Axiall Plaquemine Plant, Iberville Parish, LA.</li> </ul>	<p>\$0.006787</p>
<ul style="list-style-type: none"> <li>• Boardwalk Petrochemical Pipeline interconnection, near Jackson Lamotte Lane, West Baton Rouge Parish, LA.</li> </ul>	<ul style="list-style-type: none"> <li>• BLM’s Choctaw Terminal, Iberville Parish, LA.</li> </ul>	<p>\$0.003132</p>

**ITEM 5**                      **Definitions**

*Allocated Volume* - The term “Allocated Volume” shall mean the volume of capacity allocated to a Shipper pursuant to Item 70.

*Carrier* - The term “Carrier” refers to Boardwalk Louisiana Midstream, LLC.

*Committed Shipper* - The term “Committed Shipper” shall mean a Shipper who (i) has committed to transport a minimum volume of Ethylene on the pipeline system pursuant to a VIP pursuant to Item 105 or a new facilities volume commitment agreement pursuant to Item 110, or (ii) is receiving service under a Grandfathered Agreement pursuant to Item 115.

*Consignee* - The term “Consignee” shall mean a party to whom Ethylene is consigned during the time period when Carrier is transporting the Ethylene.

*Destination* - The term “Destination” or “Point of Destination” shall mean the specific delivery location(s) on Carrier’s system as designated herein.

*Ethylene* - The term “Ethylene” shall mean Ethylene that meets the component requirements and limitations of Item 10 herein.

*Losses* - The term “Losses” has the meaning ascribed to it in Item 15.

*Measurement Procedures* - The term “Measurement Procedures” shall mean the procedures for measurement of Ethylene, as specified in the document “Measurement Procedures for Ethylene” posted on Carrier’s website, <http://www.bwlamidstream.com/>.

*Minimum Commitment* - The term “Minimum Commitment” shall mean the minimum annual volume of Ethylene that a Shipper must commit to ship or pay for in order for a Shipper to qualify for a VIP.

*New Shipper* - The term “New Shipper” shall mean a Shipper that is not a Regular Shipper. A Shipper that becomes a New Shipper shall remain one for twelve (12) consecutive months, with such twelve consecutive month period commencing during the first month that Shipper tenders Ethylene for shipment on Carrier’s Choctaw Ethylene Pipeline System.

*Numerator Calculation* - The term “Numerator Calculation” has the meaning ascribed to it in Item 70.

*Off-Specification Ethylene* - The term “Off-Specification Ethylene” shall mean ethylene which does not meet the component and limitations of Ethylene as defined by Item 10 herein.

*Origin* - The term “Origin” or “Point of Origin” shall mean the specific receipt location(s) on Carrier’s system as designated herein.

*Prorated Capacity* - The term “Prorated Capacity” has the meaning ascribed to it in Item 70.

*Regular Shipper* - The term “Regular Shipper” shall mean a Shipper that has shipped on Carrier’s system each of the twelve (12) consecutive months immediately before the first day of a month in which the system or a portion of the system is prorated.

*Shipper* - The term “Shipper” shall mean any party who ships Ethylene under the provisions set forth in this Tariff.

*Specifications* - The term “Specification” shall mean the component requirements and limitations of Ethylene as set forth in the Ethylene Specifications for Boardwalk Louisiana Midstream, LLC, as posted on Carrier’s website, <http://www.bwlamidstream.com/>.

*S.T.B.* - The term “S.T.B.” refers to the Surface Transportation Board of the United States of America.

*Tariff* - The term “Tariff” shall mean this document and numbered revisions thereto containing rates, routes and terms and conditions of service on Carrier’s system.

*Tender* - The term “Tender” and any derivative thereof, shall mean the delivery by a Shipper to Carrier at an Origin of a stated quantity of Ethylene for transportation from an Origin to a Destination.

*VIP* - The term “VIP” has the meaning ascribed to it in Item 105.

#### **ITEM 10      Quality Specifications for Ethylene**

Except as otherwise provided herein, no Ethylene will be accepted for transportation unless it meets the requirements of the Specifications, and delivery of such Ethylene will not result in any damage to the quality or characteristics of other deliveries. Carrier reserves the right to refuse to accept any Ethylene for transportation through Carrier’s facilities if the Ethylene does not meet the requirements of the Specifications.

Upon first shipment of Ethylene and on subsequent shipments if requested by Carrier to maintain quality of shipments, Shipper shall be required to furnish Carrier with certified laboratory results that show that the composition of the Ethylene to be transported in Carrier’s facilities satisfies Carrier’s Specifications. Carrier reserves the right to sample and/or test any such shipment prior to acceptance or during receipt and, in the event of a variance between Shipper’s certificate and the results of Carrier’s test, the latter shall prevail.

If, upon investigation, Carrier determines that Shipper has delivered to Carrier’s facilities Ethylene that has contaminated the common fungible stream, thereby rendering all or a portion of the fungible Ethylene stream undeliverable, Carrier reserves the right to treat or otherwise dispose of all contaminated Ethylene in any reasonable commercial manner at Shipper’s sole expense.

Carrier reserves the right to amend and modify the Specifications in its sole discretion, on not less than thirty (30) days’ notice to Shippers. Posting updated, proposed Specifications on Carrier’s website at least thirty (30) days’ notice before the proposed Specifications go into effect, will be considered providing notice hereunder.

Nothing contained in this Tariff, any pipeage contract, connection agreement or other document, nor any temporary receipt of any Off-Specification Ethylene by Carrier (either unknowingly or as a temporary accommodation), shall be construed to affect Carrier’s right, at any time and from time to time, to reject any Off-Specification Ethylene and/or to refuse or suspend receipt of such Off-Specification Ethylene until it is established to Carrier’s reasonable satisfaction that subsequent deliveries of Ethylene will conform to the Specifications.

**ITEM 15 Off-Specification Ethylene Charges**

In addition to Shipper's obligation to deliver Ethylene meeting Carrier's Specifications, and Carrier's right to dispose of Off-Specification Ethylene as provided for herein, Shipper shall pay any fees incurred by Carrier for the incident and shall indemnify, defend, reimburse, and hold Carrier harmless from and against all claims, penalties, losses, costs, expenses, extra expenses, business interruption expenses, treating or blending fees, personal injuries (including death) losses to Carrier's property, the property of others (including other Shippers), liabilities or damages of any kind or nature whatsoever (including reasonable attorney's fees and court costs associated therewith) (collectively, "Losses"), whether the Losses be suffered by Carrier or any third party, arising out of or related to Shipper's tender to Carrier of Off-Specification Ethylene. The indemnity provided for in this Item 15 shall not apply to the extent any of such Losses are attributable to the negligence of other Shippers, or to the extent any of such Losses are proximately caused by the sole negligence of Carrier.

**ITEM 20 Nominations**

All Shippers desiring to Tender Ethylene for transportation on Carrier's facilities shall furnish a written nomination to Carrier by the twenty-fifth (25<sup>th</sup>) day (or the immediately preceding business day, if the twenty-fifth (25<sup>th</sup>) day falls on a weekend or a Carrier holiday) of the month prior to the month Shipper desires transportation. Nominations shall specify the quantity of Ethylene to be transported, the Origin of the Ethylene, the Destination of the Ethylene, and any other information required by Carrier and in any such format requested by Carrier. If Shipper does not furnish such written nomination on time, Carrier shall be under no obligation to accept such Ethylene for transportation.

Nominations shall be transmitted to Carrier to the attention of BLM Scheduling, Boardwalk Louisiana Midstream, LLC as follows:

- (a) by facsimile to: (713) 479-1963, or
- (b) by electronic mail to: blmnoms@bwpmlp.com

Shipper nominations are to be made on a ratable basis. Shipper shall be responsible for nominating specific Origins, Destinations and volumes to manage Shipper's transportation costs. If Shipper fails to nominate transportation with sufficient specificity, Carrier shall have the right to (i) reject the nomination, or (ii) accept the nomination and manage said Shipper's transportation in a manner that is operationally and commercially beneficial to Carrier, in its sole judgment.

**ITEM 25 Minimum Batch at Origin**

Ethylene will be accepted for transportation at the Point of Origin in quantities of not less than five hundred thousand (500,000) pounds per month from one Shipper of quality and Specifications as described herein.

**ITEM 30 Origin and Destination Facilities**

Ethylene will be accepted for transportation only when Shipper has provided equipment and facilities at both the Point of Origin and the Point of Destination that comply with design requirements necessary to protect the safety, security, integrity and efficient operation of Carrier's facilities. Shipper's pumping pressures and rates must meet Carrier's requirements. Carrier may require satisfactory evidence that the

necessary facilities are available at the Point of Origin and Point of Destination before Carrier is obligated to accept Tenders for transportation.

If the facilities provided by Shipper fail to meet any or all of Carrier's requirements, Carrier may refuse to commence service or, if service has already commenced, may discontinue service to or from such facility until all requirements have been met; provided, however, Carrier may continue service to a facility not in compliance with this Item 30 to avoid disruption of its pipeline system or to avoid any other unsafe condition. Any decision to make or continue a delivery shall not be construed as a waiver by Carrier of Shipper's breach of this Item and shall not affect Shipper's obligations pursuant to this Tariff. In addition, Carrier's acceptance and delivery of Ethylene to any facility provided by Shipper shall not be construed as evidence of Carrier's approval of the adequacy of the facilities or the competency of Shipper's personnel, and responsibility for such facilities and Shipper's personnel shall be exclusively that of Shipper.

**ITEM 35 Measurement**

Mass measurement procedures are employed for measurement of Ethylene on Carrier's facilities, and mass measurement is accomplished utilizing differential pressure, flowing pressure, and flowing temperature with density determination as required by the Measurement Procedures or applicable contractual document as set forth below. The mass measurement procedures used will be those set forth in the Measurement Procedures, unless there are specific measurement procedures included as part of a pipeage contract or connection agreement between Carrier and Shipper; in which case, the measurement procedures included in the pipeage contract or connection agreement will be used. In the event of a conflict between the provisions of the Measurement Procedures and this Tariff or any Connection Agreement, this Tariff shall govern to the extent of the conflict.

**ITEM 40 Overages and Shortages**

Except as otherwise provided herein, Carrier shall deliver to each shipper one hundred percent (100%) of Ethylene received. Subject to the provisions of Item 75, Carrier shall retain or be responsible for, as applicable, all overages and shortages due to ordinary measurement inaccuracies in accordance with the Measurement Procedures. Losses or gains exceeding those resulting from ordinary measurement inaccuracies will be accounted for in accordance with the Measurement Procedures or Item 75, as applicable.

**ITEM 45 Identity of Ethylene**

Ethylene will be accepted for transportation only on condition that the Ethylene shall be intermixed with Ethylene delivered by other shippers and shall be subject to such changes in quality while in transit as may result from the mixture of such Ethylene with other Ethylene in the lines of Carrier. Accordingly, Carrier reserves the right at any time to substitute and deliver other Ethylene to Shipper, and Carrier's only obligation will be to deliver, to Shipper or Consignee, Ethylene meeting the Specifications. To enhance flow on Carrier's system, or to protect Carrier's system, Carrier may take actions that affect the quality of Ethylene in Carrier's pipeline (including injection of substances, such as corrosive inhibitor or odorant compounds).

**ITEM 50 Ethylene Involved in Litigation**

When any Ethylene Tendered for transportation is involved in litigation, disputed ownership or encumbrance by lien or charge of any kind, Shipper shall so advise Carrier in writing. Carrier may refuse to accept such Ethylene or may require that Shipper(s) provide an indemnity bond or other form of financial undertaking to protect Carrier against any and all loss.

**ITEM 55 Delivery at Destination & Demurrage**

Upon arrival at the Point of Destination, the Ethylene will be delivered to pipelines of Shipper or Consignee, through the facilities provided by Shipper or Consignee. If Carrier has accepted Ethylene for transportation in reliance upon Shipper's representations as to acceptance at Destination, and Shipper fails to promptly accept such Ethylene at Destination as provided in this Tariff, then and in such event Carrier shall have the right, to divert, consign, or make whatever arrangements for disposition of the Ethylene that Carrier deems appropriate to clear its pipeline facilities, including the right to sell, for the account of Shipper, the Ethylene at private or public sale. Carrier may pay itself all applicable transportation charges and other necessary expenses for caring for and maintaining the Ethylene and the balance shall be held for whosoever may be lawfully entitled thereto.

**ITEM 60 Rates and Terms Applicable: Receipt Based System**

Ethylene transported shall be subject to the rate in effect on the date the Ethylene is received by Carrier for transportation. Likewise, the terms and conditions of service which govern the transportation of Ethylene shall be those terms and conditions of service in effect on the date the Ethylene is received by Carrier for transportation.

Carrier may elect each year to adjust its Tariff transportation rates, included herein, utilizing the Federal Energy Regulatory Commission's ("FERC") indexation methodology as described in 18 C.F.R. §342.3.

**ITEM 65 Payment of Transportation and Other Charges**

Transportation charges will be computed and collected at the applicable rate on the quantity of Ethylene Tendered by Shipper, as determined pursuant to this Tariff.

Shipper shall be invoiced monthly for the preceding month's transportation charges. Payment of such invoice is due within ten (10) days of the date of the invoice. If charges are not paid by the due date determined by this Item, Carrier shall have the right to assess finance charges on the entire past due balance (including principal and accumulated but unpaid finance charges) until paid in full, at a rate equal to one hundred twenty-five percent (125%) of the prime rate of interest as reported by Citibank N.A. of New York, New York on ninety-day (90-day) loans to substantial and responsible commercial borrowers as of the first of the month in which the charges are due or at the maximum finance rate allowed by applicable law, whichever is less.

Shipper shall be responsible for all charges applicable to the particular shipment and, if required by Carrier (pursuant to Item 100), shall prepay all charges or furnish guaranty of payment satisfactory to Carrier. Carrier shall have a security interest in all Ethylene accepted from Shipper under this Tariff. This security interest shall secure: (i) all transportation and any other charges due or to become due from Shipper under the terms of this Tariff; and (ii) all costs and expenses of Carrier in exercising any of its rights pursuant to



this Tariff, including, but not limited to, attorney fees and court expenses, storage charges, and settlement of conflicting liens. The security interest provided herein shall be in addition to any lien provided by statute or common law.

In the event Shipper fails to satisfy when due any obligation to Carrier, including without limitation making timely payments of any amounts due or prepaying charges or furnishing guaranty of payment satisfactory to Carrier as may be required by this Item 65 or Item 100, Carrier shall have all of the rights and remedies accorded a secured party under the applicable law and in addition may take any or all of the following actions: (i) refuse to deliver Ethylene in its custody until all such obligations have been paid; (ii) suspend or terminate any agreements between Shipper and Carrier providing Volume Incentive Ship or Pay Program service pursuant to Item 105 or volume commitment programs pursuant to Item 110; (iii) sell the Ethylene, in accordance with the applicable provisions of State law, and apply the proceeds to such obligations; (iv) store the Ethylene or contract for storage of such Ethylene pending sale or other disposition; and/or (v) take any other action Carrier deems necessary for the proper protection and sale of the Ethylene. Shipper shall be liable for all expenses (including attorney fees and court expenses) incurred by Carrier in taking any of these actions.

**ITEM 70 Apportionment When Nominations are in Excess of Facilities (Based on Historicals)**

Carrier will prorate the capacity of its system, or a portion of its system, during any month when it determines, based upon the nominations properly submitted by Shippers, that the total volume nominated by all Shippers for shipment on Carrier's system, or portion thereof, during that month exceeds the capacity of the system or portion thereof, whether due to total nominations, force majeure, maintenance, or otherwise. The available capacity, as prorated, whether the entire system or a portion thereof, is called the "Prorated Capacity" herein.

Ten percent (10%) of Prorated Capacity shall be set aside for Regular Shippers and New Shippers. The remaining Prorated Capacity will then be allocated to Committed Shippers as follows:

Each Committed Shipper's Allocated Volume will equal a fraction, the numerator of which will be the lesser of: (i) the volume of ethylene that the Committed Shipper nominated for the month in accordance with Item 20; and (ii) the Committed Volume for which the Committed Shipper has paid the applicable rate pursuant to Item Nos. 105 or 110 ("Numerator Calculation"), and the denominator of which will be the sum of the Numerator Calculations for all Committed Shippers. The resulting fraction is multiplied by the total Prorated Capacity to determine the Committed Shipper's Allocated Volume.

All Prorated Capacity remaining after allocation to Committed Shippers is complete will be allocated as follows:

The Prorated volume allocated to each Regular Shipper that is not a Committed Shipper will equal a fraction, the numerator of which is the total shipments by that Shipper on Carrier's system using the latest twelve (12) month period, and the denominator of which is the total shipments during such twelve (12) month period by all Regular Shippers. The resulting fraction is multiplied by the total remaining Prorated Capacity available to all Regular Shippers during that month.

**Availability of Prorated Capacity to New Shippers:** Not more than five percent (5%) of the total available Prorated Capacity of Carrier's system or portion thereof shall be made available to New Shippers.

**Allocation to each New Shipper.** Each New Shipper shall be allocated a volume of the available Prorated Capacity to all New Shippers which is equal to the lesser of:

- (a) five percent (5%) of the total available Prorated Capacity of Carrier's system or portion thereof divided by the number of New Shippers who nominated volumes for shipment on the system or portion thereof during the month for which the allocation is being calculated; or
- (b) 1.25 percent (one-fourth of 5%) of the available Prorated Capacity of the system or portion thereof for that month.

If any Shipper Tenders a volume of Ethylene greater or equal to ninety-five percent (95%) of its Allocated Volume, the Shipper shall be invoiced based on its Tendered volumes, in accordance with Item 65, subject to penalties for over Tenders, as set forth below. If a Shipper Tenders a volume of Ethylene less than ninety-five percent (95%) of its Allocated Volume, the Shipper shall be invoiced for ninety-five percent (95%) of the Shipper's Allocated Volume for the month times the applicable Transportation Rate pursuant to this Item 70. If any Shipper Tenders a volume of Ethylene greater than one hundred percent (100%) of its Allocated Volume, the Shipper shall be invoiced based on its Tendered volumes, in accordance with Item 65, plus an over-Tender penalty of five percent (5%) of the applicable rate per pound of ethylene Tendered in excess of one hundred percent (100%) of Shipper's Allocated Volume.

#### **ITEM 75 Liability of Parties**

As a condition to Carrier's acceptance of Ethylene under this Tariff, each Shipper agrees to hold harmless, indemnify and defend Carrier against claims or actions for injury and/or death of any and all persons and for damage to property of Carrier, Shipper, Consignee and/or any third party resulting from or arising out of (i) any breach of or failure to adhere to any provision of this Tariff by Shipper, Consignee, and their agents, employees or representatives; and/or (ii) the negligent act(s) or failure(s) to act of Shipper, Consignee, and their agents, employees or representatives in connection with delivery or receipt of Ethylene.

Carrier, while in possession of Ethylene herein described, shall not be liable for any loss (greater than ordinary measurement inaccuracies in accordance with Item 40), damage, or delay caused by act of God, war, natural disasters (including, but not limited to, epidemics, landslides, lightning, earthquakes, fires, storms, floods, hurricanes or storms named by the U.S. National Hurricane Center), act of public enemy, terrorism, quarantine, the authority of law, strikes, lockouts of employees, explosions, breakage or accident to machinery or pipe, riots, civil disorder, requisition or necessity of the Government of the United States or any other governmental authority, default of Shipper, Consignee, their agents, employees or representatives, or from any cause not within the sole control of Carrier. If there is a strike or lockout, Carrier is not required to resolve the labor dispute by acceding to the demands of employees if this is inadvisable in the sole discretion of Carrier.

In case of loss (greater than ordinary measurement inaccuracies in accordance with Item 40) of any Ethylene from any such causes after the Ethylene has been received by Carrier for transportation and before the Ethylene has been delivered by Carrier to Shipper, such loss will be charged proportionally to each Shipper in the ratio that the Shipper's Ethylene, or portion thereof, received and undelivered at the time the loss occurs, bears to the total of all Ethylene then in the custody of Carrier for transportation via the

lines or other facilities in which the loss occurs. Carrier will be obligated to deliver only that portion of such Ethylene remaining after deducting Shipper's proportion of such loss determined in accordance with this Tariff and transportation charges will be assessed only on the quantity delivered.

For Ethylene losses for which Carrier is liable, Carrier may obtain and deliver to Shipper other Ethylene meeting the Specifications, but Carrier shall not be obligated to do so. In the alternative, Carrier may compensate Shipper for such loss in United States currency at market price as quoted in an industry-accepted price service selected by Carrier for Choctaw, Louisiana.

Carrier shall not be liable for any cost, expense, damage or liability arising out of or related to (i) discoloration, contamination or deterioration that occurs while Ethylene is in the custody of Carrier, (ii) untimely delivery of Ethylene by Carrier, or (iii) other actions by Carrier including, but not limited to, Carrier's actions in apportioning service, terminating operations on all or a portion of its pipeline system, and refusing to accept Shipper's Ethylene due to non-compliance with the quality specifications. This exclusion of liability shall not apply if negligent conduct by Carrier is determined to be the sole, proximate cause of the cost, expense, damage or liability incurred by Shipper as a result of Carrier's sole negligence.

Without limiting any other rights of Carrier hereunder, for all services provided for and received under this Tariff, Shipper will indemnify and defend Carrier from any claims, liabilities, and losses (including costs of defense and attorney fees and court expenses and other fees), including claims for personal injury, death, or property damage involving Carrier, Shipper, Consignee, or third parties based on or arising out of Carrier's performance of such services where such services are performed in accordance with applicable Federal, State, or local statutes, regulations or ordinances. This indemnification shall include but not be limited to services such as the provision of emergency response numbers and shall include claims of any nature, legal or equitable, whether based on strict liability, negligence, breach of warranty, or any other causes of action. This indemnification obligation shall not apply if Carrier's negligence is the sole, proximate cause of the pertinent claims, liabilities or losses.

Carrier operates under this Tariff solely as a provider of transportation services and not as an owner, manufacturer or seller of Ethylene transported by Carrier pursuant to this Tariff, and notwithstanding the "Applicable Law" section of this Tariff, Carrier expressly disclaims any liability for any express or implied warranty for Ethylene transported hereunder including any warranties of merchantability or fitness for intended use.

Notwithstanding the "Applicable Law" section of this Tariff, Carrier shall not be liable to Shipper or Shipper's customers, agents, employees or representatives for any special, incidental, consequential, punitive, exemplary or indirect damages (including lost profits or other business interruption damages) by statute, in tort or contract, under any indemnity provision or otherwise, or similar damages.

#### **ITEM 80      Claims, Time for Filing**

Claims for loss or damage must be made in writing with Carrier within nine (9) months after delivery of the Ethylene, or in case of an alleged failure by Carrier to make delivery, then within nine (9) months after a reasonable time for delivery has elapsed. Suits for loss or damage shall be instituted only within two (2) years and one (1) day after delivery of the Ethylene, or in the case of an alleged failure to make delivery, within two (2) years and one (1) day after a reasonable time for delivery has elapsed. If a claim has been duly filed with Carrier, suit must be brought within two (2) years and one (1) day after notice in writing is

given by Carrier to the claimant that Carrier has disallowed the claim for any part or parts thereof specified in the notice. Where claims for loss or damage are not filed or suits are not instituted thereon in accordance with this Tariff, the claims will not be paid and Carrier shall have no liability associated directly or indirectly with the claims.

**ITEM 85 Pipeage Contracts Required**

Separate contracts, in accordance with this Tariff, covering facilities rights of way, actual connection to Carrier, VIPs or new facilities volume commitments and other details, may be required by Carrier before any duty for transportation shall arise.

**ITEM 90 Tax Registration**

Shipper represents to Carrier that Shipper and its Consignee hold valid proof of registration with, or tax exemption from, the appropriate Federal and/or State tax authorities related to the collection and payment of excise tax or other similar taxes, levies or assessments and will furnish such proof upon request. Shipper will be responsible to reimburse Carrier for any taxes, levies or assessments, plus the cost of collection and related expenses (including attorney fees), if they should be imposed against Carrier with respect to any shipment of Shipper or the services provided under this Tariff to Shipper.

**ITEM 95 Applicable Law**

This Tariff shall be governed by and construed pursuant to the Interstate Commerce Commission Termination Act of 1995 and the applicable regulatory authority of the S.T.B.

**ITEM 100 Credit-worthiness of Shippers**

All prospective Shippers must submit sufficient financial information to establish credit-worthiness. If a prospective Shipper is not credit-worthy, Carrier may require prepayment of transportation charges, a letter of credit from an appropriate financial institution in a form acceptable to Carrier or another form or credit assurance satisfactory to Carrier. Shippers shall periodically provide to Carrier that financial information or security deemed necessary by Carrier to support any credit extension. If Shipper's credit deteriorates or becomes unsatisfactory to Carrier, in the sole judgment of Carrier, advance cash payment or security satisfactory to Carrier shall be given by Shipper on demand of Carrier and deliveries may be withheld until such payment of security received.

This is in addition to, and does not limit, Carrier's right to prepayment or furnishing of guaranty of payment under Item 65.

**ITEM 105 Take or Pay Volume Incentive Programs**

Carrier offers Volume Incentive Ship or Pay Program(s) ("VIP") to Shippers willing to commit certain minimum volumes for transportation on Carrier's facilities for an extended term, consisting of a minimum term of one (1) year, or pay the applicable rate for volumes not transported under the minimum required by the VIP.

Shippers desiring to participate in a VIP must provide written notification and request to Carrier. Additionally, Shippers must enter a separate volume commitment agreement with Carrier (outlining the extended term and other details) prior to participation in any VIP.

**ITEM 110 New Facilities Commitment Programs**

In the event Carrier constructs new facilities to provide service to Shipper(s), in lieu of Shipper(s) reimbursing Carrier for such new facilities, Carrier may offer volume commitment or revenue guarantee programs to Shippers. Such volume commitment or revenue guarantee programs will require Shippers to either (i) commit certain minimum volumes for transportation for a minimum term at agreed upon rates (which rates may be lower or higher than the Transportation Rates in Table 1) on Carrier's facilities or pay the applicable rate for volumes not transported under the minimum required by the volume commitment; or (ii) guarantee certain minimum revenues to Carrier for an extended term.