

## Victoria Express Pipeline, L.L.C. Prorating Policy

Effective: August 1, 2019

### I. Definitions:<sup>1</sup>

“Base Period” means a period of 12 consecutive months beginning 13 months prior to the Proration Month and excluding the month prior to the Proration Month.

“Base Shipment History” means the total Tenders of Product by a Regular Shipper during the Base Period.

“Base Shipment Percentage” means, for each Regular Shipper, the Regular Shipper’s Base Shipment History divided by the total Regular Shipper Tenders of Product on the Pipeline System during the Base Period.

“Carrier” means Victoria Express Pipeline, L.L.C.

“Initial Nomination” means a Shipper’s valid and properly submitted nomination for transportation of Product by Carrier during a Proration Month.

“New Shipper” means a Shipper that is not a Regular Shipper.

“Over-Nomination Penalty” has the meaning set forth in paragraph II.D of this Policy.

“Policy” means this prorating policy, dated August 1, 2019, and any subsequent reissues thereof.

“Proration Month” means the calendar month for which capacity is being prorated.

“Regular Shipper” means a Shipper that has shipments in at least one month of the Base Period. The Base Shipment Percentage of a Regular Shipper will be calculated over the entire Base Period, including any months for which no movements occurred.

“Revised Nomination” means a Shipper’s amended Initial Nomination submitted within 24 hours of notification by Carrier that the Pipeline System will be allocated in the Proration Month.

“Tariff” has the meaning set forth in paragraph I.A of this Policy.

“Transferee” has the meaning set forth in paragraph III.A of this Policy.

“Transferor” has the meaning set forth in paragraph III.A of this Policy.

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<sup>1</sup> Unless otherwise defined herein, capitalized terms and abbreviations have the meaning set forth in the Tariff.

## **II. Prorationing Policy.**

- A. When, pursuant to Carrier's FERC Rules and Regulations Tariff No. 1.7.0, and subsequent reissues thereof (the "Tariff"), Item 40 (Nominations), there will be offered to Carrier more Product than can be immediately transported on the Pipeline System, the available capacity will be apportioned by Carrier as set forth below.
- B. Carrier will notify via electronic mail, telephone, facsimile, electronic bulletin posting, or other appropriate method as selected by Carrier, each Shipper that has submitted an Initial Nomination for the Pipeline System. Each such Shipper will have an opportunity to submit a Revised Nomination for the month, which such Revised Nomination must be equal to or less than the Shipper's Initial Nomination. A Shipper must submit a Revised Nomination to Carrier within 24 hours of Carrier notifying the Shipper of the opportunity to submit a Revised Nomination. If a Shipper does not submit a Revised Nomination within such 24-hour time period, the Shipper's Initial Nomination shall be deemed to be its Revised Nomination.
- C. Capacity will be allocated among "Regular Shippers" and "New Shippers" based on Shippers' Revised Nominations as follows:
  - 1. Available capacity shall be divided between New Shippers as a class and Regular Shippers as a class.
  - 2. Up to 10 percent of the available capacity shall be allocated to New Shippers, if any. Each New Shipper shall be allocated an amount of capacity during a Proration Month that is equal to its Revised Nomination; provided, however, that if the total Revised Nominations by New Shippers exceed 10 percent of the available capacity, then each New Shipper's allocation will be reduced on a pro rata basis so that allocation to all New Shippers in the aggregate does not exceed 10 percent of the available capacity.
  - 3. After the allocation of capacity to New Shippers, if any, all remaining available capacity shall be allocated among all Regular Shippers according to the lesser of each Regular Shipper's Base Shipment Percentage multiplied by the remaining available capacity or Revised Nomination.
  - 4. Any remaining available capacity not allocated through the application of subsections (1)-(3) above shall be allocated first to Regular Shippers that have remaining unmet Revised Nominations on a pro rata basis, and then to all Shippers having remaining unmet Revised Nominations on a pro rata basis, to be repeated until all remaining capacity is fully allocated or all of the remaining nominations have been fulfilled.
- D. In no event will any portion of allocated capacity to a New Shipper be used in such a manner that it will increase the allocated capacity of another Shipper beyond the allocated

capacity that Shipper is entitled to under the provisions stated in this Policy. Carrier may require written assurances from responsible officials of Shippers regarding use of allocated capacity stating that this requirement has not been violated. In the event any New Shipper shall, by any device, scheme, or arrangement whatsoever, make its allocated capacity available to another Shipper, or in the event any Shipper shall receive and use any allocated capacity from a New Shipper, then, in the month following discovery of such violation, the allocated capacity of any such New Shipper will be reduced to the extent of the excess capacity made available, and the allocated capacity of any such Shipper will be reduced to the extent of excess capacity used.

- E. No nominations shall be considered beyond the amount that the Shipper has readily accessible for shipment. If a Shipper is unable to Tender Product equal to the space allocated to it, Carrier will reduce that Shipper's volumes for the succeeding month to be scheduled by the amount of allocated throughput not utilized during the preceding month ("Over-Nomination Penalty"), if apportionment is necessary in the succeeding month. Carrier shall reallocate any volumes made available by imposition of the Over-Nomination Penalty to all Shippers in accordance with the provisions of this proration policy, provided that no volumes shall be allocated to Shippers on which the Over-Nomination Penalty was imposed. Carrier shall not apply the Over-Nomination Penalty if a Shipper's over-nomination was the result a force majeure event or operational constraints on Carrier's Pipeline System, as determined by Carrier.

### **III. Assignment of Base Shipment History.**

- A. Except as provided in this Policy, a Regular Shipper's Base Shipment History may not be assigned, conveyed, loaned, transferred to, or used in any manner by another Shipper. Upon 15 days' notice to Carrier, a Regular Shipper ("Transferor") may transfer all or a portion of its Base Shipment History (a) to a successor to substantially all of the Shipper's business, or (b) to a third party based on an agreement between the Shipper and such third party (in either case, "Transferee"), if the Transferor provides Carrier with a letter signed by an authorized individual in the Transferor's organization requesting such transfer. Such letter shall be in a form acceptable to Carrier and must contain, at a minimum, the following information: (1) the name and contact information of the Transferor and the Transferee; (2) the amount (in Barrels) of the Transferor's Base Shipment History to be transferred to the Transferee's account; (3) the effective date of the proposed transfer (such date shall be as of the beginning of a calendar month and cannot be done retroactively, and shall not be less than 15 days after Carrier receives notice of the proposed transfer).
- B. Carrier, after receipt of a requested transfer containing the required information, will confirm in writing such transfer with the Transferor and the Transferee. Carrier shall be entitled to fully rely on, and conform its records to, the requested transfer.

- C. Carrier shall not be obligated to confirm any requested transfer of Base Shipment History unless the Transferee is also a Shipper on Carrier's system.
- D. Carrier shall have the right to reject any request for transfer of Base Shipment History under this Policy if the Transferor or Transferee is not in compliance with the provisions of the Tariff at the time of the request. Transferor shall remain solely liable to Carrier for all fees and other charges Transferor has accrued under the Tariff and any other transportation agreement with Carrier prior to the transfer effective date. A transfer of Base Shipment History does not relieve the Transferor of any financial obligations. Any assignment of Base Shipment History approved by Carrier shall be irrevocable. A Shipper may only transfer all or a portion of its Base Shipment History once per calendar year.