



December 10, 2021

Ms. Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

ANR Pipeline Company
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Sorana Linder
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Re: ANR Pipeline Company
Change in FERC Gas Tariff
Docket No. RP22-_____-000

Dear Ms. Bose:

Pursuant to Section 4 of the Natural Gas Act (“NGA”) and Part 154 of the Federal Energy Regulatory Commission’s (“FERC” or “Commission”) regulations,¹ ANR Pipeline Company (“ANR”) submits for filing revised tariff sections² to be part of ANR’s FERC Gas Tariff, Third Revised Volume No. 1 (“Tariff”). ANR is proposing to update its creditworthiness provisions and make general housekeeping edits within its Tariff, as further described below. ANR respectfully requests that the Commission accept the revised tariff sections, included herein as in Appendix A, to become effective January 10, 2022.

Correspondence

The names, titles and mailing address of the persons to whom correspondence and communications concerning this filing should be directed are as follows:

¹ 18 C.F.R. Part 154 (2021).

² Specifically, Section 6.2.1 General Terms and Conditions (“GT&C”), Requests (“Section 6.2.1”); Section 6.2.3 GT&C, Subsequent Information (“Section 6.2.3”); Section 6.17 GT&C, Billing and Payment (“Section 6.17”); Section 6.18.5 GT&C, Creditworthiness (“Section 6.18.5”); Section 6.21.1.7 GT&C, Required Information for the Release of Capacity (Section 6.21.1.7”); Section 6.21.2 GT&C, Execution of Capacity Release Agreements (“Section 6.21.2”); and Section 6.21.5 GT&C, Transporter’s Right to Suspend or Terminate a Capacity Release (“Section 6.21.5”).

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Statement of Nature, Reasons and Basis for Filing

Overview

ANR is proposing to update and restructure the creditworthiness provisions in Sections 6.2.3 and 6.18.5 of its Tariff and to make other credit-related modifications as further described below. The proposed revisions will mutually serve both ANR and its Shippers through the implementation of clear and concise creditworthiness requirements that will assist in streamlining the evaluation of creditworthiness for a new and existing Shippers. Further, ANR's proposed changes are consistent with the Commission's June 16, 2005 *Policy Statement on Creditworthiness Issues for Interstate Natural Gas Pipelines and Order Withdrawing Rulemaking Proceeding* issued under Docket Nos. PL05-8-000 and RM04-4-000 ("Creditworthiness Policy Statement").³

As discussed below, the proposed creditworthiness modifications: 1) establish a creditworthiness standard of an unenhanced senior unsecured debt rating of either BBB- by S&P Global Market Intelligence LLC ("S&P") or Baa3 by Moody's Investors Service, Inc. ("Moody's"); 2) modify and streamline ANR's creditworthiness evaluation for any requested service, regardless of whether the request is from a potential or existing Shipper, and clearly set forth other information ANR may consider in making its creditworthiness determination; 3) update financial assurance descriptions and requirements and present such requirements for all services in an organized table format; 4) include a provision for the value of loaned and imbalance gas; 5) add collateral requirements for lateral facility construction projects; 6) update and clarify the notice provisions

³ *Policy Statement on Creditworthiness Issues for Interstate Natural Gas Pipelines and Order Withdrawing Rulemaking Proceeding*, 111 FERC ¶ 61,412 (2005).

for a shipper's failure to meet creditworthiness; and 7) relocate, clarify and/or modify certain provisions and references affected by the foregoing creditworthiness proposal.

ANR respectfully requests that the Commission accept the tariff sections included herein as Appendix A to become effective January 10, 2022.

Section 6.18.5 – Creditworthiness

ANR's current creditworthiness requirements are primarily set forth in Section 6.18.5 with a related credit evaluation provision included in Section 6.2.3. In the instant filing, ANR proposes to replace the language within Section 6.18.5 with the following five new subsections: (A) Creditworthiness Evaluation; (B) Failure to Establish or Maintain Creditworthiness; (C) Loaned/Imbalance Gas Owed to Transporter; (D) Collateral Requirements for Lateral Facilities and/or Expansion Capacity; and (E) Notification of Failure to Meet Creditworthiness. In doing so, the creditworthiness evaluation provision currently included in Section 6.2.3(a) is being incorporated, as revised, into newly proposed Section 6.18.5(A) Creditworthiness Evaluation. Each proposed subsection is described in greater detail below.

(A) Creditworthiness Evaluation

Consistent with the Creditworthiness Policy Statement, which reaffirms the Commission's policy that "*...pipelines must establish and use objective criteria for determining creditworthiness*,"⁴ ANR proposes to establish clear and objective standard for determining a shipper's creditworthiness within subparagraph (2)(a) of Section 6.18.5(A) based upon a minimum investment grade rating of a Shipper's unenhanced senior unsecured debt of BBB- by S&P or Baa3 by Moody's.⁵ In the event a split rating occurs between the rating agencies, ANR will rely upon the lower of the ratings. The use of S&P and Moody's ratings has been consistently approved by the Commission in other pipeline tariffs.⁶

⁴ Creditworthiness Policy Statement, P 10.

⁵ *Destin Pipeline, L.L.C.*, 177 FERC ¶ 61,126 at P 14 (2021) (finding a protest concerning the use of the lower of the two credit agencies' ratings to be without merit since the Commission has provided pipelines with discretion to use the criteria they feel are most appropriate in their particular circumstances and the pipeline provided an objective criterion as required by the Commission's Policy Statement).

⁶ *ANR Storage Company*, FERC Gas Tariff First revised Volume No. 1, Section 6.11.5 GT&C, Creditworthiness; *Vector Pipeline L.P.*, FERC Gas Tariff First Revised Volume No. 1, Original Sheet No. 156 – Creditworthiness;

If a Shipper does not meet the objective creditworthiness standard proposed in Section 6.18.5(A)(2)(a), or if ANR determines that further evaluation is required, proposed subparagraph 2(b) of Section 6.18.5(A) provides ANR the ability to further evaluate a Shipper's creditworthiness based upon additional information deemed relevant by ANR to its determination. ANR proposes to list the seven factors⁷ that it may use in its further evaluation, as set forth in subparagraph (2)(b)(i) – (vii),⁸ which also incorporates certain evaluation provisions similar to those currently included in Section 6.2.3(a). The proposed evaluation flexibility provisions are applicable to any requested service, regardless of whether the request is from a potential or existing Shipper. The key element to this overall flexibility is the evaluation of creditworthiness whereby ANR shall apply “...consistent evaluation practices to all similarly situated Shippers...” that are “...based upon the level of Shipper's current and requested service(s) with [ANR] relative to Shipper's current and future ability to meet its obligations.” The ability for such further evaluation and determination of creditworthiness is consistent with the Creditworthiness Policy Statement⁹ as well as other FERC orders.¹⁰

Northern Natural Gas Company, FERC Gas Tariff Sixth Revised Volume No. 1, Original Sheet No. 284 – Section 46 (Credit Worthiness); *Alliance Pipeline L.P.*, FERC Gas Tariff Volume No. 1, Substitute Original Sheet No. 239 – Section 22.1 Credit Requirements; *Cameron Interstate Pipeline, LLC*, FERC Gas Tariff First Revised Volume No. 1, Section 8.2.5 – Creditworthiness; *Carolina Gas Transmission Corporation*, FERC Gas Tariff First Revised Volume No. 1, Section 3.2 – Creditworthiness Determination; and *Transwestern Pipeline Company, LLC*, FERC NGA Gas Tariff Fourth Revised Volume No. 1, Section 13 – Creditworthiness.

⁷ *Great Lakes Gas Transmission Limited Partnership*, 108 FERC ¶ 61,308 at P 12, *order directing compliance*, 107 FERC ¶ 61,309, at P 11 (2004) (clarifying that the requirement for a pipeline to use objective criteria “does not impose restrictions on its ability to evaluate all factors relevant to a shipper's creditworthiness.”); *see also Gulf S. Pipeline Co.*, 107 FERC ¶ 61,273, at P 13 (2004) (discussing relevant factors that a pipeline can take into account in evaluating whether a shipper should be deemed creditworthy, should an LDC fail to meet stated credit rating requirements).

⁸ The seven factors are summarized as follows: 1) S&P, Moody's or other credit reporting agencies' information; 2) Shipper's financial reports; 3) whether Shipper is operating under any chapter of the bankruptcy laws; 4) whether Shipper is subject to any lawsuits or outstanding judgments; 5) the nature of Shipper's business and the effect on that business of economic conditions; 6) whether Shipper has had any delinquent balances outstanding for services provided by ANR; and 7) any other information relevant to Shipper's current and future financial strength.

⁹ The Creditworthiness Policy Statement at P. 10 (stating that although the Commission's policy requires pipelines to “...establish and use objective criteria...” for determining a Shipper's creditworthiness, it recognizes that there “...may not be a defined set of criteria for evaluating the circumstances facing each Shipper, and that pipelines need to take into account the individual circumstances and complexities of different Shipper relationships in making their determinations.”).

¹⁰ In recent orders, the Commission has approved a range of criteria for determining creditworthiness which it considers clear and objective, while allowing a service provider to exercise discretion in its determination. *See, e.g. ANR Storage Company*, 173 FERC ¶ 61,068 at P 11 (2020); *Gulf South Pipeline Co.*, 107 FERC ¶ 61,273 at P 20 (2004); *Tennessee Gas Pipeline Co.*, 103 FERC ¶ 61,275; *Great Lakes Gas Transmission Limited Partnership*, 108 FERC ¶ 61,308 at P 12 (2004); *Gas Transmission Northwest LLC*, Docket No. RP12-980-000 (September 21, 2012) (unpublished Director's letter order) and *Portland Natural Gas Transmission System*, 146 FERC ¶ 61,243 (2014).

(B) Failure to Establish or Maintain Creditworthiness

Proposed Section 6.18.5(B) sets forth the financial assurance arrangements a Shipper who fails to establish or maintain creditworthiness may provide to receive or continue service. Specifically, such Shipper may provide a guarantee, cash security deposit, irrevocable letter of credit, or any other financial assurance agreed upon by ANR and the Shipper. The requirement for each type of financial assurance is summarized in the Financial Assurance Requirement Table in proposed Section 6.18.5(B)(3) (“Financial Assurance Requirement Table”).

As discussed below, proposed Section 6.18.5(B) updates the description and associated elements of acceptable financial assurances, reflects the Creditworthiness Policy Statement regarding the provision of interest on cash collateral, addresses the return of Shipper’s financial assurance, and delineates a guarantee financial assurance from a collateral financial assurance (*i.e.*, letter of credit, cash security deposit).

The Commission’s policy regarding collateral “...permit(s) pipelines to require shippers that fail to meet the pipeline’s creditworthiness requirements for pipeline service to put up collateral equal to three months’ worth of reservation charges.”¹¹ Thus, the proposed Financial Assurance Requirement Table appropriately reflects the Commission’s collateral policy for existing capacity. The Commission has also held that “[a] guarantee by a parent or third party of the contractual obligation of a shipper is an alternative to the provision of collateral... the guarantee is in lieu of providing the collateral. Thus, ANR is correct that it can require that the guarantee cover the full extent of the shipper’s obligation.”¹² This policy has been reiterated in other creditworthiness orders.¹³ Therefore, as set forth in the proposed Financial Assurance Requirement Table, the Commission’s policy regarding guarantees is appropriately reflected as non-discounted

¹¹ Creditworthiness Policy Statement at P 11.

¹² *PG&E Gas Transmission, Northwest Corporation*, 105 FERC ¶ 61,382 (2003) at P 80.

¹³ See *Texas Gas Transmission, LLC*, 135 FERC ¶ 61,132 (2011) at P 35 (explaining that “...in the case of a guarantee, the parent or third party is guaranteeing that in the event of a default by the shipper, the guarantor will pay the applicable charges, not just the collateral.”); *Portland Natural Gas Transmission System*, 146 FERC ¶ 61,243 (2014) at P 22 (stating that “Commission policy permits the guarantee to cover the full contractual obligations of the shipper, as they become due, for the life of the contract.”).

contractual obligation.¹⁴ The following describes each financial assurance, as enhanced, and their related requirements set forth in proposed Section 6.18.5(B)(1):

- Guarantee. ANR proposes to clearly articulate the requirements of a guarantee in part (i) from the current provision which states “*a guarantee acceptable to Transporter*” to a guarantee “*in a form satisfactory and acceptable to Transporter and for the term of the Agreement.*”¹⁵ The requirements for a guarantee are set forth in Column A of the Financial Assurance Requirement Table.
- Cash Security Deposit. Currently, Section 6.18.5, provides that a Shipper who fails to demonstrate creditworthiness may continue receiving service, if such Shipper “*deposits with Transporter and maintains, on account, an amount which would be due for three (3) Months service....*” As proposed, this provision is now more appropriately characterized as a “Cash Security Deposit” in part (ii) of Section 6.18.5(B)(1), with the amount required listed in Column B of the Financial Assurance Requirement Table. In accordance with the Creditworthiness Policy Statement, ANR has added language within Section 6.18.5(B)(1)(ii) stating that ANR will pay interest on cash security deposits.¹⁶
- Letter of Credit (“LC”). In proposed Section 6.18.5(B)(1)(iii), the LC option is updated to provide that an LC must be in a form acceptable to ANR and issued by a bank or financial institution deemed acceptable by ANR. Similar

¹⁴ *Portland Natural Gas Transmission System*, 146 FERC ¶ 61,026 (2014) at P 25 (explaining that “In providing a guarantee, a guarantor provides no funds to the pipeline, it merely undertakes the obligation to continue the same stream of payments owed by the original shipper. Because other factors, such as mitigation, affect the current value of a guarantee, and the value of guarantee is determined through litigation, a tariff provision determining the present value of the guarantee is confusing and unnecessary.”).

¹⁵ *Portland Natural Gas Transmission System*, 146 FERC ¶ 61,243 (2014) at P 18 (stating, “We find just and reasonable, and consistent with Commission precedent, Portland’s proposal that a guarantee cover ‘the term of the agreement.’ Under Commission policy, providing a guarantee covering payment of all applicable contract charges, when they become due, is an alternative to providing collateral.”).

¹⁶ Creditworthiness Policy Statement at P 22.

provisions have routinely been approved by the Commission.¹⁷ The amount required for this collateral-type of financial assurance is set forth in Column B of the Financial Assurance Requirement Table.

- Other Financial Assurances. Proposed Section 6.18.5(B)(1)(iv) provides for any other financial assurance mutually agreed upon by ANR and the Shipper.

Additionally, ANR proposes in the instant filing to clearly set forth the amount of financial assurance required from a Shipper, where Shipper has failed to establish or maintain creditworthiness, for interruptible and volumetric services offered by ANR.¹⁸ Currently, Section 6.18.5 provides that a Shipper who fails to demonstrate creditworthiness when requested by ANR to do so, may continue to receive service if Shipper deposits an amount which would be due for three (3) months service at the full maximum daily quantity plus an amount equal to the three (3) highest Cashout payments, if any, incurred the previous twelve (12) months. Thus, ANR calculates the amount of financial assurance for such interruptible or volumetric services, excluding IPLS service, based upon a Shipper's historical billing.

The proposed Financial Assurance Requirement Table, however, reflects ANR's current approach by providing for a financial assurance amount applicable to a Shipper's highest monthly bill for interruptible service, excluding IPLS service, over the previous twelve (12) months multiplied by three (3). In addition, the Financial Assurance Requirement Table provides that the initial financial assurance requirement for interruptible service will be based upon a Shipper's anticipated usage for a three (3) month period as determined by the Shipper and ANR.¹⁹ Such initial financial assurance requirement amount will remain in place until such historical billing amounts becomes

¹⁷ See e.g., *Northern Natural Gas Company*, 131 FERC ¶61,041 (2010), *Rockies Express Pipeline LLC*, 121 FERC ¶61,130 (2007); *Gas Transmission Northwest LLC*, Docket No. RP12-980-000 (September 21, 2012) (unpublished Director's letter order) and *Portland Natural Gas Transmission System*, 146 FERC ¶61,243 (2014).

¹⁸ This includes Interruptible Wheeling Service ("IWS"), Interruptible Transportation Service ("ITS" and "ITS-3"), Deferred Delivery Service ("DDS"), Market Balancing Service ("MBS"), Pooling Transportation Service – Interruptible ("PTS-3"), Interruptible Park and Lend Service ("IPLS"), and Small Transportation Service ("STS"), a firm service assessed on a volumetric basis (*i.e.*, only when utilized by the shipper).

¹⁹ See *ANR Storage Company* tariff Section 6.11.5.3 filed on September 18, 2020 in Docket No. RP20-1199-000; *Gas Transmission Northwest LLC* tariff Section 6.18.4.2 filed on August 31, 2012 in Docket No. RP12-980-000 and *Portland Natural Gas Transmission System* ("PNGTS") tariff Section 6.3 filed on February 28, 2014, in Docket No. RP14-556, *et al. GTN*, Docket No. RP12-980-000 (September 21, 2012) (unpublished Director's letter order) and *PNGTS*, 146 FERC ¶61,243 (2014).

available. As for IPLS service, the proposed Financial Assurance Requirement Table provides that IPLS service is based on the lesser of the transaction term or three (3) months value based on transaction quantities multiplied by the rate for such transaction, plus the value of loaned gas as discussed in more detail below.

With respect to Cashout payments due ANR,²⁰ the requirement set forth in the Financial Assurance Requirement Table is reflective of the current creditworthiness tariff provision which provides for an amount equal to the three (3) highest Cashout payments, if any, incurred during the previous twelve (12) Months.

(C) Loaned/Imbalance Gas Owed to Transporter

Proposed Section 6.18.5(C) provides ANR the right to seek a financial assurance for the value of gas loaned by ANR pursuant to IPLS service or for imbalance gas owed to ANR pursuant to an Operational Balancing Agreement (“OBA”). As related to IPLS lending service, the financial assurance amount would be based on the quantity of gas loaned multiplied by the Chicago City Gates price located under the “Monthly Bidweek Spot Gas Prices” as reported in “S&P Global Platts Inside FERC’s Gas Market Report” (or any successor publication thereto) for the month the quantity of gas is loaned. For OBA imbalance gas owed ANR, the financial assurance amount would be based on the largest month end imbalance owed ANR over the previous rolling 12 months valued at the applicable spot price index. If applicable, the initial financial assurance amount would be based on 5% of the maximum monthly design flow, as determined by ANR, for the first three months of service.

The inclusion of loaned or imbalance gas within ANR’s proposed creditworthiness provisions is consistent with Commission precedent, which has indicated “...*that a pipeline’s desire to cover*

²⁰ Monthly Cashout of shippers’ transportation service imbalances pursuant to ANR’s Tariff Section 6.15.

the value of its gas is reasonable”²¹ and is also consistent with tariff provisions previously approved by the Commission for use in other pipeline tariffs.²²

D. Collateral Requirements for Lateral Facilities and/or Expansion Capacity

The Creditworthiness Policy Statement states that “[i]ssues relating to collateral for construction projects should be determined in the precedent agreements at the certificate stage, and collateral requirements for new construction projects should not ordinarily be included in the pipeline’s tariff.”²³ With respect to lateral lines, the Creditworthiness Policy Statement states “...the Commission will allow pipelines to require collateral up to the full cost of the project” and “Because lateral line construction policies are part of a pipeline’s tariff, collateral requirements for such projects should be included in the pipeline’s tariff.”²⁴ In accordance with the Creditworthiness Policy Statement, ANR is proposing in the instant filing the addition of Section 6.18.5(D), which sets forth its collateral requirements for lateral lines consistent with the Creditworthiness Policy Statement. Again, similar collateral requirements have been approved by the Commission for inclusion into other pipeline tariffs.²⁵

²¹ *Creditworthiness Standards for Interstate Natural Gas Pipelines*, 106 FERC ¶ 61,123 (2004) Notice of Proposed Rulemaking at P 32-37 (citing to *Gulf South Pipeline Co., LP*, 103 FERC ¶ 61,129 at P 45-46 (2003) (Gulf South); *North Baja Pipeline, LLC*, 102 FERC ¶ 61,239 at P 11, order on reh’g, 105 FERC ¶ 61,374 at P 36-37 (2003) (North Baja); and *PG&E Gas Transmission, Northwest Corp.*, 103 FERC ¶ 61,137 at P 42-44, order on reh’g, 105 FERC ¶ 61,382 at P 65-70 (2003) (GTN), as examples of the Commission permitting pipelines to impose collateral requirements for borrowed gas through imbalances (Gulf South) or lending services such as park and loan (North Baja and GTN)).

²² *Northern Natural Gas Company*, FERC Gas Tariff Sixth Revised Volume No. 1, Original Sheet No. 285A – Creditworthiness, Interruptible Service Agreement and First Revised Sheet No. 264 – OBA General Terms and Conditions; *Portland Natural Gas Transmission System*, FERC Gas Tariff Third Revised Volume No. 1, Section 6.3 – Credit Requirements for Loaned/Imbalance Gas Owed To Transporter; *Gas Transmission Northwest LLC*, FERC Gas Tariff Fourth Revised Volume No. 1-A, Section 6.18.4.5 – Credit Requirements for Loaned Gas and Section 6.18.4.6 – Credit Requirements for Imbalance Gas Owed to GTN; *Gulf South Pipeline Company, LP*, FERC NGA Gas Tariff seventh Revised Volume No. 1, Section 6.5 – Creditworthiness, Security Requirements; *Texas Gas Transmission*, FERC NGA Gas Tariff Fourth Revised Volume No. 1, Section 6.5 – Creditworthiness, Imbalance & Loaned Gas and *Texas Eastern Transmission, LP*, FERC Gas Tariff Eighth Revised Volume No. 1, Section 3.3(B) – Credit Evaluation.

²³ Creditworthiness Policy Statement at P 18.

²⁴ *Id* at P 20.

²⁵ *Gas Transmission Northwest Corporation*, 106 FERC ¶ 61,320 (2004) at P 20; *North Baja Pipeline, LLC*, Docket No. RP08-118-000 (January 8, 2008) (unpublished Director’s letter order) and *Portland Natural Gas Transmission System*, 146 FERC ¶ 61,243 (2014).

(E). Notification of Failure to Meet Creditworthiness

Current Section 6.18.5 provides that upon notice by ANR of a Shipper's failure to meet ANR's creditworthiness requirements, such Shipper may continue to receive service if within fifteen (15) days such Shipper provides a deposit or good and sufficient security. Section 6.18.5 further provides that if such payment on account or payment security is not received within such fifteen (15) day period, ANR may suspend service for ten (10) days, where after such ten day period, ANR is no longer obligated to continue to provide service to Shipper. As revised, proposed Section 6.18.5(E) affords a Shipper five (5) business days to provide advance payment for one month's service and at least thirty (30) days to provide an acceptable financial assurance, consistent with Commission policy and the Creditworthiness Policy Statement. Proposed Section 6.18.5(E) further established that ANR will provide the Shipper, the Commission and any replacement shipper with thirty (30) days' notice prior to terminating the Shipper's contract.²⁶

Section 6.21.2(a) - Execution of Capacity Release Agreements

The Commission has stated that the financial indifference of the pipeline in capacity release is a reasonable factor to consider in deciding whether to permit permanent capacity release, and that the pipeline must have flexibility in this regard rather than being forced to include in its tariff every extenuating circumstance or condition that would lead the pipeline to determine that it will not be financially indifferent to the release transaction.²⁷ Consistent with the Commission's order in *Texas Eastern*²⁸ as well as subsequent orders,²⁹ ANR is revising Section 6.21.2(a) to state that ANR may refuse to allow a permanent capacity release if it has a reasonable basis to conclude it will not be financially indifferent to the release, and if ANR denies a permanent release of capacity, ANR shall notify Shipper in writing the reason for the denial.

²⁶ Creditworthiness Policy Statement at PP 23–28.

²⁷ *Algonquin Gas Transmission, LLC*, 112 FERC ¶ 61,258 P 12 (2005); *see also Northwest Pipeline Corp.*, 111 FERC P 61,231 at P 23-25 (2005); *El Paso Natural Gas Company*, 61 FERC P 61,333, 62,312 (1992).

²⁸ *See Texas Eastern Transmission Corp.*, 82 FERC ¶ 61,118 (1998), *Order on Reh'g and Clarification*, 83 FERC ¶ 61,092 at 61,446 (1998) (permitting pipeline to refuse to permit a permanent release when the pipeline has a reasonable basis to conclude that it will not be financially indifferent to the release).

²⁹ *See Northwest Pipeline Corp.*, 111 FERC ¶ 61,231 at PP 23-25 (2005); *El Paso Natural Gas Company*, 113 FERC ¶ 61,281 at P 9-10 (2005); *Algonquin Gas Transmission, LLC*, 112 FERC ¶ 61,262 (2005) at P 12.

Other Credit-Related Modifications³⁰

To comport with the proposed revisions discussed above, ANR proposes additional updates and modifications to certain tariff sections, as further discussed below:

Section 6.2.1 Requests – ANR proposes to add language to provide that any request for service shall be subject to the satisfaction of the creditworthiness requirements as provided for in (renamed) Section 6.2.3, Request for Service – Creditworthiness. Furthermore, ANR proposes to remove language with respect to earnest money should there be insufficient capacity to meet all firm transportation requests as it is outdated and unnecessary given that any request for service is subject to the satisfaction of ANR’s creditworthiness requirements.

Section 6.2.3 Request for Service – Creditworthiness (*formerly* “Subsequent Information”) – This section is revised to address creditworthiness requirements related to a request for service. As such, the creditworthiness evaluation provisions currently included in paragraph (a) have been relocated into Section 6.18.5(A)(2)(b) - Creditworthiness Evaluation, as updated therein. As part of a request for service, ANR proposes that any requirement for a financial assurance, pursuant to Section 6.18.5(B), shall be received by ANR within ten (10) Business Days of ANR’s notification to the Shipper, unless otherwise mutually agreed by ANR and Shipper.

Section 6.17 - Billing and Payment – Consistent with Commission’s Creditworthiness Policy Statement concerning suspension of service and termination,³¹ ANR proposes to modify paragraph 2 to provide ANR the specific right to terminate a Shipper’s service agreement if the Shipper fails to make payment within thirty days after notice is provided to both the Commission and the Shipper. Additionally, ANR proposes to add language in GT&C Section 6.17.2 that would allow ANR to remarket capacity that is associated with an Agreement(s) that has been suspended. In the event that ANR suspends service to a Shipper because the Shipper, for example, has ceased making payments under its Agreement(s), ANR is currently unable to remarket the capacity that is subject to the suspension. Rather, ANR must keep the capacity reserved for the Shipper whose service has

³⁰ All section names referenced in this “Other Credit-Related Modifications” reflect the currently effective section names.

³¹ Creditworthiness Policy Statement at PP 23 – 28; *see also El Paso Natural Gas Company*, 114 FERC ¶ 61,305 at PP 262 – 266 (2006) (holding that El Paso’s tariff provides for the required 30-day notification to the shipper and the Commission prior to termination of service and thus, is consistent with Commission policy).

been suspended, even though that Shipper is no longer paying for the capacity and, in accordance with ANR's Tariff, the Shipper is suspended from using the capacity or remarketing it, resulting in the suspended capacity being completely removed from the marketplace.³² Section 6.17 is also updated to conform to the creditworthiness revisions proposed above concerning financial assurances.

Section 6.21.1.7 Required Information for the Release of Capacity – ANR proposes to delete subsections (13) and (14), which are outdated and unnecessary based on current Commission policy and the changes proposed herein to Section 6.18.5. Currently, subsections (13) and (14) provide a Releasing Shipper the option to require bidders or the Replacement Shipper to post a deposit with ANR to guard against frivolous bids or payment defaults. Such provisions are unnecessary as they are duplicative of the creditworthiness requirements in proposed Section 6.18.5, and the Commission's Creditworthiness Policy Statement requires both the releasing and the replacement shipper to satisfy a transporter's creditworthiness requirements.³³ Likewise, ANR also proposes to remove similar language concerning deposits required by the Replacement Shipper currently included in subsection (18).

Section 6.21.5 Transporter's Right to Terminate a Capacity Release (formerly "Transporter's Right to Suspend or Terminate a Capacity Release") – ANR proposes to revise Section 6.21.5 to clarify that a Replacement Shipper's agreement may be terminated under the conditions set forth in proposed Section 6.21.5. In addition to failure to maintain creditworthiness, ANR proposes to include Releasing Shipper's failure to pay invoices as a basis for the termination of a Replacement Shipper's Agreement in Section 6.21.5(a) since either non-compliance event may precipitate termination of Releasing Shipper's Agreement with ANR. Additionally, though ANR may still **terminate** a Replacement Shipper's Agreement for a Releasing Shipper's non-compliance,³⁴ ANR believes that **suspension** of a Replacement Shipper's Agreement under these circumstances is

³² *Rockies Express Pipeline, LLC*, Notice of Filing Taking Effect by Operation of Law, RP21-217-000 (2020).

³³ Creditworthiness Policy Statement at P 30, "Since Order No. 636, the Commission has held that in capacity release situations, both the releasing and replacement shippers must satisfy a pipeline's creditworthiness requirements."

³⁴ Specifically, proposed Section 6.21.5 provides ANR the option to terminate a Replacement Shipper's Agreement when the Releasing Shipper fails to maintain creditworthiness or pay its invoices. However, existing Section 6.21.5(c), which ANR is not proposing to modify in the instant filing, grants the Replacement Shipper the ability to continue service with ANR if Replacement Shippers agrees to pay the lower of 1) the Releasing Shipper's contract rate, the maximum tariff rate for service, or another mutually agreeable rate.

neither equitable nor appropriate when it is the Releasing Shipper that fails to maintain creditworthiness or timely pay invoices.

Effective Date

ANR respectfully requests that the Commission accept the proposed tariff sections, included as Appendix A, to become effective January 10, 2022.

Other Filings Which May Affect This Proceeding

There are no other filings before the Commission that may significantly affect the changes proposed herein.

Contents of Filing

In accordance with Section 154.7 of the Commission's regulations, ANR is submitting the following via its electronic tariff filing:

1. This transmittal letter;
2. Clean tariff sections (Appendix A); and
3. Marked tariff sections (Appendix B).

Certificate of Service

As required by Sections 154.7(b) and 154.208 of the Commission's regulations, a copy of this filing is being served upon all of ANR's existing customers and interested state regulatory agencies. A copy of this letter, together with any attachments, is available during regular business hours for public inspection at ANR's principal place of business.

Pursuant to Section 385.2005 of the Commission's regulations, the undersigned has read this filing and knows its contents, and the contents are true as stated, to the best of her knowledge and belief. Additionally, the undersigned possesses full power and authority to sign such filing.

Any questions regarding this filing may be directed to Jonathan Scullion at (832) 320-5520.

Respectfully submitted,

ANR Pipeline Company

A handwritten signature in black ink, appearing to read 'Sorana Linder', is positioned above a solid black horizontal line.

Sorana Linder
Director – Rates, Tariffs, & Modernization

Enclosures

Appendix A

Clean Tariff Records

ANR Pipeline Company
FERC Gas Tariff, Third Revised Volume No. 1

<u>Tariff Section</u>		<u>Version</u>
6.2.1	GT&C, Requests	v.1.0.0
6.2.3	GT&C, Request for Service – Creditworthiness	v.2.0.0
6.17	GT&C, Billing and Payment	v.4.0.0
6.18.5	GT&C, Creditworthiness	v.1.0.0
6.21.1.7	GT&C, Required Information for the Release of Capacity	v.3.0.0
6.21.2	GT&C, Execution of Capacity Release Agreements	v.1.0.0
6.21.5	GT&C, Transporter’s Right to Terminate a Capacity Release	v.1.0.0

6.2.1 Requests.

To seek to qualify for Transportation Service, a potential Shipper shall submit a request for such service in writing or via Transporter's Internet site to the Transporter. Transporter shall evaluate and respond to such requests as soon as is reasonably possible and shall begin service, if an Agreement is executed, as soon as is reasonably possible, after receipt of such request. Such a request shall be considered acceptable and valid only if 1) the information specified in Section 6.2.2 below is provided in writing or via Transporter's Internet site, but Transporter may waive all or a portion of such information in individual instances, when the information is already in the possession of Transporter and 2) the creditworthiness requirements as specified in Section 6.2.3 are satisfied. Requests for service shall be sent to:

ANR Pipeline Company
700 Louisiana, Suite 1300
Houston, Texas 77002-2700
Attention: Commercial Services

An Agreement will be deemed executed either (1) in writing or (2) by approval by Transporter of the Agreement via GEMStm and the Shipper's nomination on such Agreement, whichever is earlier.

By execution, Shipper will have certified that the Shipper has title to, or the legal right to cause to be delivered to Transporter, for Transportation, the Gas which is to be Transported and owns facilities or contractual rights which will cause such Gas to be delivered to and received from Transporter (or, as appropriate, that the Shipper will have such necessary title or legal right and associated facilities and contractual rights at the time gas is transported by Transporter on Shipper's behalf).

6.2.3 Request for Service - Creditworthiness.

Transporter's acceptance of a request for service is subject to the requesting Shipper satisfying Transporter's creditworthiness requirements set forth in Section 6.18.5. With respect to a request for service pursuant to 6.2.1, any financial assurance required by Transporter pursuant to Section 6.18.5(B) shall be received by Transporter within ten (10) Business Days of Transporter's notification to Shipper, unless otherwise mutually agreed by Transporter and Shipper.

6.17 BILLING AND PAYMENT

1. **Billing.** On or before the ninth (9th) Business Day of each Month, Transporter shall render (for purposes of this Section 6.17 paragraph 1, "render" shall mean either (a) postmarked or (b) time-stamped and electronically transmitted via EDM to the designated site, whichever is applicable) to Shipper a statement of the amount due for the preceding Month under the applicable Rate Schedule(s). Any charges pursuant to the Cashout provisions of Section 6.15 of these General Terms and Conditions shall be billed by a separate statement rendered to Shipper of the amount due Transporter or Shipper on or before the nineteenth (19th) Business Day of each Month for imbalances incurred during the preceding Month. When information necessary for billing purposes is in the control of Shipper, Shipper shall furnish such information to Transporter on or before the third (3rd) Day of the Month.

Both Transporter and Shipper have the right to examine at reasonable times, books, records and charts of the other to the extent necessary to verify the accuracy of any statement, charge or computation made under or pursuant to any of the provisions hereof.

2. **Payment.** Shipper shall pay Transporter the amount due for the preceding Month on or before the tenth (10th) Day after the Date of the invoice. Payments by Shipper to Transporter shall be made in the form of Wire Transfer directed to a bank account designated by Transporter for amounts equal to or greater than \$50,000 such that funds are available on the date payment is due. Payments of amounts less than \$50,000 by Shipper to Transporter shall be made at Shipper's election by either Wire Transfer directed to a bank account designated by Transporter, or by check at Transporter's general office or at such other address as Transporter shall designate such that funds are available on the date payment is due.

Party making payment should submit supporting documentation, party receiving payment should apply payment per supporting documentation provided by the paying party; and if payment differs from the invoiced amount, remittance detail should be provided with the payment except when payment is made by electronic funds transfer (EFT), in which case the remittance detail is due within two business days of the payment due date. Interest on the unpaid portion of the bill shall accrue at the current rate as set forth in Section 154.501(d) of the Commission's Rules and Regulations, from the due date until the date of payment. If Shipper fails to pay Transporter the entire amount due on or before the payment due date, Transporter may suspend service under Shipper's Agreement(s) with five (5) Days' notice to Shipper and shall have the right to seek termination of the Agreement(s). In the event Transporter suspends service under Shipper's Agreement(s), Shipper shall not be responsible for reservation charges during such suspension period. In the event that service to a Shipper is suspended Transporter shall have the right to remarket the capacity that is subject to the suspension on a month-to-month basis with terms not to exceed thirty-

one (31) days (“Interim Capacity Arrangements”). Any capacity sold pursuant to this Section 6.17.2 shall be made available on a nondiscriminatory basis and will be assigned on the basis of a bid period determined pursuant to the open season of the Capacity Release provisions set forth in Section 6.21 of the General Terms and Conditions. Capacity sold pursuant to this Section 6.17.2 shall not have a right of first refusal. If the Shipper whose service has been suspended remedies the deficiency that gave rise to the suspension after the capacity has been remarketed to another Shipper as part of an Interim Capacity Arrangement, service to the Shipper whose service has been suspended will resume on the first day following expiration of the Interim Capacity Arrangement. To the extent Transporter seeks to terminate a Shipper’s Agreement(s), Transporter will provide written notice to Shipper, the Commission, and any Replacement Shipper(s) that has obtained temporary release capacity from Shipper, that if Shipper fails to make payment within thirty (30) days of such notice, Transporter will terminate Shipper’s Agreement(s) and may exercise any other remedy available to Transporter hereunder, at law or equity. However, if Shipper in good faith disputes the amount of any bill or part thereof by providing written notice of its dispute including documentation identifying the basis of the dispute and 1) promptly pays to Transporter the undisputed amount, when due, and 2) on or before the due date of such bill, furnishes to Transporter a financial assurance acceptable to Transporter for the disputed amount, then Transporter shall not be entitled to suspend or terminate service under the Agreement(s) unless and until a default is made in the conditions of the financial assurance; provided further that should Shipper prevail on the dispute, Transporter shall reimburse Shipper up to the reasonable and customary cost of the financial assurance.

3. Adjustment of Billing Errors. Subject to the provisions of Sections 6.12.3, 6.12.4 and 6.14.4 of these General Terms and Conditions, if it shall be found that at any time or times a person has been charged an overrun penalty and Shipper shall have actually paid the invoices containing such penalty, then within thirty (30) Days after the final determination thereof, either Transporter shall refund the amount of any overcharge or Shipper shall pay the amount of any undercharge. In the event an error is discovered in the amount billed in any statement rendered by Transporter, such error shall be adjusted within thirty (30) Days of the determination thereof, provided that claim therefor shall have been made within thirty (30) Days from the date of discovery of such error, but in any event within six (6) Months from the date of such statement, provided, however, that the party harmed by the adjustment shall have up to three (3) Months to dispute such adjustment. The timing of billing claims and adjustments referenced in the previous sentence shall not apply in the case of deliberate omission or misrepresentation or mutual mistake of fact. Parties' other statutory or contractual rights shall not be diminished by this standard. Mutual agreement between parties, legal decisions, and regulatory guidance may be necessary to determine if the event qualifies for an extension of the above time periods. If the parties are unable to agree on the adjustment of any claimed error, any resort by either of the parties to legal

proceedings shall be commenced within fifteen (15) Months after the supposed cause of action is alleged to have arisen, or shall thereafter be forever barred.

4. Refunds: Refunds due Shipper from Transporter pursuant to either the terms and conditions of this Tariff or orders of the Commission shall be paid by Wire Transfer to a bank account established by Shipper if: (a) Shipper has made twelve consecutive Monthly payments to Transporter in the form of Wire Transfer preceding the date of the refund; (b) the amount of the refund, including interest, exceeds \$50,000; and (c) Shipper has designated a bank account for the receipt of refunds by Wire Transfer at least thirty (30) Days prior to the date established for refunds by written communication to Transporter. Refunds of an amount less than \$50,000 will be paid by Transporter to Shipper by check.
5. Prepayment of Reservation Charges. Transporter may, from time to time in a manner not unduly discriminatory, agree to accept a Shipper's prepayment of its Reservation Charges obligation under an existing or new firm Agreement. The amount of the prepayment shall be equivalent to Shipper's unpaid Reservation Charges obligation for the remainder of the term of an existing firm Agreement or the entire term of a new firm Agreement, as applicable. A prepayment received by Transporter or an offer of a prepayment to be made under this section will not be used in the determination of the net present value of a bid during Transporter's evaluation process to award capacity.

The prepayment shall be credited to Shipper's Agreement under the ordinary course of Transporter's billing process. Shipper shall not be allowed to withdraw all or part of its prepayment.

Neither this provision nor any solicitation or negotiation by Transporter under this provision shall obligate Transporter to accept any request for prepayment.

A Shipper's Reservation Charges will be subject to adjustments when Transporter's recourse rates are changed pursuant to NGA section 4 or 5 during the period for which Shipper has prepaid for service and Shipper shall understand that any prepayment does not absolve it of such future adjustments to the recourse rates. For capacity release and posting requirements, the rate to be charged will be the rate specified in the applicable firm Agreement.

Prepayments received by Transporter under this section shall not qualify as cash security deposits for purposes of creditworthiness, nor shall cash security deposits for purposes of creditworthiness be considered as prepayments under this section.

6.18.5 Creditworthiness.

A. Creditworthiness Evaluation.

(1) Transporter shall not be required to commence or continue to provide service under an agreement with any Shipper who fails to establish or maintain creditworthiness.

(2) Determining Creditworthiness

Transporter shall apply consistent evaluation practices to all similarly situated Shippers to determine Shipper's financial ability to satisfy payment obligations due to Transporter over the term of the requested or existing Agreement(s). A creditworthiness evaluation shall be performed in accordance with the following:

(a) Shipper will establish creditworthiness if its unenhanced senior unsecured debt securities are rated investment grade of at least BBB- by S&P Global Market Intelligence LLC ("S&P") or at least Baa3 by Moody's Investors Service, Inc. ("Moody's"); provided however, that in the event a split rating occurs between rating agencies, Transporter will rely upon the lower of the ratings. Nothing herein shall limit Transporter's ability to evaluate any of the factors set forth in Section 6.18.5.(A), paragraph (2)(b)(i)–(vii) below where Shipper's creditworthiness is established by a rating agency if such factor(s) would alter Transporter's evaluation of Shipper. If Shipper has multiple Agreements with Transporter, then the total of potential fees and charges of all such Agreements shall be considered in determining creditworthiness.

(b) If Shipper does not meet the creditworthiness standard described in part (a) above, Transporter shall evaluate creditworthiness based upon the level of Shipper's current and requested service(s) with Transporter relative to Shipper's current and future ability to meet its obligations. Such creditworthiness evaluation shall be based upon any or all of the following requested information in (i) through (vii) below.

- (i) S&P, Moody's and other credit reporting agencies' opinions, outlooks, watch alerts, and rating actions.
- (ii) Financial reports whereby consistent financial statement analysis will be applied by Transporter to determine the acceptability of Shipper's current and future financial strength. Shipper's balance sheets, income statements, cash flow statements, notes to financial statements, and auditor's opinions will be analyzed along with key

ratios and trends regarding liquidity, asset management, debt management, debt coverage, capital structure, operational efficiency and profitability.

- (iii) Whether Shipper is operating under any chapter of the bankruptcy code and is subject to liquidation or debt reduction procedures under state laws and whether there is pending any petition for involuntary bankruptcy. Transporter may give consideration for a Shipper who is a debtor-in-possession operating under Chapter 11 of the United States Bankruptcy Code if Transporter is assured that the service billing will be paid promptly as a cost of administration under the federal court's jurisdiction, based on a court order in effect, and if the Shipper is continuing and continues in the future to make payment.
- (iv) Whether Shipper is subject to any lawsuits or outstanding judgments which could materially impact its ability to remain solvent.
- (v) The nature of Shipper's business and the effect on that business of economic conditions, including Shipper's ability to recover the costs of Transporter's services through filings with regulatory agencies or otherwise to pass on such costs to its customers.
- (vi) Whether Shipper has or has had any delinquent balances outstanding for services provided previously by Transporter and whether Shipper is paying and has paid its account balances according to the terms established in its Agreement(s) (excluding amounts as to which there is a good faith dispute).
- (vii) Any other information, including any information provided by Shipper, that Transporter deems relevant to Shipper's current and future financial strength and Shipper's ability to make full payment over the term of its Agreement(s).

B. Failure to Establish or Maintain Creditworthiness.

- (1) If Shipper fails to establish or maintain creditworthiness as described in Section 6.18.5(A)(2), Shipper has the option of receiving or continuing service under this Tariff by providing and maintaining one of the following financial assurances in accordance with the requirements as set forth in Section 6.18.5.(B)(2) below:

- (i) Guarantee: Shipper may provide a guarantee of financial performance in a form satisfactory and acceptable to Transporter and for the term of the Agreement from a person or entity which meets the creditworthiness standards outlined in Section 6.18.5(A) (guarantor).
 - (ii) Cash Security Deposit: Shipper may provide a cash security deposit for service. Transporter will accrue simple interest on cash security deposits at the applicable monthly "Federal Funds (effective)" rate published in the Federal Reserve Statistical Report H.15. Interest will be paid by Transporter on an annual basis each September 1 or at the time Shipper's deposit is returned.
 - (iii) Letter of Credit: Shipper may post an irrevocable standby letter of credit in a form acceptable to Transporter and issued by a bank or financial institution deemed acceptable by Transporter.
 - (iv) Any other financial assurance mutually agreed upon by Transporter and Shipper. Such other financial assurance shall be accepted on a nondiscriminatory basis and may include, as related to interruptible service, a prepayment equal to an amount defined by Transporter. Such defined balance prepayment will remain in place until Shipper exhausts its prepaid balance by utilizing interruptible transportation service. At the point Shipper's prepayment is exhausted, Transporter may suspend further interruptible service. Shipper will not earn interest on defined balance prepayments.
- (2) Transporter may deny subsequent requests to substitute financial assurances on a not unduly discriminatory basis and will provide Shipper with a written explanation of any denial of a request to substitute financial assurances.

Within five (5) Business Days of Transporter's notification to Shipper that Shipper has returned to creditworthiness in accordance with Section 6.18.5(A)(2) herein, Transporter will return Shipper's financial assurance held by Transporter along with any applicable interest and interest calculation reconciliations.

Upon performance in full of all Shipper's obligations under its Agreement(s), Transporter will return Shipper's financial assurance associated with undisputed invoice amounts within five (5) Business Days of Shipper paying its final invoice. Any remaining financial assurance will be returned after resolving any and all disputed invoice amounts under the expired Agreement(s). In either

case, Transporter will pay applicable interest and provide Shipper final billing reconciliations detailing interest calculations.

(3) Financial Assurance Requirement Table

Service	Column A: Guarantee Requirement	Column B: Cash Security Deposit or Letter of Credit Amount
Firm Service	Shipper's contractual obligation under its firm service Agreements with Transporter	Up to the value of 3 months reservation charges
Interruptible/ Volumetric Service	Shipper's highest monthly bill for interruptible and volumetric based service over the previous rolling twelve (12) months multiplied by three (3). Initial requirement based upon Shipper's anticipated usage for a three (3) month period as determined by Shipper and Transporter	Same as under Column A
Park and Loan Service	The lesser of the transaction term or three (3) months value based on transaction quantities multiplied by the rate for such transaction, plus the value of loaned gas in accordance with Section 6.18.5 (C).	Same as under Column A
Cashout Payments due Transporter	Shipper's three (3) highest Cashout payments due Transporter during the previous rolling twelve (12) months.	Same as under Column A
Imbalance Gas	In accordance with Section 6.18.5(C)	Same as under Column A

(C) Loaned/Imbalance Gas Owed to Transporter.

For lending services under Rate Schedule IPLS, Transporter shall have the right to seek a financial assurance for the value of gas loaned by Transporter. The amount of such financial assurance will be based on the quantity of gas loaned multiplied by the Chicago City Gates price located under the "Monthly Bidweek Spot Gas Prices" as reported in "S&P Global Platts Inside FERC's Gas Market Report" (or any successor publication thereto) for the month the quantity of gas is loaned. Transporter shall have no obligation to lend any quantity of gas beyond the financial assurance amount provided by Shipper to Transporter.

For imbalance gas owed to Transporter pursuant to an Operational Balancing Agreement, Transporter shall have the right to seek a financial assurance to cover the value of imbalance gas owed to Transporter. The financial assurance shall be for an amount equal to the largest month end imbalance owed to Transporter over the previous rolling 12 months multiplied by the applicable Spot Price Index "buy" price (Excess Quantities) pursuant to Section 6.16. Where a historical imbalance record has not been established, any initial financial assurance amount shall be based on 5% of the maximum monthly design flow, as determined by Transporter, multiplied by the applicable Spot Price Index as described herein. The maximum monthly design flow calculation shall be used for the first three months of service in order to establish a month end imbalance historical record.

(D) Collateral Requirements for Lateral Facilities and/or Expansion Capacity.

- (1) Collateral requirements for expansion capacity will be separately identified within Transporter's nondiscriminatory project precedent agreement.
- (2) The amount of collateral (for example, Cash Security Deposit or Letter of Credit) initially required for lateral facilities will be determined by Transporter and may be up to the cost of the facilities to be constructed ("Maximum Allowable Collateral Requirement" or "MACR"). Where new lateral facilities serve multiple Shippers, an individual Shipper's maximum collateral obligation ("Shipper's Maximum Collateral Obligation" or "SMCO") will be for no more than its proportionate share of the MACR. Subsequent to lateral facilities being placed into service, the SMCO shall be reduced in proportion to contract term or as mutually agreed on a not unduly discriminatory basis. Shipper's actual collateral requirement ("Shipper's Actual Collateral Obligation" or "SACO"), may be equal to or less than the SMCO. Unless otherwise provided for, when the SMCO equals the SACO held by Transporter, Transporter shall thereafter return Shipper's collateral on either a monthly basis or as mutually agreed with Shipper, on a not unduly discriminatory basis, consistent with the reduction in SMCO. Transporter is only permitted to recover the cost of lateral facilities once through either transportation rates or, in the event of Shipper default, by means of a financial assurance provided through this provision.

(E) Notification of Failure to Meet Creditworthiness.

Transporter shall have the right, on an ongoing basis, to review Shipper's creditworthiness and acceptability of any financial assurance, and upon Transporter's request, Shipper shall provide within three (3) Business Days, or such later date acceptable to Transporter, information in order to facilitate such review. If Shipper is found by Transporter to be non-creditworthy, Transporter will, upon request, inform Shipper in writing as to the reasons. Upon notification by Transporter of Shipper's non-creditworthiness status, Shipper must, within five (5) Business Days after receipt of such notification, submit advanced payment to Transporter equal to one (1) month of service under Shipper's Agreement(s) to continue service. Shipper must, within thirty (30) days, provide an acceptable financial assurance as set forth in Section 6.18.5(B). For Shippers utilizing lateral facilities or expansion capacity, the financial assurance that must be provided within thirty (30) days shall be in accordance with Section 6.18.5(D). If Shipper fails to provide one of the financial assurances within these time periods, Transporter may suspend service immediately (Shippers are not responsible for reservation charges after service is suspended) and may provide

simultaneous written notice to Shipper, the Commission, and any Replacement Shipper(s) that service will be terminated in thirty (30) days. Transporter also may exercise any other remedy available to it hereunder, at law or in equity.

6.21.1.7 Required Information for the Release of Capacity.

The Releasing Shipper shall submit the following information, objectively stated and applicable to all potential shippers on a non-discriminatory basis, to Transporter via Electronic Communication:

- (1) The Releasing Shipper's legal name, contract number, and the name, title, address and phone and fax number of the individual who will authorize the release of capacity for the Releasing Shipper.
- (2) Whether the capacity is biddable;
- (3) The level of daily firm entitlements that the Releasing Shipper elects to release, expressed as a numeric quantity per Day for transportation, storage injection, storage withdrawal, and a per release quantity for storage capacity and total release period quantity.
- (4) The Primary Route(s) or segment within such Primary Route(s), and quantity to be released for such Primary Route.
- (5) The requested effective date and the term of the release.
- (6) The minimum acceptable period of release and minimum acceptable quantities (if any).
- (7) The Releasing Shipper's maximum reservation rate (including any demand type surcharges, direct bills, or similar mechanisms), any minimum rate requirement, whether bids are to be submitted on a reservation or volumetric basis, and whether the bids should be stated in dollars and cents or percent of the maximum tariff rate for a non-index-based release, or the index-based formula as detailed in the capacity release offer.

If the release is for a term of one (1) year or less and is to take effect on or before one (1) year from the date on which the Transporter is notified of the release, the Reservation Rate, Deliverability Rate, Capacity Rate, Volumetric Rate, percentage of the maximum tariff rate, or the rate resulting from the index-based formula as detailed in the capacity release offer for capacity released and assigned may exceed the Maximum Reservation Rate, Maximum Deliverability Rate, Maximum Capacity Rate, or Volumetric Rate for the service being released.

Payments or other consideration exchanged between the Releasing Shipper and Replacement Shipper in a release to an asset manager as described in Section 6.21.1.9 are not subject to the maximum rate.

- (8) The Releasing Shipper's request (if at all) for Transporter to market actively the capacity to be released.
- (9) The legal name of the Replacement Shipper that is designated in any pre-arranged release ("Pre-arranged Replacement Shipper").
- (10) Whether the capacity is to be released on a recallable basis, and, if so, the terms and conditions of such recall, and whether the Releasing Shipper is authorized to Reput the release if and when it notifies Transporter that the recall is no longer in effect; or whether the capacity is to be released on a permanent basis.
- (11) Whether the capacity to be released is contingent on the release of other capacity, or on certain terms and conditions, and if so, the capacity, terms and/or conditions upon which the release is contingent.
- (12) The terms and conditions under which Releasing Shipper will accept contingent bids, including bids that are contingent upon the Replacement Shipper acquiring transportation on a pipeline interconnected to transporter, the method for evaluating contingent bids, what level of proof is required by the contingent bidder to demonstrate that the contingency did not occur, and for what time period the next highest bidder will be obligated to acquire the capacity if the next winning contingent bidder declines the release.
- (13) Any other reasonable and not unduly discriminatory terms and conditions to accommodate the release, including provisions necessary to evaluate bids and tie breaking criteria, provided, however, that bid evaluations will be limited to highest rate, net revenue and present value. For index-based capacity release transactions, the Releasing Shipper should provide the necessary information and instructions to support the chosen methodology.

Other choices of bid evaluation methodology (including other Releasing Shipper defined evaluation methodologies) can be accorded similar timeline evaluation treatment at the discretion of Transporter. However, Transporter is not required to offer other choices or similar timeline treatment for other choices, nor, is Transporter held to the timeline should the Releasing Shipper elect another method of evaluation.

- (14) Any restriction on the use of higher rate Secondary Points that Transporter and Releasing Shipper have agreed to, or any requirement that the Replacement Shipper reimburse the Releasing Shipper for any incremental charges assessed by Transporter pursuant to Section 6.4 paragraphs 1(b)(2) and 2(b)(2) of these General Terms and Conditions for use of Secondary Points by the Replacement Shipper.
- (15) Any other additional information that Transporter deems necessary, from time to time, to effectuate releases hereunder.
- (16) Transporter shall not be liable for information provided to Transporter, including any such information that is posted on GEMStm.
- (17) Any restriction on the changing of Primary Points that Replacement Shipper and Releasing Shipper have agreed to, or any requirement that the Replacement Shipper reimburse the Releasing Shipper for any incremental charges assessed by Transporter associated with a change in Primary Points pursuant to Section 6.2.4 of these General Terms and Conditions. Absent an indication to the contrary, the Replacement Shipper shall not have a right to change the Primary Point(s). In any event, when a Primary Point is changed as part of a temporary release, at the end of such release the Releasing Shipper shall be responsible for any on-going incremental charges associated with the Primary Point.
- (18) The priority to be afforded the nominations of Releasing Shipper and Replacement Shipper in the event of overlapping nominations of equal priority in excess of the firm entitlements of the released capacity. Absent an indication to the contrary, the Replacement Shipper shall be deemed responsible for any nominations scheduled in excess of the firm entitlements of the released capacity on the overlapping segment.
- (19) An indication of whether the Pre-arranged capacity release is to an asset manager as described in Section 6.21.1.9, and the asset manager's obligation as to volumetric level and effective time period(s) to deliver gas to, or purchase gas from the Releasing Shipper.
- (20) An indication of whether the Pre-arranged capacity release is to a marketer participating in a state-regulated retail access program as described in Section 6.21.1.9.

6.21.2 Execution of Capacity Release Agreements.

- (a) Contractual Obligations. Transporter and Replacement Shipper must have a Master Service Agreement in effect pursuant to Section 6.21.1, above. With respect to a permanent release in which Replacement Shipper accepts all obligations of the Releasing Shipper under the Releasing Shipper's Agreement for the remaining term of such Agreement, Transporter may refuse to allow such permanent capacity release if it has a reasonable basis to conclude that it will not be financially indifferent to the release. If Shipper's request to permanently release capacity is denied by Transporter, Transporter shall notify Releasing Shipper in writing and shall include in the notification the reasons for such denial. Any Replacement Shipper shall be required to comply with the creditworthiness requirements of Section 6.18.5 of these General Terms and Conditions. All Replacement Shippers shall be required to accept by a release all transportation rights and obligations of the Releasing Shipper with respect to the capacity released, including nominations and Primary Routes. Unless otherwise agreed by Transporter, the Releasing Shipper shall remain fully liable to Transporter for all reservation charges, including reservation type surcharges and direct bills, that were due under the Releasing Shipper's Agreement, unless, subject to Transporter's financial indifference, Replacement Shipper has agreed to pay Transporter maximum rates, and to accept all obligations of the Releasing Shipper under the Releasing Shipper's Agreement for the remaining term of such Releasing Shipper's Agreement.
- (b) Billing. Pursuant to Sections 6.15, 6.17 and 6.21.2(c) of these General Terms and Conditions, Replacement Shipper shall be billed for its services the applicable rates and charges set forth in Section 6.4 paragraphs 1 and 2 of these General Terms and Conditions, and further provided that:
- (1) Transporter shall bill the Releasing Shipper the difference between (1) the Releasing Shipper's rates and charges under its Service Agreement and (2) any additional reservation charges applicable under Section 6.4 paragraphs 1 and 2 of these General Terms and Conditions in the event that the Releasing Shipper has agreed to be billed any such additional reservation charges as part of its capacity release offer otherwise those incremental charges will be billed to the Replacement Shipper. Transporter shall also bill the Releasing Shipper in the event of default in payment of the Replacement Shipper.
 - (2) If the Replacement Shipper elevates Secondary Point(s) to Primary Point(s) in accordance with the provisions of Section 6.2.4 of these General Terms and Conditions, then Transporter shall bill the Releasing Shipper the difference between (1) the Releasing Shipper's rates and charges under its Service Agreement and (2) any additional reservation charges applicable under Sections 6.2.4(b) and 6.4 paragraphs 1 and 2 of these General Terms and Conditions in the event that the Releasing Shipper has agreed to be billed any such additional reservation charges as part of its capacity release offer,

otherwise those incremental charges will be billed to the Replacement Shipper.

- (3) If the Replacement Shipper nominates to Secondary Point(s) outside of the Rate Segment where the Releasing Shipper's Primary Point is located, then the Replacement Shipper shall be billed the incremental Rate Segment differential to the Secondary Point, plus, if applicable, the amount of reimbursement required to the Releasing Shipper in accordance with Section 6.21.1.7(14) of these General Terms and Conditions.
- (c) Credits. Except as otherwise agreed to between Transporter and Releasing Shipper, Releasing Shipper shall receive a credit against its Monthly Reservation Charges equal to the amount of reservation charges contained within the Replacement Shipper's bid plus any amounts billed to Replacement Shipper pursuant to Section 6.4 paragraphs 1(b)(2) and 2(b)(2) of these General Terms and Conditions, as the case may be. Transporter and Shipper may, in connection with a Negotiated Rate Agreement under a firm rate schedule, agree upon payment obligations and crediting mechanisms in the event of a capacity release that vary from, or are in addition to, those set forth in this Section 6.21.2, provided, however, that terms and conditions of service may not be negotiated.
- (d) Refunds. Releasing Shipper and any Replacement Shipper must track any changes in Transporter's rates approved by the Commission. In the event the Commission orders refunds of any such rates charged by Transporter and previously approved, Transporter and/or Releasing Shipper, as the case may be, must make corresponding refunds to such Releasing Shipper or any Replacement Shipper, to the extent that Releasing Shipper or Replacement Shipper(s) has paid a rate in excess of Transporter's just and reasonable, applicable maximum rates. Transporter shall assume no liability or responsibility whatsoever for the failure of the Releasing Shipper to comply with its obligations under this Section 6.21.2(d).

6.21.5 Transporter's Right to Terminate a Capacity Release.

Transporter may elect to terminate a Replacement Shipper's Agreement, upon written notice to Replacement Shipper, under the following conditions:

- (a) The Releasing Shipper has failed to maintain creditworthiness in accordance with Section 6.18.5, or Releasing Shipper has failed to pay its invoices in accordance with Section 6.17 such that Transporter has provided notice that it will terminate Releasing Shipper's Agreement pursuant to Section 6.18.5(E) and Section 6.17.2, respectfully; and
- (b) The rate stated in the effective Replacement Shipper's Agreement is less than the maximum Reservation Rate and Commodity Rate for the contracted for service; and
- (c) The Replacement Shipper has not, prior to the expiration of thirty (30) days, executed an amendment to such Replacement Shipper's Agreement, agreeing to pay, beginning the first day after the end of the thirty day notice period and for the remainder of the term of the Replacement Shipper's Agreement, the lesser of (1) the Releasing Shipper's contract rate (2) the maximum tariff rate for the service or (3) a mutually agreeable rate.
- (d) The Replacement Shipper has failed to comply with the MFO obligations under the Releasing Shipper's FTS-4 Agreement.

Should the Releasing Shipper cure its failure to maintain creditworthiness prior to termination, the Replacement Shipper's amendment to its contract will expire by its own terms without ever having gone into effect.

Appendix B

Marked Tariff Records

ANR Pipeline Company
FERC Gas Tariff, Third Revised Volume No. 1

<u>Tariff Section</u>		<u>Version</u>
6.2.1	GT&C, Requests	v.1.0.0
6.2.3	GT&C, Request for Service – Creditworthiness	v.2.0.0
6.17	GT&C, Billing and Payment	v.4.0.0
6.18.5	GT&C, Creditworthiness	v.1.0.0
6.21.1.7	GT&C, Required Information for the Release of Capacity	v.3.0.0
6.21.2	GT&C, Execution of Capacity Release Agreements	v.1.0.0
6.21.5	GT&C, Transporter’s Right to Terminate a Capacity Release	v.1.0.0

6.2.1 Requests.

To seek to qualify for Transportation Service, a potential Shipper shall submit a request for such service in writing or via Transporter's Internet site to the Transporter. Transporter shall evaluate and respond to such requests as soon as is reasonably possible and shall begin service, if an Agreement is executed, as soon as is reasonably possible, after receipt of such request. Such a request shall be considered acceptable and valid only if 1) the information specified in Section 6.2.2 below is provided in writing or via Transporter's Internet site, but Transporter may waive all or a portion of such information in individual instances, when the information is already in the possession of Transporter and 2) the creditworthiness requirements as specified in Section 6.2.3 are satisfied. ~~If there is insufficient capacity to meet all requests for firm Transportation Service, and ANR must prioritize such requests pursuant to Section 6.9 paragraph 1 of these General Terms and Conditions, ANR may require that each such request be accompanied by earnest money in the form of either Wire Transfer or a check payable to ANR Pipeline Company in the amount of the lesser of (a) ten thousand dollars (\$10,000); (b) the maximum reservation fee which would be due for the first two Months of service for such requested service, or (c) the maximum reservation fee that would be due for the term of the Agreement, which amount shall be applied, until fully used, against the first amounts due by Shipper to Transporter provided, however, that Transporter shall refund such amount to any Shipper whose request is not granted.~~ Requests for service shall be sent to:

ANR Pipeline Company
~~717 Texas Street~~ 700 Louisiana, Suite 1300
Houston, Texas 77002-~~2761~~ 2700
Attention: Commercial Services

An Agreement will be deemed executed either (1) in writing or (2) by approval by Transporter of the Agreement via GEMS™ and the Shipper's nomination on such Agreement, whichever is earlier.

By execution, Shipper will have certified that the Shipper has title to, or the legal right to cause to be delivered to Transporter, for Transportation, the Gas which is to be Transported and owns facilities or contractual rights which will cause such Gas to be delivered to and received from Transporter (or, as appropriate, that the Shipper will have such necessary title or legal right and associated facilities and contractual rights at the time gas is transported by Transporter on Shipper's behalf).

6.2.3 Request for Service - Creditworthiness.

Transporter's acceptance of a request for service is subject to the requesting Shipper satisfying Transporter's creditworthiness requirements set forth in Section 6.18.5. With respect to a request for service pursuant to 6.2.1, any financial assurance required by Transporter pursuant to Section 6.18.5(B) shall be received by Transporter within ten (10) Business Days of Transporter's notification to Shipper, unless otherwise mutually agreed by Transporter and Shipper.~~Subsequent Information.~~

~~(a) — Credit Evaluation.~~

~~(1) — Shipper's Bank References.~~

~~(2) — Shipper should submit year end audited financial statements of Shipper together with the latest quarterly report.~~

~~(3) — Shipper's Affiliates, including parent, subsidiaries of parent and of such subsidiaries, and subsidiaries of Shipper.~~

~~(4) — In the event proceedings have been commenced by or against such Shipper for any relief under any bankruptcy or insolvency law, or any law relating to the relief of debtors, readjustment of indebtedness, reorganization, arrangement, composition or extension; or in the event a decree or order of a court having jurisdiction in the premises for the appointment of a receiver or liquidator or trustee or assignee in bankruptcy or insolvency of such Shipper, or of a substantial part of its property, or for the winding up or liquidation of its affairs, shall have been entered, or any substantial part of the property of such Shipper shall be sequestered or attached and shall not be returned to the possession of such Shipper or released from such attachment within thirty (30) Days thereafter; or in the event such Shipper shall make a general assignment for the benefit of creditors or shall admit in writing its inability to pay its debts generally as they become due, Shipper shall be required to fully disclose any and all actions regarding the above described proceedings against Shipper or related parties defined in (3) above, in its request for service.~~

~~(5) — If any of the events or actions described in Section 6.2.3 paragraph (a)(4) above, shall be initiated or imposed during the term of service hereunder, Shipper shall provide notification thereof to Transporter within two (2) working Days of any such initiated or imposed event or action. Shipper shall also provide, forthwith, such additional Shipper credit information as may be reasonably required by Transporter, at any time during the term of service hereunder, to determine Shipper's creditworthiness.~~

ANR Pipeline Company
FERC Gas Tariff
Third Revised Volume No. 1

PART 6.2.3
6.2.3 - GT&C
Request for Service - Creditworthiness
v.2.0.0

Issued: December 10, 2021
Effective: January 10, 2022

Docket No.
Accepted:

6.17 BILLING AND PAYMENT

1. Billing. On or before the ninth (9th) Business Day of each Month, Transporter shall render (for purposes of this Section 6.17 paragraph 1, "render" shall mean either (a) postmarked or (b) time-stamped and electronically transmitted via EDM to the designated site, whichever is applicable) to Shipper a statement of the amount due for the preceding Month under the applicable Rate Schedule(s). Any charges pursuant to the Cashout provisions of Section 6.15 of these General Terms and Conditions shall be billed by a separate statement rendered to Shipper of the amount due Transporter or Shipper on or before the nineteenth (19th) Business Day of each Month for imbalances incurred during the preceding Month. When information necessary for billing purposes is in the control of Shipper, Shipper shall furnish such information to Transporter on or before the third (3rd) Day of the Month.

Both Transporter and Shipper have the right to examine at reasonable times, books, records and charts of the other to the extent necessary to verify the accuracy of any statement, charge or computation made under or pursuant to any of the provisions hereof.

2. Payment. Shipper shall pay Transporter the amount due for the preceding Month on or before the tenth (10th) Day after the Date of the invoice. Payments by Shipper to Transporter shall be made in the form of Wire Transfer directed to a bank account designated by Transporter's ~~Controller~~ for amounts equal to or greater than \$50,000 such that funds are available on the date payment is due. Payments of amounts less than \$50,000 by Shipper to Transporter shall be made at Shipper's election by either Wire Transfer directed to a bank account designated by Transporter's ~~Controller~~, or by check at Transporter's general office or at such other address as Transporter shall designate such that funds are available on the date payment is due.

Party making payment should submit supporting documentation, party receiving payment should apply payment per supporting documentation provided by the paying party; and if payment differs from the invoiced amount, remittance detail should be provided with the payment except when payment is made by electronic funds transfer (EFT), in which case the remittance detail is due within two business days of the payment due date. Interest on the unpaid portion of the bill shall accrue at the current rate as set forth in Section 154.501(d) of the Commission's Rules and Regulations, from the due date until the date of payment. If ~~such failure to pay continues for thirty (30) Days after payment is due~~ Shipper fails to pay Transporter the entire amount due on or before the payment due date, Transporter, ~~in addition to any other remedy it may have hereunder, may upon receipt of the appropriate regulatory approval, if any, suspend further delivery of Gas until such amount is paid~~ may suspend service under Shipper's Agreement(s) with five (5) Days' notice to Shipper and shall have the right to seek termination of the Agreement(s). In the event Transporter suspends service under Shipper's Agreement(s), Shipper shall not be responsible for reservation

charges during such suspension period. In the event that service to a Shipper is suspended Transporter shall have the right to remarket the capacity that is subject to the suspension on a month-to-month basis with terms not to exceed thirty-one (31) days ("Interim Capacity Arrangements"). Any capacity sold pursuant to this Section 6.17.2 shall be made available on a nondiscriminatory basis and will be assigned on the basis of a bid period determined pursuant to the open season of the Capacity Release provisions set forth in Section 6.21 of the General Terms and Conditions. Capacity sold pursuant to this Section 6.17.2 shall not have a right of first refusal. If the Shipper whose service has been suspended remedies the deficiency that gave rise to the suspension after the capacity has been remarketed to another Shipper as part of an Interim Capacity Arrangement, service to the Shipper whose service has been suspended will resume on the first day following expiration of the Interim Capacity Arrangement. To the extent Transporter seeks to terminate a Shipper's Agreement(s), Transporter will provide written notice to Shipper, the Commission, and any Replacement Shipper(s) that has obtained temporary release capacity from Shipper, that if Shipper fails to make payment within thirty (30) days of such notice, Transporter will terminate Shipper's Agreement(s) and may exercise any other remedy available to Transporter hereunder, at law or equity. However, ~~if Shipper in good faith disputes the amount of any such bill or part thereof and pays to Transporter~~ by providing written notice of its dispute including documentation identifying the basis of the dispute and 1) promptly pays to Transporter the undisputed amount, when due, and 2) on or before the due date of such bill, such amounts, if any, as it concedes to be correct and, at any time thereafter within thirty (30) Days of a demand made by Transporter, furnishes to Transporter a financial assurance acceptable to Transporter for the disputed ~~a good and sufficient surety bond in an amount and with surety satisfactory to Transporter or other assurance acceptable to Transporter, guaranteeing payment to Transporter of the unpaid amount,~~ then Transporter shall not be entitled to suspend or terminate service under the Agreement(s) further delivery of such Gas ~~unless and until a default be is~~ made in the conditions of the financial assurance; provided further that should Shipper prevail on the dispute, Transporter shall reimburse Shipper up to the reasonable and customary cost of the financial assurance ~~such bond~~.

3. Adjustment of Billing Errors. Subject to the provisions of Sections 6.12.3, 6.12.4 and 6.14.4 of these General Terms and Conditions, if it shall be found that at any time or times a person has been charged an overrun penalty and Shipper shall have actually paid the ~~bills~~ invoices containing such penalty, then within thirty (30) Days after the final determination thereof, either Transporter shall refund the amount of any overcharge or Shipper shall pay the amount of any undercharge. In the event an error is discovered in the amount billed in any statement rendered by Transporter, such error shall be adjusted within thirty (30) Days of the determination thereof, provided that claim therefor shall have been made within thirty (30) Days from the date of discovery of such error, but in any event within six (6) Months from the date of such statement, provided, however, that the party harmed by the adjustment shall have up

to three (3) Months to dispute such adjustment. The timing of billing claims and adjustments referenced in the previous sentence shall not apply in the case of deliberate omission or misrepresentation or mutual mistake of fact. Parties' other statutory or contractual rights shall not be diminished by this standard. Mutual agreement between parties, legal decisions, and regulatory guidance may be necessary to determine if the event qualifies for an extension of the above time periods. If the parties are unable to agree on the adjustment of any claimed error, any resort by either of the parties to legal proceedings shall be commenced within fifteen (15) Months after the supposed cause of action is alleged to have arisen, or shall thereafter be forever barred.

4. Refunds: Refunds due Shipper from Transporter pursuant to either the terms and conditions of this Tariff or orders of the Commission shall be paid by Wire Transfer to a bank account established by Shipper if: (a) Shipper has made twelve consecutive Monthly payments to Transporter in the form of Wire Transfer preceding the date of the refund; (b) the amount of the refund, including interest, exceeds \$50,000; and (c) Shipper has designated a bank account for the receipt of refunds by Wire Transfer at least thirty (30) Days prior to the date established for refunds by written communication to Transporter's ~~Controller~~. Refunds of an amount less than \$50,000 will be paid by Transporter to Shipper by check.
5. Prepayment of Reservation Charges. Transporter may, from time to time in a manner not unduly discriminatory, agree to accept a Shipper's prepayment of its Reservation Charges obligation under an existing or new firm Agreement. The amount of the prepayment shall be equivalent to Shipper's unpaid Reservation Charges obligation for the remainder of the term of an existing firm Agreement or the entire term of a new firm Agreement, as applicable. A prepayment received by Transporter or an offer of a prepayment to be made under this section will not be used in the determination of the net present value of a bid during Transporter's evaluation process to award capacity.

The prepayment shall be credited to Shipper's Agreement under the ordinary course of Transporter's billing process. Shipper shall not be allowed to withdraw all or part of its prepayment.

Neither this provision nor any solicitation or negotiation by Transporter under this provision shall obligate Transporter to accept any request for prepayment.

A Shipper's Reservation Charges will be subject to adjustments when Transporter's recourse rates are changed pursuant to NGA section 4 or 5 during the period for which Shipper has prepaid for service and Shipper shall understand that any prepayment does not absolve it of such future adjustments to the recourse rates. For capacity release and posting requirements, the rate to be charged will be the rate specified in the applicable firm Agreement.

Prepayments received by Transporter under this section shall not qualify as cash security deposits for purposes of creditworthiness, nor shall cash security deposits for purposes of creditworthiness be considered as prepayments under this section.

6.18.5 Creditworthiness.

A. Creditworthiness Evaluation.

(1) Transporter shall not be required to commence or continue to provide service under an agreement with any Shipper who fails to establish or maintain creditworthiness.

(2) Determining Creditworthiness

Transporter shall apply consistent evaluation practices to all similarly situated Shippers to determine Shipper's financial ability to satisfy payment obligations due to Transporter over the term of the requested or existing Agreement(s). A creditworthiness evaluation shall be performed in accordance with the following:

(a) Shipper will establish creditworthiness if its unenhanced senior unsecured debt securities are rated investment grade of at least BBB- by S&P Global Market Intelligence LLC ("S&P") or at least Baa3 by Moody's Investors Service, Inc. ("Moody's"); provided however, that in the event a split rating occurs between rating agencies, Transporter will rely upon the lower of the ratings. Nothing herein shall limit Transporter's ability to evaluate any of the factors set forth in Section 6.18.5.(A), paragraph (2)(b)(i)–(vii) below where Shipper's creditworthiness is established by a rating agency if such factor(s) would alter Transporter's evaluation of Shipper. If Shipper has multiple Agreements with Transporter, then the total of potential fees and charges of all such Agreements shall be considered in determining creditworthiness.

(b) If Shipper does not meet the creditworthiness standard described in part (a) above, Transporter shall evaluate creditworthiness based upon the level of Shipper's current and requested service(s) with Transporter relative to Shipper's current and future ability to meet its obligations. Such creditworthiness evaluation shall be based upon any or all of the following requested information in (i) through (vii) below.

(i) S&P, Moody's and other credit reporting agencies' opinions, outlooks, watch alerts, and rating actions.

(ii) Financial reports whereby consistent financial statement analysis will be applied by Transporter to determine the acceptability of Shipper's current and future financial strength. Shipper's balance sheets, income statements, cash flow statements, notes to financial

statements, and auditor's opinions will be analyzed along with key ratios and trends regarding liquidity, asset management, debt management, debt coverage, capital structure, operational efficiency and profitability.

- (iii) Whether Shipper is operating under any chapter of the bankruptcy code and is subject to liquidation or debt reduction procedures under state laws and whether there is pending any petition for involuntary bankruptcy. Transporter may give consideration for a Shipper who is a debtor-in-possession operating under Chapter 11 of the United States Bankruptcy Code if Transporter is assured that the service billing will be paid promptly as a cost of administration under the federal court's jurisdiction, based on a court order in effect, and if the Shipper is continuing and continues in the future to make payment.
- (iv) Whether Shipper is subject to any lawsuits or outstanding judgments which could materially impact its ability to remain solvent.
- (v) The nature of Shipper's business and the effect on that business of economic conditions, including Shipper's ability to recover the costs of Transporter's services through filings with regulatory agencies or otherwise to pass on such costs to its customers.
- (vi) Whether Shipper has or has had any delinquent balances outstanding for services provided previously by Transporter and whether Shipper is paying and has paid its account balances according to the terms established in its Agreement(s) (excluding amounts as to which there is a good faith dispute).
- (vii) Any other information, including any information provided by Shipper, that Transporter deems relevant to Shipper's current and future financial strength and Shipper's ability to make full payment over the term of its Agreement(s).

B. Failure to Establish or Maintain Creditworthiness.

- (1) If Shipper fails to establish or maintain creditworthiness as described in Section 6.18.5(A)(2), Shipper has the option of receiving or continuing service under this Tariff by providing and maintaining one of the following financial assurances in accordance with the requirements as set forth in Section 6.18.5.(B)(2) below:

- (i) Guarantee: Shipper may provide a guarantee of financial performance in a form satisfactory and acceptable to Transporter and for the term of the Agreement from a person or entity which meets the creditworthiness standards outlined in Section 6.18.5(A) (guarantor).
- (ii) Cash Security Deposit: Shipper may provide a cash security deposit for service. Transporter will accrue simple interest on cash security deposits at the applicable monthly "Federal Funds (effective)" rate published in the Federal Reserve Statistical Report H.15. Interest will be paid by Transporter on an annual basis each September 1 or at the time Shipper's deposit is returned.
- (iii) Letter of Credit: Shipper may post an irrevocable standby letter of credit in a form acceptable to Transporter and issued by a bank or financial institution deemed acceptable by Transporter.
- (iv) Any other financial assurance mutually agreed upon by Transporter and Shipper. Such other financial assurance shall be accepted on a nondiscriminatory basis and may include, as related to interruptible service, a prepayment equal to an amount defined by Transporter. Such defined balance prepayment will remain in place until Shipper exhausts its prepaid balance by utilizing interruptible transportation service. At the point Shipper's prepayment is exhausted, Transporter may suspend further interruptible service. Shipper will not earn interest on defined balance prepayments.

- (2) Transporter may deny subsequent requests to substitute financial assurances on a not unduly discriminatory basis and will provide Shipper with a written explanation of any denial of a request to substitute financial assurances.

Within five (5) Business Days of Transporter's notification to Shipper that Shipper has returned to creditworthiness in accordance with Section 6.18.5(A)(2) herein, Transporter will return Shipper's financial assurance held by Transporter along with any applicable interest and interest calculation reconciliations.

Upon performance in full of all Shipper's obligations under its Agreement(s), Transporter will return Shipper's financial assurance associated with undisputed invoice amounts within five (5) Business Days of Shipper paying its final invoice. Any remaining financial assurance will be returned after resolving any and all disputed invoice amounts under the expired Agreement(s). In either

case, Transporter will pay applicable interest and provide Shipper final billing reconciliations detailing interest calculations.

(3) Financial Assurance Requirement Table

<u>Service</u>	<u>Column A: Guarantee Requirement</u>	<u>Column B: Cash Security Deposit or Letter of Credit Amount</u>
<u>Firm Service</u>	<u>Shipper's contractual obligation under its firm service Agreements with Transporter</u>	<u>Up to the value of 3 months reservation charges</u>
<u>Interruptible/ Volumetric Service</u>	<u>Shipper's highest monthly bill for interruptible and volumetric based service over the previous rolling twelve (12) months multiplied by three (3). Initial requirement based upon Shipper's anticipated usage for a three (3) month period as determined by Shipper and Transporter</u>	<u>Same as under Column A</u>
<u>Park and Loan Service</u>	<u>The lesser of the transaction term or three (3) months value based on transaction quantities multiplied by the rate for such transaction, plus the value of loaned gas in accordance with Section 6.18.5 (C).</u>	<u>Same as under Column A</u>
<u>Cashout Payments due Transporter</u>	<u>Shipper's three (3) highest Cashout payments due Transporter during the previous rolling twelve (12) months.</u>	<u>Same as under Column A</u>
<u>Imbalance Gas</u>	<u>In accordance with Section 6.18.5(C)</u>	<u>Same as under Column A</u>

~~Transporter shall not be required to commence service or, subject to the following timing provisions, to continue to provide service under an Agreement with any Shipper, that (a) is or has become insolvent; (b) has applied for bankruptcy under Chapter 11 of the Bankruptcy Code, or which is subject to similar proceedings under State or Federal law; or (c) when requested by Transporter to demonstrate creditworthiness, fails to do so in Transporter's reasonable judgement, in light of previous payment experience and changes thereto and the prudent credit analysis of information available; provided, however, that any such Shipper that is receiving service shall continue to receive service for a period of fifteen (15) Days after written notice by Transporter of any such circumstance, and shall continue thereafter to receive service if, within such fifteen (15) Day notice period, such Shipper (a) deposits with Transporter and maintains, on account, an amount which would be due for three (3) Months service at the full Maximum Daily Quantity plus an amount equal to the three (3) highest Cashout payments, if any, incurred during the previous twelve (12) Months, or (b) furnishes good and sufficient security, which may include an acceptable standby letter of credit, or Monthly prepayment agreement or other security as reasonably determined by Transporter of a continuing nature and in an amount no less than such amounts which would be due for service, which may include a grant to Transporter of a security interest in collateral found to be satisfactory to Transporter, or a guarantee acceptable to Transporter, by another person or entity that satisfies credit appraisal, or any combination thereof upon which Transporter and Shipper mutually agree. If such payment on account or payment security is not received within such fifteen (15) Day notice period, Transporter may, without waiving any rights or remedies it may have, suspend further service for a period~~

~~of ten (10) Days. If such payment on account or a payment security is not received within such ten (10) Day suspension period, then Transporter shall no longer be obligated to continue to provide service to such Shipper.~~

(C) Loaned/Imbalance Gas Owed to Transporter.

For lending services under Rate Schedule IPLS, Transporter shall have the right to seek a financial assurance for the value of gas loaned by Transporter. The amount of such financial assurance will be based on the quantity of gas loaned multiplied by the Chicago City Gates price located under the "Monthly Bidweek Spot Gas Prices" as reported in "S&P Global Platts Inside FERC's Gas Market Report" (or any successor publication thereto) for the month the quantity of gas is loaned. Transporter shall have no obligation to lend any quantity of gas beyond the financial assurance amount provided by Shipper to Transporter.

For imbalance gas owed to Transporter pursuant to an Operational Balancing Agreement, Transporter shall have the right to seek a financial assurance to cover the value of imbalance gas owed to Transporter. The financial assurance shall be for an amount equal to the largest month end imbalance owed to Transporter over the previous rolling 12 months multiplied by the applicable Spot Price Index "buy" price (Excess Quantities) pursuant to Section 6.16. Where a historical imbalance record has not been established, any initial financial assurance amount shall be based on 5% of the maximum monthly design flow, as determined by Transporter, multiplied by the applicable Spot Price Index as described herein. The maximum monthly design flow calculation shall be used for the first three months of service in order to establish a month end imbalance historical record.

(D) Collateral Requirements for Lateral Facilities and/or Expansion Capacity.

- (1) Collateral requirements for expansion capacity will be separately identified within Transporter's nondiscriminatory project precedent agreement.
- (2) The amount of collateral (for example, Cash Security Deposit or Letter of Credit) initially required for lateral facilities will be determined by Transporter and may be up to the cost of the facilities to be constructed ("Maximum Allowable Collateral Requirement" or "MACR"). Where new lateral facilities serve multiple Shippers, an individual Shipper's maximum collateral obligation ("Shipper's Maximum Collateral Obligation" or "SMCO") will be for no more than its proportionate share of the MACR. Subsequent to lateral facilities being placed into service, the SMCO shall be reduced in proportion to contract term or as mutually agreed on a not unduly discriminatory basis. Shipper's actual collateral requirement ("Shipper's Actual Collateral Obligation" or "SACO"), may be equal to or less than the

SMCO. Unless otherwise provided for, when the SMCO equals the SACO held by Transporter, Transporter shall thereafter return Shipper's collateral on either a monthly basis or as mutually agreed with Shipper, on a not unduly discriminatory basis, consistent with the reduction in SMCO. Transporter is only permitted to recover the cost of lateral facilities once through either transportation rates or, in the event of Shipper default, by means of a financial assurance provided through this provision.

(E) Notification of Failure to Meet Creditworthiness.

Transporter shall have the right, on an ongoing basis, to review Shipper's creditworthiness and acceptability of any financial assurance, and upon Transporter's request, Shipper shall provide within three (3) Business Days, or such later date acceptable to Transporter, information in order to facilitate such review. If Shipper is found by Transporter to be non-creditworthy, Transporter will, upon request, inform Shipper in writing as to the reasons. Upon notification by Transporter of Shipper's non-creditworthiness status, Shipper must, within five (5) Business Days after receipt of such notification, submit advanced payment to Transporter equal to one (1) month of service under Shipper's Agreement(s) to continue service. Shipper must, within thirty (30) days, provide an acceptable financial assurance as set forth in Section 6.18.5(B). For Shippers utilizing lateral facilities or expansion capacity, the financial assurance that must be provided within thirty (30) days shall be in accordance with Section 6.18.5(D). If Shipper fails to provide one of the financial assurances within these time periods, Transporter may suspend service immediately (Shippers are not responsible for reservation charges after service is suspended) and may provide simultaneous written notice to Shipper, the Commission, and any Replacement Shipper(s) that service will be terminated in thirty (30) days. Transporter also may exercise any other remedy available to it hereunder, at law or in equity.

6.21.1.7 Required Information for the Release of Capacity.

The Releasing Shipper shall submit the following information, objectively stated and applicable to all potential shippers on a non-discriminatory basis, to Transporter via Electronic Communication:

- (1) The Releasing Shipper's legal name, contract number, and the name, title, address and phone and fax number of the individual who will authorize the release of capacity for the Releasing Shipper.
- (2) Whether the capacity is biddable;
- (3) The level of daily firm entitlements that the Releasing Shipper elects to release, expressed as a numeric quantity per Day for transportation, storage injection, storage withdrawal, and a per release quantity for storage capacity and total release period quantity.
- (4) The Primary Route(s) or segment within such Primary Route(s), and quantity to be released for such Primary Route.
- (5) The requested effective date and the term of the release.
- (6) The minimum acceptable period of release and minimum acceptable quantities (if any).
- (7) The Releasing Shipper's maximum reservation rate (including any demand type surcharges, direct bills, or similar mechanisms), any minimum rate requirement, whether bids are to be submitted on a reservation or volumetric basis, and whether the bids should be stated in dollars and cents or percent of the maximum tariff rate for a non-index-based release, or the index-based formula as detailed in the capacity release offer.

If the release is for a term of one (1) year or less and is to take effect on or before one (1) year from the date on which the Transporter is notified of the release, the Reservation Rate, Deliverability Rate, Capacity Rate, Volumetric Rate, percentage of the maximum tariff rate, or the rate resulting from the index-based formula as detailed in the capacity release offer for capacity released and assigned may exceed the Maximum Reservation Rate, Maximum Deliverability Rate, Maximum Capacity Rate, or Volumetric Rate for the service being released.

Payments or other consideration exchanged between the Releasing Shipper and Replacement Shipper in a release to an asset manager as described in Section 6.21.1.9 are not subject to the maximum rate.

- (8) The Releasing Shipper's request (if at all) for Transporter to market actively the capacity to be released.
- (9) The legal name of the Replacement Shipper that is designated in any pre-arranged release ("Pre-arranged Replacement Shipper").
- (10) Whether the capacity is to be released on a recallable basis, and, if so, the terms and conditions of such recall, and whether the Releasing Shipper is authorized to Reput the release if and when it notifies Transporter that the recall is no longer in effect; or whether the capacity is to be released on a permanent basis.
- (11) Whether the capacity to be released is contingent on the release of other capacity, or on certain terms and conditions, and if so, the capacity, terms and/or conditions upon which the release is contingent.
- (12) The terms and conditions under which Releasing Shipper will accept contingent bids, including bids that are contingent upon the Replacement Shipper acquiring transportation on a pipeline interconnected to transporter, the method for evaluating contingent bids, what level of proof is required by the contingent bidder to demonstrate that the contingency did not occur, and for what time period the next highest bidder will be obligated to acquire the capacity if the next winning contingent bidder declines the release.
- ~~(13) Whether Releasing Shipper requires bidders to post a deposit with Transporter, not to exceed the amount required by Transporter pursuant to Section 6.2.1 of these General Terms and Conditions, to guard against frivolous bids. Deposits will be refunded to losing bidders at the time the capacity is awarded, and credited against the Replacement Shipper's invoices until fully utilized.~~
- ~~(14) Whether Releasing Shipper will require Replacement Shipper to post a deposit, not to exceed the amount required by Transporter pursuant to Section 6.2.1 of these General Terms and Conditions, to guard against payment defaults if Transporter waives the deposit requirement contained in Section 6.2.1 of these General Terms and Conditions. Such deposit will be paid by the Replacement Shipper to Transporter at the time specified in Section 6.2.1 of these General Terms and Conditions, and~~

~~will be credited against Replacement Shipper's invoices until fully utilized.~~

- (135) Any other reasonable and not unduly discriminatory terms and conditions to accommodate the release, including provisions necessary to evaluate bids and tie breaking criteria, provided, however, that bid evaluations will be limited to highest rate, net revenue and present value. For index-based capacity release transactions, the Releasing Shipper should provide the necessary information and instructions to support the chosen methodology.

Other choices of bid evaluation methodology (including other Releasing Shipper defined evaluation methodologies) can be accorded similar timeline evaluation treatment at the discretion of Transporter. However, Transporter is not required to offer other choices or similar timeline treatment for other choices, nor, is Transporter held to the timeline should the Releasing Shipper elect another method of evaluation.

- (164) Any restriction on the use of higher rate Secondary Points that Transporter and Releasing Shipper have agreed to, or any requirement that the Replacement Shipper reimburse the Releasing Shipper for any incremental charges assessed by Transporter pursuant to Section 6.4 paragraphs 1(b)(2) and 2(b)(2) of these General Terms and Conditions for use of Secondary Points by the Replacement Shipper.

- (157) Any other additional information that Transporter deems necessary, from time to time, to effectuate releases hereunder.

- (168) Transporter shall not be liable for information provided to Transporter, including any such information that is posted on GEMStm, ~~or with respect to the deposit required by the Replacement Shipper pursuant to Section 6.21.1.7(14) of these General Terms and Conditions.~~

- (179) Any restriction on the changing of Primary Points that Replacement Shipper and Releasing Shipper have agreed to, or any requirement that the Replacement Shipper reimburse the Releasing Shipper for any incremental charges assessed by Transporter associated with a change in Primary Points pursuant to Section 6.2.4 of these General Terms and Conditions. Absent an indication to the contrary, the Replacement Shipper shall not have a right to change the Primary Point(s). In any event, when a Primary Point is changed as part of a temporary release, at the end of such release the Releasing Shipper shall be responsible for any on-going incremental charges associated with the Primary Point.

| (18~~20~~) The priority to be afforded the nominations of Releasing Shipper and Replacement Shipper in the event of overlapping nominations of equal priority in excess of the firm entitlements of the released capacity. Absent an indication to the contrary, the Replacement Shipper shall be deemed responsible for any nominations scheduled in excess of the firm entitlements of the released capacity on the overlapping segment.

| (19~~21~~) An indication of whether the Pre-arranged capacity release is to an asset manager as described in Section 6.21.1.9, and the asset manager's obligation as to volumetric level and effective time period(s) to deliver gas to, or purchase gas from the Releasing Shipper.

| (20~~22~~) An indication of whether the Pre-arranged capacity release is to a marketer participating in a state-regulated retail access program as described in Section 6.21.1.9.

6.21.2 Execution of Capacity Release Agreements.

- (a) Contractual Obligations. Transporter and Replacement Shipper must have a Master Service Agreement in effect pursuant to Section 6.21.1, above. With respect to a permanent release in which Replacement Shipper accepts all obligations of the Releasing Shipper under the Releasing Shipper's Agreement for the remaining term of such Agreement, Transporter may refuse to allow such permanent capacity release if it has a reasonable basis to conclude that it will not be financially indifferent to the release. If Shipper's request to permanently release capacity is denied by Transporter, Transporter shall notify Releasing Shipper in writing and shall include in the notification the reasons for such denial. ~~In the event a Any Replacement Shipper does not satisfy Transporter's creditworthiness requirements such Shipper~~ shall be required to comply with the creditworthiness requirements of Section 6.18.5 of these General Terms and Conditions. All Replacement Shippers shall be required to accept by a release all transportation rights and obligations of the Releasing Shipper with respect to the capacity released, including nominations and Primary Routes. Unless otherwise agreed by Transporter, the Releasing Shipper shall remain fully liable to Transporter for all reservation charges, including reservation type surcharges and direct bills, that were due under the Releasing Shipper's Agreement, unless, subject to Transporter's financial indifference, Replacement Shipper has agreed to pay Transporter maximum rates, and to accept all obligations of the Releasing Shipper under the Releasing Shipper's Agreement for the remaining term of such Releasing Shipper's Agreement.
- (b) Billing. Pursuant to Sections 6.15, 6.17 and 6.21.2(c) of these General Terms and Conditions, Replacement Shipper shall be billed for its services the applicable rates and charges set forth in Section 6.4 paragraphs 1 and 2 of these General Terms and Conditions, and further provided that:
- (1) Transporter shall bill the Releasing Shipper the difference between (1) the Releasing Shipper's rates and charges under its Service Agreement and (2) any additional reservation charges applicable under Section 6.4 paragraphs 1 and 2 of these General Terms and Conditions in the event that the Releasing Shipper has agreed to be billed any such additional reservation charges as part of its capacity release offer otherwise those incremental charges will be billed to the Replacement Shipper. Transporter shall also bill the Releasing Shipper in the event of default in payment of the Replacement Shipper.
 - (2) If the Replacement Shipper elevates Secondary Point(s) to Primary Point(s) in accordance with the provisions of Section 6.2.4 of these General Terms and Conditions, then Transporter shall bill the Releasing Shipper the difference between (1) the Releasing Shipper's rates and charges under its Service Agreement and (2) any additional reservation charges applicable under Sections 6.2.4(b) and 6.4 paragraphs 1 and 2 of these General Terms and Conditions in the event that the Releasing Shipper has agreed to be billed any

such additional reservation charges as part of its capacity release offer, otherwise those incremental charges will be billed to the Replacement Shipper.

- (3) If the Replacement Shipper nominates to Secondary Point(s) outside of the Rate Segment where the Releasing Shipper's Primary Point is located, then the Replacement Shipper shall be billed the incremental Rate Segment differential to the Secondary Point, plus, if applicable, the amount of reimbursement required to the Releasing Shipper in accordance with Section 6.21.1.7(14) of these General Terms and Conditions.
- (c) Credits. Except as otherwise agreed to between Transporter and Releasing Shipper, Releasing Shipper shall receive a credit against its Monthly Reservation Charges equal to the amount of reservation charges contained within the Replacement Shipper's bid plus any amounts billed to Replacement Shipper pursuant to Section 6.4 paragraphs 1(b)(2) and 2(b)(2) of these General Terms and Conditions, as the case may be. Transporter and Shipper may, in connection with a Negotiated Rate Agreement under a firm rate schedule, agree upon payment obligations and crediting mechanisms in the event of a capacity release that vary from, or are in addition to, those set forth in this Section 6.21.2, provided, however, that terms and conditions of service may not be negotiated.
- (d) Refunds. Releasing Shipper and any Replacement Shipper must track any changes in Transporter's rates approved by the Commission. In the event the Commission orders refunds of any such rates charged by Transporter and previously approved, Transporter and/or Releasing Shipper, as the case may be, must make corresponding refunds to such Releasing Shipper or any Replacement Shipper, to the extent that Releasing Shipper or Replacement Shipper(s) has paid a rate in excess of Transporter's just and reasonable, applicable maximum rates. Transporter shall assume no liability or responsibility whatsoever for the failure of the Releasing Shipper to comply with its obligations under this Section 6.21.2(d).

6.21.5 Transporter's Right to ~~Suspend or~~ Terminate a Capacity Release.

Transporter may elect to ~~suspend or~~ terminate a Replacement Shipper's Agreement, upon written notice to Replacement Shipper, under the following conditions:

- (a) The Releasing Shipper, ~~pursuant to Section 6.21,~~ has failed to maintain creditworthiness in accordance with Section 6.18.5, or Releasing Shipper has failed to pay its invoices in accordance with Section 6.17 such that Transporter has provided notice that it will ~~suspend and then~~ terminate Releasing Shipper's Agreement pursuant to Section 6.18.5(E) and Section 6.17.2, respectfully; and
- (b) The rate stated in the effective Replacement Shipper's Agreement is less than the maximum Reservation Rate and Commodity Rate for the contracted for service; and
- (c) The Replacement Shipper has not, prior to the expiration of thirty (30) days, executed an amendment to such Replacement Shipper's Agreement, agreeing to pay, beginning the first day after the end of the thirty day notice period and for the remainder of the term of the Replacement Shipper's Agreement, the lesser of (1) the Releasing Shipper's contract rate (2) the maximum tariff rate for the service or (3) a mutually agreeable rate.
- (d) The Replacement Shipper has failed to comply with the MFO obligations under the Releasing Shipper's FTS-4 Agreement.

Should the Releasing Shipper cure its failure to maintain creditworthiness prior to termination, the Replacement Shipper's amendment to its contract will expire by its own terms without ever having gone into effect.